

MEDICAL OPINION

IN THE

PARISH WILL CASE.

BY

LUTHER V. BELL, M. D., LL. D.,

PRESIDENT OF THE MASSACHUSETTS MEDICAL SOCIETY,
ETC.

(LATE PHYSICIAN AND SUPERINTENDENT OF THE M'LEAN ASYLUM FOR THE INSANE,
NEAR BOSTON.)

(Extracted from the printed documents in the Case.)



NEW YORK:

JOHN F. TROW, PRINTER, 377 & 379 BROADWAY.

1857.

OPINION

OF

Dr. Bell in the Parish Will Case.

MEDICAL OPINION

IN THE

PARISH WILL CASE.

BY

LUTHER V. BELL, M. D., LL. D.,

PRESIDENT OF THE MASSACHUSETTS MEDICAL SOCIETY,
ETC.

(LATE PHYSICIAN AND SUPERINTENDENT OF THE M'LEAN ASYLUM FOR THE INSANE,
NEAR BOSTON.)

(Extracted from the printed documents in the Case.)



NEW YORK:

JOHN F. TROW, PRINTER, 377 & 379 BROADWAY.

1857.

OPINION OF DOCTOR BELL.

I have entered upon the consideration of the questions involved in this case, under the best lights afforded me in a professional experience of nearly thirty years; two-thirds or more of which time has been passed in the care and treatment of those mentally disordered, while at the head of the oldest and one of the largest of the curative institutions for the insane in the country. During this period I have been very frequently called upon to appear before the courts of justice, and afford the aids of my experience in the solution of medico-juridical questions touching the condition of the mind.

It has been my privilege to approach this inquiry unembarrassed by any acquaintance with the parties in interest, and indeed, up to a period when my judgment was settled and recorded, without knowing on which side my professional assistance had been solicited.

There are two prominent divisions under which the consideration of Mr. Parish's competency to make a valid testamentary instrument naturally presents itself to my mind.

1. The true value of the facts testified to by, and the opinions thereupon, of the various witnesses in favor of and adverse to such competency, and the possibility of explaining and harmonizing differences in opinions so conflicting.

2. The exact significance of the prominent and essentially undisputed fact, that Mr. Parish ever after his apoplectic fit, July 19, 1849, if capable of communicating the operations of his mind to others at all, did so in the difficult and indirect method of assenting to, or negating by certain imperfect gestures, and nearly inarticulate sounds, such propositions as were made to him orally, and in one or perhaps more than one instance by something written and placed before him, as if for his perusal and reply.

In endeavoring to weigh the testimony for and against his competency, it will not be my province to expose or even measure defects of credibility where they might be believed to exist, or to strike a balance between conflicting witnesses. The province of the medical expert is rather to select and consider such facts and opinions as are within a strictly professional purview. In doing this, it is not necessary to make a complete analysis of all the testimony which may have such a bearing. It is obvious, that if enough is selected to illustrate the principles on which statements apparently contradictory are reconciled, and the precise opinions of witnesses, based upon their observations, shown to be well or ill-founded, a just conclusion may be approximated. If, for example, it can be shown in one unequivocal instance, that Mr. Parish's supposed signs for *yes* and *no* did not necessarily imply a corresponding assent of his understanding, it would not be of essential importance to apply the same test to every other instance presented in the testimony, in which the same signs are described and like inferences drawn from them.

My intention has been to select the most prominent and pertinent facts, on both sides, and to reason from them, leaving out the entire testimony of many of the witnesses, and considerable portions of that of

others, as affording nothing which could aid the medical witness in coming to an opinion.

That numerically, those who regard Mr. Parish as of sound mind, are in the majority, is a fact which I have considered of little moment, in view of the circumstance that the minority is too large, and comprises too many having the best opportunities of forming opinions, to permit the suspicion that the last class were influenced by partiality or caprice.

Beyond a certain point only, can the evidence either of one or the other side of a question like this, be cumulative. A hundred witnesses who thought they could understand Mr. Parish, and a hundred who declare that they could not understand him at all, would leave the uncertainty to be solved just as great and no greater than if there were only ten on each side. And any explanation which might harmonize the opinions expressed by the twenty satisfactorily, would apply with equal force to those of the hundreds.

In weighing the character and significancy of the testimony in favor of or adverse to the mental soundness of this testator, it is natural to look in the first instance, for that of the medical *experts*. The physicians who were in attendance on Mr. Parish during his protracted illness, were Drs. Delafield, Wilkes, Dubois, Johnston, Wheaton and Markoe; of this list Dr. Johnston does not profess to have seen him under circumstances such as would warrant the expression of an opinion as to his mental competency. And Dr. Wheaton, a venerable army surgeon, appears to have been rather the friend than the medical adviser of Mr. Parish.

It is not possible to avoid noticing the fact, that no one of his medical attendants appears to have been peculiarly conversant with mental diseases. Indeed, I think no one of them would have been received under

the practice of the Massachusetts courts, as qualified to express opinions at all in such case as to a testator's mental condition, for no one of them brought himself in any degree within the category of a medical *expert* in mental affections.

In view, also, of the fact that three, perhaps all four of these gentlemen, have a right to claim an eminent position in another professional department, *i. e.* the specialty of ophthalmic diseases, a branch most distinctively specific and widely separated from the theory and practice of dealing with the mental affections, it may not be deemed irrelevant or disrespectful to say, that a body of physicians, presumptively less fitted for the appreciation of such a case, can scarcely be imagined. A consultation of insane hospital physicians in a delicate and complicated disease of the eye, would hardly be more incongruous.

Considering also, that it was well understood by the parties in interest on one side, and, indeed, entered into the acts and suggestions of the counsel who drew the codicils, that the capacity of the testator would eventually come before the courts for adjudication, it is quite extraordinary, as well as, in my opinion, much to be regretted, that at no period in these many years, was any expert in mental diseases engaged in the elucidation of Mr. Parish's actual condition. This omission can hardly be explained on the supposition that it was overlooked, or that its importance was undervalued. *Experts* in one department of medical science are less likely than others to despise the peculiar skill and attainments of those trained in other specialties. One skilled in the nice discriminations of ophthalmic practice, both in diagnosing and treating disease, and conscious that his attainments have been the result of good natural gifts, persevering application and wide experience, cannot be supposed capable of undervaluing the

same order of powers, the same enthusiasm in pursuit, and a like enlarged experience, when applied to the still more delicate and complex affections of the human mind.

A vulgar opinion exists to some extent, that any man of good common sense is as well qualified to judge of a patient's or a prisoner's insanity, as the most experienced hospital director. Gentlemen of professional distinction, like those who had the professional management of Mr. Parish, never could have participated in an idea so absurd and untenable. The absence, then, of the highest attainable order of *experts* in mental diseases, in a case so long recognized as being destined for future litigation, and where the interests at stake were of such vast magnitude, ought to be explained by those in whose hands the patient was, or else presumptions adverse to them as fearing the fullest investigation are justifiable.

How do these medical witnesses bring their skill to bear in elucidating the exact character of this testator's capacity? It is to be recollected, that however plain and usual the case seems now to one, under the evidence as contained in the printed volumes, these gentlemen believed him to have suffered little or no mental affection, and if such was the fact, his peculiarity of non-communication, except in one strange, unique method, must have made his case one of the most extraordinary and anomalous kind—one of which they *now* scarcely pretend to give any explanation, or suggest any pathology. If unable to fathom a mystery so strange as this must have seemed to them, under their theory that Mr. Parish was a rational man, were they not bound, in view of its moment, to apply such tests as would have relieved the court from doubt as to its true character?

As oculists, we find them measuring with commend-

able delicacy and careful accuracy each circumstance bearing upon the degree and quality of his eyesight. But I have been able to discover no method or system, in their endeavors to reach his grade of *mental vision*, no application of tests to render obvious what was evidently so obscure that a body of intelligent witnesses with equal, and as regards many of them, the best opportunities for forming a judgment, arrived at opinions absolutely antipodal from the same kind of facts! What methods of procedure, and what application of tests might have presented themselves to those specially skilled and experienced in the treatment of mental diseases and infirmities may be considered hereafter.

It is enough at this stage of our inquiry to say, that in the absence of all proof or intimation that these gentlemen employed any other means of discrimination than those which were common to all who were in a position to take notice of Mr. Parish, we must pass their testimony into the mass of common proof, inferior to some, as for example, that of his immediate nurses and personal attendants always around him, and superior in character only to that of mere acquaintances and friends calling to see him occasionally on purposes of business or courtesy.

Let us commence our search for the facts bearing on the medical question in the case, with an analysis of the testimony of his immediate attendants. We have a succession of these from the day or two after Mr. Parish's illness commenced until within less than a year prior to his death. The first of these was James C. Fisher, who commenced his services July 22d, 1849—the apoplectic seizure having been on the 19th,—and remained until the 27th of the next December. Of course, if correct in his dates, he was there during the execution of the first codicil, August 29, 1849, and its re-execution on the 17th of the following December.

He gives many and minute details of his manner of waiting upon his charge, most of which indicate that Mr. Parish was in a state of great physical feebleness, but throwing little light upon his mental condition. Fisher says, that within three or four weeks, Mr. Parish began to speak words, and make signs. When, for example, he wished for the chamber utensil, (*II., f. 826,*) he put his hand out of the bed; when he desired the bed-pan, he turned down the "spread;" and that he made other signs when he wanted more or less light, that Mrs. Parish should be called, &c. Fisher, indeed, represents that these signals were agreed upon conventionally between his patient and himself, within three days of his going to serve him.

All these signs, of themselves, give the impression—even if there were nothing behind to lead to the belief that Fisher was in error in supposing that they understood each other—that these were nothing beyond the natural instinctive indications of physical wants in an exceedingly reduced sufferer, which an experienced nurse would necessarily catch, and subsequently avail himself of. No experienced observer of human dilapidation and extreme weakness of body and mind, can fail to have noticed some signs like these by which some want or some distress is indicated. They are involuntary signals by which the young infant, the aged imbecile, or the demented invalid, show forth some painful sensation, and in association with it an instinctive desire for relief.

A parallel indication of indefinite distress and unrecognized demand for relief is shown in the testimony of another witness, (*I., f. 1745*), where Mr. Parish's pressing call to evacuate the bowels is manifested by his eating with great rapidity, "at the same time applying his hands to the front of his pantaloons, as if he wished to open them."

Further notice will be taken of this last symptom as one characteristic of extreme dementia.

So legible are the class of movements described by Fisher, to the experienced and sagacious nurse, that they would not be overlooked even where all intelligence and all use of the senses are annihilated by injury of the brain from fracture of the skull, with compression or concussion. Some slight movement of the finger or of the lips, makes a language which is readily interpreted, and its meaning acted upon.

A curious English surgical case is reported, or rather repeated, in most modern works on surgery. A sailor who had received an injury to the brain in the Mediterranean, remained in a state of entire *coma* or unconsciousness for more than a year, until he was transported to one of the London hospitals, where the operation of trepanning at once restored him. During this long period of insensibility, deeper than that which exists in sleep, his rude companions recognized some little movements, having no significance in themselves, but found tentatively that they indicated his wants. The call for food was shown in one slight muscular movement—that for drink in another, that for an evacuation of the excretions in still another. These hints were obeyed by the kindly nurses of the ocean, and their shipmate was thereby saved.

I have myself been called within a few years to consult in a case where a lad, from a fall on his head, had lost all consciousness, all power of movement, and lay like a lifeless corpse for more than a month. Yet an anxious mother hanging over him, day after day, learned by her observation that a slight sucking movement in one corner of his mouth indicated a wish for drink; some other equally minute sign that he would make an evacuation, and so on.

Of this character, as it seems to me, were these

movements of Mr. Parish, if they really occurred. I judge so, because his possessing intelligence sufficient to arrange a conventional language within five days after a shock of apoplexy, the sad effects of which underwent but little amelioration for over six years, is not verified by any other circumstances or witness. The incidents are explained with so much facility, and in conformity with so common an experience, that it is not necessary to presume any want of truthfulness in Mr. Fisher, as connected with his discrepancies from the *quasi* parallel accounts of other witnesses. Yet after all, Fisher could not trust implicitly to his signs, prearranged with his patient. In vol. II. f. 826, he tells us, that when Mr. Parish wished to have his wife called, he pointed towards her door. In vol. II. f. 831, Fisher states that when he saw this movement, he inquired of Mr. Parish if he wished to see Mrs. Parish.

The general tenor of Mr. Fisher's account of his patient, and his mode of management with him from day to day, carefully studied, carries with it the impression, that his nurse regarded and talked to and administered to his charge much as he would have done to a young child, or an aged imbecile, or a demented person. He was taken to see the horses, the chickens, the spy-glass; the newspapers were handed to him, he was led out to see the moon, and the like; but it is difficult to trace, from what Mr. Parish *did*, any signs that he ever had an intelligent idea of what was said or done.

Perhaps Mr. Fisher's wish to see his patient doing well, led him to misinterpret encouraging symptoms. At one time he sees Mr. Parish engaged in so intelligent a conversation with Mr. Kernochan, and is so satisfied that Mr. K. seemed so well "to understand Mr. Parish," that he did not feel it to be necessary for him to pay much attention. His services to aid in inter-

preting were superfluous. Mr. Kernochan says he had no reason to believe that Mr. Parish *understood him at all!* Compare vol. II. f. 935 with vol. I. f. 863.

So the statement as to Mr. Parish standing before the clocks, on the 1st and 15th days of the month, when they required winding, appears not so much like a fact indicating clearly a recognition of time, and the necessity of a given act, as some movement or sign of recollection of having seen the clocks wound up, which attracted the valet's attention, as such indications of unfolding intelligence in the infant gratify the nurse, and are rehearsed by her to pleased parents.

Such evidences of memory, thought, calculation, do not quadrate with the general account of the patient's feebleness and torpidity. To assume intelligent recollection and appreciation in this case, and in all similar instances adduced by this witness, is to ignore the manifold indications of mental imbecility presented, over and above the overwhelming demonstration hereafter to be considered, of his incapacity to communicate one idea independently—one wish, if at all, except by the more or less careful and laborious coöperation of another mind. To assume that a person could so far exhibit memory and judgment as to carry into effect the winding up of a fourteen-day clock at its exact periods, and to be able to compare his watch with others', and note the difference, or to indicate on its dial the precise time which his nurse was to be allowed a leave of absence, and yet without any symptoms of undue physical irritability or entire paralysis of the excreting organs, he should be unable to govern his own evacuations, is contrary to all human experience. The testimony proves too much altogether!

Mr. Fisher's hopefulness of disposition or desire to lend encouragement to anxious friends, (no unusual or blameworthy trait in professional nurses,) evidently

prompts him to convert every indication capable of such interpretation into proof of Mr. Parish's intelligence. For example, in Vol. II. f. 907, he permits this proclivity to generate in his mind a belief that his patient, at an alarming period of his disease, (if, as it seems to have been, about October, 1849,) not only evinced an intelligent appreciation of the necessity and character of the medicinal agent prescribed, but a persevering determination despite the nurse's judgment, that it should be used to the utmost dose, and what is more extraordinary, employed in his determined purpose the vocables, heard, as it is believed, by no other person, and at no other time, not merely *yes* and *no*, (about which other witnesses disagree, whether they were ever articulately uttered or not,) but "*why, yes,*" two monosyllables involving as much difficulty in enunciation as any others in the English language!

The same sanguineness of temperament is manifested in Mr. Fisher's account of his patient, (II. f. 969,) writing the word "wills" on the fly-leaf of a book, as contrasted with Dr. Delafield's less assured account of the same transaction, (I. f. 3045,) and by the pregnant correction of both in the actual chirography itself as produced before the Surrogate, (see Exhibit No. 269, Vol. III. p. 701.) No stronger proofs, how much his anxiety to believe in a favorable progress of his patient, biased his judgment can be imagined.

The trustworthiness of Fisher's narration as to his patient's symptoms has been impeached. I have not failed to notice this fact, but regarding him as one of the sanguine, encouraging, hopeful members of his profession, I am able to see little in his testimony which is inconsistent or incompatible with the theory that *Mr. Parish's real condition was that of extreme dementia, where passiveness and a limited variety of sounds and movements could be interpreted honestly into almost*

any class of manifestations already in the mind of the observer.

The next personal attendant in succession was Simmons, who came in December 1849, and left in December 1850, having served, as is stated, about eleven months, a period of time rather more than twice the length of Fisher's service.

He describes the daily routine of his patient's life much as it is done in his predecessor's narration, while the conclusion he deduces from what he saw was directly the opposite. The prominent acts of apparent intelligence in Mr. Parish, described by this witness, (Simmons,) seem to be his pointing at certain articles as if he wished to have them, as articles of food, his spectacles, brandy and water, &c. It was his habit to be carried to the provision dealers, where he would point at the various articles of food, "sometimes one thing, sometimes another." These indications *per se* hardly rise higher in their value as evidences of mental capacity than would the attracted attention which idiots of the higher degree, in the classification of these unfortunates, manifest in things around them, prove that they understood and appreciated the idea of wants, and providing for them.

Any presumption of active and disposing mind, predicated of such incidents as those occurring in the provision store, is entirely negatived by the subsequent explanations of this witness, showing that Mr. Parish failed to go one step beyond mere optical looking at the things around him, connected perhaps with some dim and evanescent association-idea of pleasurable gratification. Simmons, with apparently equal intelligence, and more than double opportunities of observation, as compared with Fisher, the preceding nurse, disclaims any ability to explain the meaning of Mr. Parish's gestures, and much less indeed could other

parties, anxious and concerned to fathom his meaning, if any there were, succeed in comprehending him. (I. f. 1700, 1724.)

This witness also describes the attempts made at different times to induce Mr. Parish to write upon a black-board and a slate. "A copy" was set for him, and he was coaxed and persuaded (I. f. 1709, 1712) into making marks, but nothing like a word or even a letter seems to have been produced. It is important to note that in the progress of these trials nothing was manifested of antipathy or reluctance—nothing of irritability or aversion to the attempt. He was unwilling to start, (I. f. 1709,) but under coaxing did try several times, during some three or four days, on the black-board, and two or three weeks on the slate. It is difficult to apply any other solution to his entire failure on these thoroughly tried experiments, than that *his mind was in a condition of too much imbecility or torpidity to grasp the idea of what was required.*

Simmons also testifies (I. f. 1718) to an indication of a deplorable grade of demency, when not explained by obvious physical conditions, the incapacity of his charge to control his evacuations. I regard the various accounts of this weakness as so characteristic of dementia in Mr. Parish's case, that they are worthy of a more specific consideration, and shall receive it in a subsequent stage of this opinion.

Thomas Wingrove, the next in succession of Mr. Parish's personal attendants, began his services about June or July, 1850, and remained until September of the next year, a term of about fourteen months. His general account of his charge's condition and movements coincides with that of the preceding witnesses. His account of Mr. Parish's searching his wife's wardrobe, divested of his clothing at one time, and making a like search at some five or six other times, at first

sight would seem to indicate an extreme of dementia, but may not, under all the circumstances, be deemed inconsistent with the idea of a man incapable of expressing his wishes, and under a high degree of irritation at not making himself understood, pressing forward to do that for himself which he cannot make another do for him. But the fact *that he did not recognize the pantaloons he had just worn, when they were thrown in among others, after he had evinced a strong desire to change*, is in strong analogy with the various marks of imbecility already presented by these witnesses.

The account by Wingrove of Mr. Parish's ways at the provision dealer's, (I. f. 1514,) while generally coinciding with that of the previous witness, would convey the idea of a still greater mental weakness, as he is here represented as *not even pointing* to the articles around him. The dealer brought them to him, and then sent them to the house, and were kept or returned by Mrs. Parish, in the exercise of her judgment as to their being wanted or not. It is manifest that neither nurse nor dealer obtained any meaning in these transactions, from Mr. Parish's own sounds or signs.

In I. f. 1521, we have very striking manifestations of his inability to express an idea, if there were any floating in his mind, as to the direction in which he would be driven. The scene here depicted will bring vivid recollections to any mind habituated to the ways of the demented. They very often exhibit a strong degree of indefinite will, an obstinate persistence in pursuit of an indistinct and unascertainable something, after the faculties of knowing and judging are essentially extinguished. The same remark will apply to the account (I. f. 1523) of what occurred when Mrs. Parish, the guiding spirit of his shattered and appa-

rently almost annihilated intellect, was accidentally absent from him during a brief period. So also in the freaky and capricious endeavor to place himself in positions reached with the greatest difficulty, and attended with imminent hazard, as related in I. f. 1527, 1531, we cannot but notice indications perfectly in harmony with the every-day actions by those exceedingly demented. They pursue, with an amazing tenacity of purpose, some vague, indefinite, indistinct impression, scarcely clear enough to come under the word delusion—an impression which, from its mistiness, is incapable of being conveyed to another mind, even though the power of using language remains intact.

Here again (I. f. 1556) we have further illustration of that sad condition of imbecility marked by an inability to command, or even indicate the calls of nature in the evacuations of the bowels and bladder. It is true that, in certain conditions of paraplegiac palsy, where sensation is destroyed below some points in the spinal column, the broken nervous channels may not convey to the sense or mind of the sufferer a notice of such calls, even though the mind is comparatively but little affected. Again, in other conditions of morbid sensitiveness of the pelvic organs, the calls to evacuate the bowels and bladder may be so sudden, and so imperious, as to permit the distressed invalid no option but to yield to the intensity of the demand on the spot, wherever he may be, and how much soever he may be pained. But this repeatedly named difficulty with Mr. Parish had no symptoms which would allow it to be classed under either of these heads of disease. His disorder, so far as the palsy was concerned, was merely hemiplegia, where one-half of the body or the other, (ordinarily, as in his case, the right half,) in a vertical line, is paralyzed. In these cases the organs of animal

life continue their functions, and such is the distribution of nerves that an incapacity to command the fœcal or urinary evacuations does not exist.

Nor in the description of this or the other witnesses on this point, can we find traces of morbid sensitiveness of these organs. The medical opinion that such *might* be the case, seems to have been arrived at by a very forced supposition, as e. g. the symptom must have some explanation; such palsy or such morbid irritability would explain it, and it was therefore inferred to exist, without any positive evidence. The defect in the explanation is, that such marked sensitiveness or paralysis is not the sole occasion of this symptom. Neither of these grounds existing, the only adequate explanation left for the sad manifestation mentioned as being of no infrequent occurrence by his personal attendants, is, that *his mind was extinguished to a lamentable degree.*

The next witness in the class of nurses is Mr. William Brown, who was with Mr. Parish from October 13, 1851, to the middle of November, 1854, about three years and a month. The whole tone of this witness's testimony is evidently affected from his regarding his patient as much less seriously diseased than any of the preceding nurses, or the medical gentlemen deemed him to be, both as regards his physical symptoms and his mental condition. A clew to his disposition to look at every thing in a hopeful light, is indicated in the general summing up of his opinion, viz., that he "considered Mr. Parish's mind strong and healthy, perfectly understanding all I ever said to him." He states that Mr. Parish's right leg was "*slightly affected,*" "he just made a drag of his toe in walking," (II. f. 1297,) while all the other witnesses saw an absolute paralysis of that side, and an entire loss of the use of that limb. And in order to show

(II. f. 1302) how little aid Mr. Parish required in walking, he says he did not help the lame foot, "as I could not do that, and have his arm linked in mine," giving the impression that all the aid his patient required was slightly to support himself on the attendant's arm. Compare the degree of weakness thus intimated with Dr. Delafield's account of Mrs. Parish's remarkable knack in lifting up his foot with hers so as to enable him to walk. (I. f. 2079.)

Brown's general account of Mr. Parish's visit to the provision dealers, agrees substantially in most of its features with that of the other nurses, except that in a most important particular he manifests the same sanguine temperament before alluded to. He gives the idea that Mr. Parish not only was equal to the duty of examining and selecting the various articles needed, but that he evinced skill in chaffering and bargain driving. (II. f. 1411.) The facts he states, even with his own coloring of them, do not warrant his conclusion, and that in giving them this interpretation he went beyond the true significance of any signs or sounds which he witnessed on the part of his patient is rendered certain, not only from the testimony of the other attendants on the same duty, and the provision dealers themselves, but by the sending home of provisions of which Mrs. Parish thought fit to return the whole, or a portion. This fact demonstrates that neither *she nor they regarded* Mr. Parish as equal to purchasing such supplies.

In looking at and endeavoring to weigh the value of many little facts and incidents testified to by Mr. Wm. Brown, we cannot but see this bent of a sanguine mind, anxious to comprehend his patient's movements, and self-satisfied on altogether too little evidence. That he was successful in his hopes is clear because to no other witness amongst those having the same degree of experience with him, did the incidents convey any

such degree of intelligence and meaning, as they did to him. Nor would it seem that any improvement in Mr. Parish's condition at the somewhat advanced period of his disease, at which Brown's services commenced, explains his (Brown's) more favorable views. Indeed, on all the grounds of probability, the continued succession of severe fits of epilepsy would necessarily involve the idea of diminished mental power, if he were not in that state of dementia from the first, which would not permit the measurement of descending degrees in mental capacity.

Mr. William Brown evidently considers himself a complete "master of signs." Mr. Parish nods his head (II. f. 1314) "as if yes,"—points to certain places in the newspaper for witness "to read to him," going through more movements in selecting the paragraphs than would have been needed to have perused them himself, if capable of reading; lays aside the journal for Mrs. Parish—points out some interesting articles to her,—she would read, and "if it was a death, he would make inquiry," &c. Indeed, this witness habitually alludes to Mr. Parish as if he had not even an infirmity of speech; he makes "inquiries," (II. f. 1317, bis 1333,) examines a book of accounts called a "tickler," to ascertain questions of indebtedness; notes the last entries in his book of bank deposits; and the witness undertakes to state that the degree of Mr. Parish's attention to his books of account varied with "the amount of business to be done at certain dates," and "in the morning would lay out a certain amount of business to be done the next day," &c. In Vol. II. f. 1357, we find Mr. Parish making a sound "in a *solemn* manner," when he wished to see a clergyman; in Vol. II. f. 1358 he gives "all attention," presumptively an intelligent attention, in Brown's opinion, to Mr. Kernochan, whose utter inability to understand him, or to know

if *he* were comprehended, has before been spoken of. In Vol. II. f. 1369, we find Mr. Parish examining the plans of a tomb, and (II. f. 1371) gives orders for his pantaloons to be made "roomy and nice." This witness also finds in Mr. Parish an ability to utter words to a far greater extent than any of the nurses who were in attendance upon him at an earlier period of his illness—or indeed than any other person at any time. He not only says *yes* and *no*, but, "*Why, yes*, with a smile," and "*Oh, dear!*" or, "*Oh, thear!*" "*Oh! Got, Got, Got!*" Even Mr. Parish's habitual expression of countenance, which is proven by many witnesses to have been uniformly sad and melancholy, Mr. Brown found always (II. f. 1296) "pleasing and healthy."

It is not necessary to follow this witness through the entire detail of his experiences; the most prominent and significant points have been presented, without making, on the presumption of untruth, any deductions from the *couleur de rose* tint with which he invests his charge's mental condition; and it is easy to see that his mode of interpretation brought him to a result such as no other witness reached.

If this witness's inferences from his facts are warrantable, then is his opinion as to the perfect soundness and understanding of Mr. Parish legitimate. But the theory of absolute and perfect integrity of mind such as Mr. William Brown and several other leading friends adopt, augments and thickens the darkness and mystery which envelope our second division of inquiry: why did not Mr. Parish communicate in some better way than that suggested as his? A man with some mental change, some monomaniac caprices, could readily be thought to refuse to do any single thing; while the question might be an open one, as to the soundness of his other intellectual operations. But to assume complete integrity of mind with so striking a peculiarity to

be harmonized is no easy task. Hereafter this topic will be brought under consideration. It is enough now to say that the judgment of Mr. Brown, and the other witnesses of his way of thinking, prove altogether too much to allow Mr. Parish's great peculiarity—his anomalous symptom to be brought within the class of minor mental defects, or eccentricities or sensibilities which *might* exist, and still leave him, in a condition of capacity, adequate to making an unimpeachable testament.

The next witness of the class of personal servants is James Clarke, whose term of personal service was about a year and four months, beginning in December, 1854, and terminating the latter part of April, 1855. His duties were essentially the same as those of the previous attendants, and we have the same sad narrative of his patient's extreme feebleness of body, and the same uncertainties as to his ability and degree of comprehension. We note in this witness's examination the same indications that Mr. Parish was treated essentially as a child or an imbecile, by those around him. The coachman is sent for; he appears, and announces that "the horses are well;" "that there is plenty of feed," &c. (I. f. 1728.) When carried to his store, this witness calls down Mr. Parish's friends, as if he had sent for them, without any pretence of such direction from him. In Vol. I. f. 1732, we see that when Mr. Parish was taken to the door to see the moon and stars, his wife entirely fails in her efforts to attract his attention, and at various places in Clarke's testimony, we see that Mr. Parish pushed his wife rudely away, and this without the slightest indication of a cause. (I. f. 1730, 1733, 1736.) This act is entirely inexplicable. Extreme irritability might account for even a high-minded gentleman—constitutionally as is proved of perfectly controllable temper—so far losing himself as to be guilty of such an act, but under this supposition *the occasion of offence*

would be apparent even if the act was most unreasonable. Did not these rude pushes originate in the same general class of angry, obstinate, misty impressions, too dreamy and indefinite to be worthy the designation of *delusions*, which were controlling him when he insisted that his carriage should be directed in some unintelligible way, or when, during his wife's absence at the daguerreotypist's, he evinced such a frightful degree of anger as to invoke a curious mob about him?

In vol. I. fol. 1738 of this witness's evidence, we have rather an amusing comment on Mr. William Brown's account of his patient's care in having the newspaper read, selecting paragraphs for his wife, &c. James Clarke speaks of Mr. Parish's habit being that of *sleeping or looking out of the window* when the newspaper was being read!

In vol. I. fol. 1744, '45 we again have this witness's testimony to what is probably an unquestionable fact, that Mr. Parish had lost the power of appreciating the calls of nature. The cumulative testimony touching this symptom, is very important, as demonstrating that it was no single or rare occurrence, and that it did not occur merely at some rare periods of local disease. Each witness, except perhaps Brown, of his immediate nurses, as well as some of his medical attendants refer to this infirmity. Yet it does not seem to have been uniform, but only occasional. Now if it was due to morbid irritability it would have been existent at one or more periods when the local disease was most urgent. If from palsy of the sphincters, it would have been uniform and constant. But it happened occasionally, now and then, just as it does in the demented patients of every insane hospital. If the attendant is vigilant; if he watches the little accidental signs, such as his patient's wandering around as if in search of some place to relieve himself, perhaps passing again and again before

the door of the very water-closet where he has eased himself for years, without recognizing it as the place wanted, or such as his patient's fumbling at the opening of his pantaloons—or some petty movement still less connected with the want—and recognizes them in time, such an accident as his patient, while continuing in usual health, defiling himself, may not occur once in half a year. But if he is inexperienced in such duties, if he is deficient in tact or in vigilance under the occurrence of accidental looseness in his patient's bowels, this disagreeable accident might occur at any time, and at any number of times in each year.

The recognition of this accident as occasional—not very frequent, nor yet very rare, is the best proof that *its causation was in the mind*, and did not depend on local weakness or palsy. This is, I am aware, a painful and disagreeable topic to be introduced so often or at all. Yet it seems to me so important in its meanings, *so pathognomonic in deciding the probable condition of Mr. Parish's mind*, that I should not have expressed my full views, had any sentiments of false delicacy permitted me to slide over it.

In I. f. 1752, '9, of this witness's examination we note an approximation towards a test, where a question is twice put, and a negative and an affirmative response successively given. It is on many accounts to be regretted that this test could not have been more fully put into practice by investigators of a more competent and cultivated class. The result in this instance is one among the many corroborative indications that Mr. Parish's ability to show assent and negation was extremely questionable.

This witness (I. f. 1752) enters his final judgment that Mr. Parish's "mind was not right." He does not attempt a confident precision of statement like the preceding witness, William Brown. His facts manifestly

warrant this extent of assertion. He has nothing of the positiveness of many witnesses, whose facts are less pregnant, but few persons can read his plain matter of fact statements without the feeling that they are obtaining the exact facts. I may say, that they are facts which tell to the experienced observer the story of a most common every-day type of dementia.

I do not perceive that the succession of nurses is continued in the testimony after Clarke, *i. e.* from April, 1855, to the death of Mr. Parish, March 5, 1856. From the accounts given by his medical attendants of his progress to the close of his life, it seems probable that there were few marked incidents to vary the sad spectacle thus far traced.

We now come to the testimony of the medical gentlemen in attendance upon Mr. Parish. It is to be regarded as next in importance, as they had the next best opportunities of observation. The first in order of time is his brother-in-law, Dr. Delafield. His acquaintance with his patient's case commencing long anterior to the fatal stroke of apoplexy, and continuing until his eyes were closed in death, naturally prolongs the narrative of events through many pages, from which I shall endeavor to abstract the facts, which bear upon the question of mental condition.

The first facts throwing light upon this are at vol. I. fol. 2085, '6, where Dr. Delafield explains what he regarded as Mr. Parish's sounds of affirmation and negation, his inquiring looks and his gestures, but none of these as described would necessarily carry the same convictions to a disinterested, unconcerned observer. The same explanation of the possibility and probability that all these signs and sounds were misapprehended—that there was actually no meaning behind them which has been before suggested, may be thought to detract much from their value as proofs. They were brought

to nothing like a test; the apparent accordance sometimes noticed between his signs and acts, might be nothing but accidental coincidences.

At vol. I. fol. 2087, Dr. Delafield assumes without one particle of evidence, and contrary to the whole tenor of the facts, as I interpret them, that the important symptom of Mr. Parish's losing the command of his evacuations, was of doubtful causation. He says it might be from morbid irritability of the bladder and rectum, or from a loss of power, that is palsy, of their sphincters. The doctor does not allude to a cause, (that before in this paper named,) which must spontaneously suggest itself to every one experienced in mental affections as much more in consonance with the whole series of symptoms in this case, viz. :—*that this inability to regulate the fecal and urinary evacuations resulted from no local disorder, either of excessive or annihilated sensibility, but because the mind to which such calls are addressed was wanting.*

Dr. Delafield belittles the gravity of this symptom when, at Vol. I. f. 2087, he says that "the sphincter muscles and the bladder and rectum were to a *certain* degree affected, so as to impair *somewhat* their functions," and this is represented to have been a symptom of the *latter part* of Mr. Parish's life. Now, Simmons, whose term of service was in 1849 and 1850, testifies to its existence in his time. Wingrove, the nurse, for the next fourteen months, testifies to its continuance in his, (I. f. 1556,) and James Clarke, in a service of sixteen months from December, 1854, gives a still more minute account of the same still continuing affliction, (I. f. 1744, '5.) and his account closes almost a year before the death. If this symptom really were more prominent during the *latter part* of life, as Dr. Delafield says, it doubtless is explained on the ground of still more extreme demency than had before existed.

To conclude my views touching this symptom, which I regard, occurring as it did, as quite pathognomonic or characteristic of mental, rather than physical imbecility; I would suggest that this might have occurred from morbid irritability of the mucous surfaces, or from absolute paralysis, and yet have left the mental faculties unimpaired. But if it did not occur from either of these conditions, there is only one other recognizable cause, that is, dementia, a state, and this symptom of it always present in abundant examples in any considerable hospital for the insane. And such dementia is a natural, legitimate, usual sequel of apoplexy, or of severe epilepsy, or, as in Mr. Parish's case, of both these diseases in continued action.

Morbid irritability of the rectum is a condition resulting from inflammation of its lining membrane, as in dysentery. The bowel is sensitive to the touch of any foreign matter or of its own secretions, or even without any thing in contact it may evince *tenesmus* from mere congestion and inflammation. It is not a disease that could possibly be overlooked or mistaken by the medical attendant, or even by the common nurse. If it even be chronic in its nature, it is but too palpable, and so pressing as to give its victim scarcely any relief from painful and disagreeable symptoms. Palsy of the sphincter is still less capable of being misunderstood; it is one of the saddest of those calamities which make life insupportable. It is a chronic and permanent affection; ordinarily the patient can have no intermissions of governing and then losing the control of his evacuations; the power which nature, by one of the most wonderful of her many curious contrivances, employs to close these passages when at rest, so that they are released by the will in order to exercise their functions, is destroyed. The extremity of the bowel or bladder becomes nothing but an open

tube, which permits any thing which is present to escape as from an inanimate opening.

Fortunately we are not often called upon to ascertain the existence of, or advise in such cases as present the forms of disease last described. They are not the concomitants of ordinary apoplectic paralysis, which is of so common occurrence from lesions within the brain. The cause in most cases is from injury to the spine; most frequently from a short doubling or curvature from falling from a hay-cart, or some similar circumstance. The bladder itself, in such cases, may be so affected as to confine its excretion while the *sphincter ani* is absolutely released and open. Death usually supervenes in a few weeks under this form of injury. No practitioner can have failed to meet it.

Now, from the accounts of all the witnesses, neither the one nor the other of these two specified conditions can be presumed to have existed in the case of Mr. Parish.

It is evident that his trouble in evacuating unconsciously was one which came on occasionally, at irregular intervals, during several years. The solution of its so presenting itself was, doubtless, in the circumstance that a vigilant observation of Mr. Parish's indications was sometimes neglected, or some error of diet or effect of atmospheric changes deranged for a time the functions of the bowels and the character of their contents as regards acidity or fluidity, so that the usual impression conveyed to the sensorium was lost. Let us assume for a moment that Mr. Parish was in the full possession of his faculties, as so many of these witnesses believe. Is it to be supposed that with a morbid irritability of the rectum, or a palsy of its sphincter, as Dr. Delafield hints, a gentleman would have ventured to do what Mr. Parish did every day of his life for some years, ride out, receive company, dine with the invited guests, and the like?

The existence of this inability in demented patients, their habitual manifestation of some indefinite idea of a call, such as Mr. Parish evinced, leave no doubt that *this* was the true explanation of his infirmity. No other circumstances suggested by the evidence will explain it, nor can I conceive of any. Dementia *does* account for it fully, naturally, and, as I believe, certainly.

Dr. Delafield continues throughout his testimony, frequently to express an opinion that Mr. Parish was capable of understanding what was said and done, but it is not easy to perceive how his facts warrant this belief. His natural and honorable anxiety to see his friend and patient relieved, prompts him habitually to look upon every encouraging indication with too sanguine and flattering impressions. In Vol. I. f. 3045, he says that certain characters made on the fly-leaf of a book with a pencil, "and always the same," were construed to mean the word, "Wills," and that Mrs. Parish, on seeing them, suddenly exclaimed, "Wills!" with a good deal of emotion, as if it were an unexpected, startling thing to her. Now, any person looking at the marks, so construed, in the original or in the printed *fac-simile*, cannot but appreciate the tendency to miscolor testimony, (without any implication as to entire good faith,) which obtains, where the feelings are deeply involved.

Dr. Delafield's account (I. f. 3051) of the faithful and persevering efforts made to induce Mr. Parish to use his left hand in writing, demonstrates their failure, beyond a supposed writing of his name. The fact of success, even to this moderate degree, might be of moment in entirely removing his case from an alleged class of patients, where the connection between thought and its symbol of expression, that is, language, is dislocated and lost. More will be said hereafter of this

pretended symptom of the phrenologists. It may be further observed, that Dr. Delafield (I. f. 3265) alludes to the attempts which were made to secure this object of writing, by placing a copy of his name before him, "to see whether, by fixing his eye steadily upon the name, properly written, it would aid him. It did no good." This experiment approached somewhat to the idea of a test, although not so close as could be desired.

Why did it do no good? His eye was equal to the task; so also was his left hand. What else induced its failure, unless it was the absence of the powers of mind which connect and guide such movements as were sought for?

I have already referred to the fatal absence of any system of tests calculated to determine the precise grade of Mr. Parish's capacity. Dr. Delafield testified (I. f. 3294) to his being aware, that Mr. Parish's "soundness of mind and mental capacity were likely to become a question of judicial inquiry, and that his sister was interested therein," and in Vol. I. f. 3304, he expressly declares, that he "*never made any examination of Mr. Parish, or applied any test to him, for the exclusive purpose of ascertaining the state of his mind.*" When cross-examined, the doctor avers that he considers each visit to his patient to have been "a test." The expert in mental diseases might suggest that a professional visit to a patient, with a delicate, protracted, ophthalmic disease, without any critical examination, by a physician skilled in mental phenomena, would equally well deserve to be called "a test."

Many exceptions might be taken without hypercriticism to Dr. Delafield's views of cerebral lesions, and their effect upon the mental state of the patient. There is, however, no necessity of entering into any such field.

The value, too, of an examination, *post-mortem*, of a

patient's brain, in establishing a presumptive integrity of the mind by an absence of all abnormal signs; or confirming the probability of mental aberration or imbecility, by the discovery of organic changes within the cranium, it is safe to say, would be quite differently estimated by those whose professional studies had been in a different specialty from his. But when we have as in this case an abundant supply of facts, carrying with them an indisputable interpretation, it is not necessary to enter the fields of pathological controversy.

The next medical witness is Dr. Dubois. His testimony may be dismissed with a very few remarks, as he declares, (II. f. 210,) that he never had a suspicion that he would be called upon as a witness in relation to Mr. Parish's condition of mind. He visited him exclusively for his disease of the eyes, and made neither examination of, gave reflection to, or tried any tests touching Mr. Parish's mental capacity. He waited upon him as an ophthalmic surgeon, and as such manifestly discharged his whole duty with sagacity and fidelity. He asked the necessary questions on the subject-matter of his specific duties, and when he received certain sounds and gestures, as indicating affirmation and negation, he accepted them as such without doubt, hesitation, or inquiry. Mr. P. nodded his head with a sound for the one, and shook it with a sound for the other. Dr. Dubois, intent on reaching the exact character of the eye disease, would not naturally doubt that he was understood and properly responded to. How easily a reliance upon simple expressions of *yes* and *no* would mislead, even if the patient's own story were of vastly more moment than it usually is in ophthalmic diseases, where the oculist judges more by what he *sees* than what he *hears*, will be considered as we pass along.

Dr. Dubois, (II. f. 191,) in giving his opinion, mod

estly, and as if suspicious that it was not based on the carefully and thoroughly tested substratum of facts, which unquestionably would have underlaid any of his ophthalmic judgments, qualifies that opinion by saying that Mr. Parish's "mind *appeared* to be clear and sound"—an opinion natural enough in view of his methods of examination.

Dr. Wilkes, the next medical witness, and an eminent ophthalmic surgeon, when questioned as to his visits to Mr. Parish, states that he saw him in 1852, "and for an affection of the eyes," and so far as appears, without any reference to the mental condition of his patient; a condition which incidentally, it may be remarked, was a very ordinary, commonplace one, viewed from one standpoint, namely, as demency; but certainly of a most interesting, anomalous, and rare character, if regarded as that of a person perfectly sound, yet incapable of making any external manifestation of such mental integrity—a case so extraordinary among the rare cases of medical science, that one medical man could hardly avoid gratifying a friend by introducing it to him, as one of the wonderful examples of psychology.

Dr. Wilkes made his patient seven or eight visits, and evidently made a thorough investigation of his case, as an oculist. We note that he tried his visual powers with type of different sizes, pictures, vases, different degrees of light, &c. He thinks, (II. f. 218,) that he was very happy in obtaining Mr. Parish's meaning. "If I presupposed any symptom which did not exist, he would immediately object to it, by shaking his head, and a marked expression of manner that that was not the symptom." How did Dr. Wilkes know that the symptom did *not* exist? Did he ask for symptoms, where his own observation would correct or confirm his inquiry? *Did he ask Mr. Parish whether*

he could trace ordinary print with his disorganized eye, and receive a positive yes, or no? Were any such tests as this applied, which would have determined whether he were understood or not, and that the replies were not made hap-hazard? We see no account of any.

The responses, *yes* or *no*, might on the doctrine of mathematical chances fit, if uttered alternately, one-half of all indiscriminate interrogations, capable of being answered by simple affirmation and negation. Dr. Wilkes states, that on the occasion of his visits, Dr. Delafield "would ask him (Mr. Parish) questions, and Mrs. Parish would state about his diet." We can well conceive with the natural impressions thus derived, *ab extra*, one topic, the condition of the sufferer's eyes being alone prominent, that Dr. Wilkes might arrive at the unhesitating opinion, that Mr. Parish's "mind was clear, and capable of transacting the ordinary avocations of life."

Dr. Wilkes, in his anxiety to determine the precise accuracy of the optical apparatus of his patient, appears to have overlooked the consideration of that more subtle interior condition to which all the mere machinery of lenses, humors, retinal expansion, and so forth, are secondary.

When after various abortive attempts to fit himself with a pair of spectacles, the Hibernian was asked by the anxious vender whether he could read at all, he replied, "Do you think if I could read I would be such a fool as to buy spectacles?" The dialogue is recorded as a proof of the Irishman's folly; but it is no greater error than that of the oculist *per se*, who overlooks the office of the brain, while anxious about the integrity of the mechanical appliances, which only transmit to it the materials for appreciation.

Dr. Wilkes evidently has no very clear explanation

to give of the great difficulty of the proponent in this case, *i. e.* how Mr. Parish, if sound in mind, should refuse to communicate in the usual way of such patients. In vol. II. fol. 282, he seems disposed to consider this repugnance or refusal to write as a *monomania*, and would explain the difficulties of a supposed analogous case, by the idea of the patient's mind being sound *on other subjects*; of course diseased *quoad hoc*, or monomaniac. At vol. II. fol. 284, he is disposed to consider the refusal to write as wilful, or to use his own words: "It appears as if there were a perversion of his mind upon that subject." At vol. II. fol. 285, he puts the refusal neither on the ground of delusion nor perversion, but of mere irritability. Paralysis, he reasons, makes its victims irritable; the use of the left hand requires more than ordinary exertion, therefore the patient, finding his efforts to fail on trying, refuses absolutely to continue his endeavor, yet all his mental faculties are in perfect integrity.

At vol. II. fol. 309, Dr. Wilkes illustrates another view of Mr. Parish's case, still differently, by a reference to the case of a Dr. Grayson, who was unable, pending an apoplectic attack, to write the final syllable of his name. Dr. Grayson's seems to have been one of those not infrequent forms of apoplectic disease or symptoms, where the power of connecting certain words with their ideas may be lost; some Christian name is not capable of being justly applied to its owner, or some wrong word will insist on taking the place of the one which should come in. In cases like Dr. Grayson's, the current of thought may be quite normal, notwithstanding this difficulty of a few words being unmanageable, while in Mr. Parish's case, the fact of *any* mental activity is only obtained by inference. Dr. Grayson's power of articulating intelligibly was scarcely affected at all. Mr. Parish's power of articulation was extinct, almost, if not quite, *in toto*.

Dr. Wilkes's other case, (vol. II. fol. 300,) of a hypochondriac who kept his room and yet did business for a long period, is interesting as a curious example of hypochondriasis, but not elucidatory or instructive in our inquiry, as there is no evidence of Mr. Parish's having been in any sense a hypochondriac.

Dr. Wilkes seems to have omitted all consideration of the possibility of a condition,—that of dementia,—which would meet adequately all the indications presented.

The remaining medical gentleman in attendance on Mr. Parish, Dr. Markoe, the business partner of Dr. Delafield, saw him soon after his fit of apoplexy, and through his entire illness to his death. The first facts in his testimony which throw any light upon Mr. Parish's mental condition, are presented in vol. II. fol. 1997, where the doctor describes his manner of investigating his case. He asks such questions as would permit an affirmation or a negative response, "and received from him always readily and promptly, what I conceived to be an affirmative or negative answer to my questions." At vol. II. fol. 202, Dr. Markoe further explains what meaning he attached to Mr. Parish's gesticulations or motions.

I have been unable to perceive any thing in the facts or opinions recorded in Dr. Markoe's testimony in the application of the signs or sounds, which he interpreted as *yes* or *no*, which necessarily fixes them as having been accompanied by intelligence; and the remarks hitherto made, and hereafter to be made, upon the strong probability of these supposed expressions of assent and dissent being entirely hap-hazard and without intelligence, will apply alike to the opinions of this witness as of the others who declare like opinions.

Dr. Markoe gives a reason why a *post mortem* examination was not made:—an inquiry which doubtless

every medical man has made, after he has reached the slightest acquaintance with the case. It was that "he was informed by Dr. Delafield that the feeling of the family was strongly opposed to it, and I said no more." It is truly remarkable that an eminent physician, who had the rare fortune to be the witness of what he believed to have been an actual separation and dejection of a portion of bowels, and that followed by recovery, and carrying on the functions of life subsequently, could have rested so easy, under a first and not apparently insuperable refusal to admit an autopsy! One of the previous medical witnesses suggests a ground for not having an examination, that it is not usual in paralytic subjects "in private practice." A case of paralysis, involved with so extraordinary an organic lesion as to be almost beyond belief, certainly would have justified a more pressing application than seems to have been made, independently of any light which might have been thrown upon the great medico-juridical question now *sub judice*, by proof of the presence or absence of marks of extensive cerebral disease. The medical gentlemen, and especially Dr. Delafield, who had in the rights of his sister an interest more than merely professional, could not have failed to consider the value of the medical fact, if it existed, that Mr. Parish's brain was found free from other relics of diseased action than the ordinary, expected marks of apoplexy, such as a clot, a cyst, or a cicatrix, as the processes of recuperation had been more or less completed. Confident as they were of his mental soundness, they could have no grounds for expecting any thing except the specific apoplectic damages. They knew how strong the evidence would be in support of their opinion of his mental soundness, were his brain sound, with the exception referred to. Is it to be supposed that Mrs. Parish, the only party whose wishes were to be deemed imperative

on such a subject, in view of the magnitude of the stake, could have resisted an application, based on such grounds? What then is the weight of the inference from the fact that no such solicitation was urged, and no such examination made?

Passing now to the third order of witnesses, the business and social friends of the testator, it is not proposed to look at the testimony of each individual. For there is running through the whole of the details given by these, as by the previously mentioned witnesses, a generally concurrent account of Mr. Parish's habitual condition. The disagreement is more in the conclusions which are drawn than in the facts themselves.

Prominent among these, both from his opportunities and the full detail of occurrences, is Major R. Delafield, a brother of Mrs. Parish. As is most natural, his mind was unavoidably biased throughout the course of Mr. Parish's long illness towards the least painful aspect of his friend's infirmity, and we notice a consequent readiness in him to speak with entire confidence as to Mr. Parish's ability to understand and to make himself comprehended—a confidence at great variance with the inability of various others, nurses and old friends, to recognize the slightest intelligence in Mr. Parish.

We find (II., f. 1747) Mr. Parish "*agreeing*" to the selection of a lot at Greenwood, "*assents*" clearly and distinctly by an affirmative "*yes,*" &c.

Major Delafield, in conclusion, (II., f. 1810,) regards Mr. Parish "as perfectly capable of understanding and comprehending any subject addressed to him, that he could have comprehended or understood before his attack."

The basis for such an opinion is not afforded to us. Indeed, it is difficult to conceive how such a sweeping conclusion could be predicated of a person whose only communication was *yea* and *nay*. Not a single test,

involving even those, the only elements on which such a judgment could have been founded, is here detailed, or even hinted at.

I have before this suggested how easily one might be deceived in deciding upon the intelligence of an individual, who could only say *yes* and *no*—the uncertainty which must attach to any communications where the interrogations were made by one party, and merely *yes* or *no* sounded or motioned by the other. If the questions were about common matters, put in the entire trust on the part of the interrogator, of the capacity of the party to answer affirmatively or negatively, and if the questioner believed in an irritable, testy state of feeling in his friend, how difficult would it be to fix assuredly upon their applicability or intelligent responsiveness?

Let a case be assumed in illustration. M. Maelzel, the ingenious Swiss mechanic, succeeded in constructing little automata, with certain vocal powers. They could utter the words *papa*, *maman*, with true accent and distinct articulation. Let us suppose that an artificial voice was limited to the mere words *yes* and *no*, and that these were uttered not alternately or regularly but accidentally, hap-hazard, as the turning of the wheels might open the reeds making one or the other sound. Let us imagine how the answers might fall to the kind of questions which would naturally and ordinarily be put to a person in Mr. Parish's condition, where all direct exchange of thoughts was restricted, and where a belief in his irascible temper was present, prompting at the slightest warning to a speedy change of subject.

Q. Mr. Parish, will you look over the plans for the proposed tomb at Greenwood? *A.* Yes.

Q. Here they are. You put your hand upon the very one I was anxious to show you. This is Upjohn's; does it suit you? *A.* Yes.

Q. Its cost will be \$10,000. Isn't it too large—too *magnifique*? *A.* Yes (or No).

Q. Would you care to go to such a cost? *A.* Yes (or No.)

Q. Well, I thought that would be your opinion. Tell me, as I hold them up, which you will examine; Mr. Arnot's, Mr. Inigo Jones's, Mr. Charles Barry's? *A.* Yes.

Q. Ah! Barry's? Well that is a fine façade. Rather too ornate, isn't it? *A.* Yes (or No).

Q. What should you think of having the lower portion of granite or brown freestone, instead of white marble; wouldn't it give the idea of greater solidity, and improve the general character?

A. No (or Yes.)

Q. Well, perhaps your idea is the true one. And so on, *in extenso*. By following out any probable line of parlor or even business conversation, where *yes* or *no* is to be the only response, one may appreciate how easily he may be misled, by mere mechanical expressions of assent or dissent, into a firm belief that an intelligent interchange of views has been had.

Some ten or more years since, what were called *clairvoyant* experiments were in much vogue in some parts of the country. A person was "put in communication" with one of those gifted with the mesmeric power, and they started off on supposed tours to see various places and objects. The Clairvoyant noted the scenes about them, and the other party expressed assent or dissent to their agreement with what he had in his own imagination. Where there was a prepossession in favor of the new science, it was curious to note how the agreements of sentiment were sure to be prominent, while the want of any concordance was belittled and scarcely recognized. Indeed, in conformity with this principle of believing what is pleasant to us, it was

found that a person assuming to be a Clairvoyant, without seriously believing that he possessed any such gift, could carry the willing neophyte, with wonderful success, through scenes which left not a doubt in the mind of the latter that the Clairvoyant was going with him every step of the fancied route.

It is evident that the anxious friends of Mr. Parish were not insensible to the common experience of believing what it was pleasant to believe, and scarcely stopped to put tests to a friend whose yeas and nays half the time came in harmony with their own preferences, especially as, when they did not, the discrepancy could readily be passed over and deemed the result of impatience or irritability.

How different is the weight due to the testimony of a witness who, like Mr. Kernochan, carefully scrutinized the subject. He had known the testator, and that most thoroughly, from his youth to his final disease, and through it.

When actual and important interests required him to form a judgment, he left the pleasant conversation with which he hoped to give a momentary satisfaction to his old friend, if perchance he could comprehend a glimpse of its meaning, and soberly and carefully applied himself to the grave question which he was compelled to decide, i. e. whether he should receive a power of attorney under Mr. Parish's hand. He deviated from the natural and pleasant order of dealing with an afflicted man, subjected him to the simplest of all tests—that of putting the same question twice over—and was thereby assured that his friend had not mind sufficient to act for himself in any important business.

The testimony of Mr. Thomas Tileston strikes me as quite illustrative of the probable form of self-deception running through the opinions of most of the wit-

nesses, who give accounts of occasional interviews with Mr. Parish, and pronounce thereon judgments in favor of his entire mental soundness. I mean those who infer such a condition from Mr. Parish's supposed just application of the signs and sounds of assent or negation.

In accordance with a note previously sent, Mr. Tileston calls upon his old friend, to see if he can induce him to loan the Phenix Bank \$200,000 of United States scrip, to be deposited with the State as a basis of its banking operations. Mr. Tileston opens the business of his interview, and "from the expression of his countenance and the interpretation given by Mrs. Parish, who sat directly by him," concludes that he was disposed for a negotiation. Mr. Tileston may have naturally enough mistaken the cheerful expression of his old friend's face, incidental to the associations which the last remnant of consciousness might leave unextinguished, for the less sentimental gratification connected with the idea of making a good bargain with the best of security. If the invalid's wife, the person presumptively most familiar with the interpretation of his pantomime and sounds, thus explained his meaning, it was most natural that Mr. Tileston should receive it without hesitancy, and, indeed, without reflection.

Mr. Parish raises two fingers, a gesture again and again described, throughout these volumes, as the most frequent and spontaneous of his movements. (I. f. 960, 967, 970, 982, 983, 991, *et passim*.) Mr. Tileston did not catch its meaning. He asks if Mr. Parish assents to the loan. Mr. Parish nods, the next of his most frequent and instinctive movements. Mrs. Parish suggests that he means that he will loan the scrip for a bonus of \$2,000 *per annum*. Mr. Parish looks pleased, and nods again. "When he held up his *two* fingers,"

continues Mr. Tileston, "I then asked him if he meant the \$2,000, to which he gave assent, by nodding his head in the affirmative."

Now, Mr. Tileston saw in these, which were the habitual, involuntary motions of this invalid, made over and over again, on all occasions, in the mere course of habit, as described by most of the witnesses who saw him, precise, intelligent responses to his questions, just the replies which a man of business, intent on driving a good bargain, would have made, and just such as a man of business on such an errand would have desired, and therefore anticipated.

Mr. Tileston, of course, received them without one doubt of their genuineness or authenticity. But his duty is not yet brought to a conclusion exactly to his mind, as he might naturally have anticipated from their perfect accordance at first. Mr. Parish seems uneasy, excited, dissatisfied; his temper rises, he puts his hand on Mr. Tileston, who is entirely at fault as to his meaning. Mrs. Parish, with all her skill and experience in detecting his wishes, does not at all comprehend what agitates and distresses him. She gets a slate and writes Mr. Tileston's proposition in full. As Mr. Parish's hearing is acute, it is difficult to see why he could better understand the offer thus presented. He shakes his head, and utters inarticulate sounds. Mr. Tileston is clear that Mr. Parish wants something other than what is offered. The writing on the slate is changed some five or six times, which certainly seems to give the man a very full opportunity of seeing the proposition under various shapes. (II. f. 569.) Mr. Parish evinces at each time the same unmeaning agitation; (II. f. 570;) and Mr. Tileston, giving up in despair, takes his leave.

What condition of the human mind, other than dementia, with the faintest traces of some delusion—

too indefinite and indistinct to be appreciated except as belonging to the general head of suspicion, or fear, or anger—will meet and satisfy such a collection of indications as this?

On a subsequent visit, Mr. Tileston is informed that the mystery had been solved in his absence. That Mr. Parish's meaning had been fully reached. He only wants "assurance doubly sure"—twice as sure as he deemed necessary in his days of unquestioned health of body and of mind. He demands the personal guaranty of each individual member of the Board of Directors! Mr. Tileston, who himself knows, and also imagines that Mr. Parish knows, the security offered for the loan to be as perfect as is attainable in any financial operation—that practically it is equal to a deposit of plate or bullion—is amazed at the demand! Naturally thinking that Mr. Parish might get some clearer insight into the affair by seeing it in writing, as Mrs. Parish had previously adopted that method, and failing to advert to the fact that Mr. Parish is dumb, not deaf, and can hear much better than he can see, he deliberately writes down his proposition. Mr. Parish manifests what Mr. Tileston considers a refusal; the "nin, nin, nin, was going all the time nearly," says the somewhat chagrined solicitor, as he leaves the invalid with a conviction (assuredly as he says so) that Mr. Parish understood him, and, no doubt, thinking that his long illness had made him sharper and more cautious in a bargain.

On the strength of these signs and gestures, Mr. Tileston arrives at the confident opinion that Mr. Parish "understood himself perfectly."

It is easy for those of us who have the entire record of Mr. Parish's condition, as presented in these volumes of testimony, and of which Mr. Tileston had but a small idea, to understand how, with really so

few and such insignificant grounds for forming any opinion at all, he should have arrived at the confident one which he declares. To those of us behind scenes, as those who have read the printed testimony now are, how transparent are alike the errors of Mr. Tileston's judgment and the fallacious substructure on which he has placed it! Mr. Parish's pleasant aspect at the sight of an old friend whose face carried some glimpses of former days with it; his evident non-comprehension of all that was passing before him; his irritability in seeing the glimpse of some happy vision, however obscure, connected with an old friend's face driven from him by a slate thrust before his eyes, some half dozen times; his subsequent excitement; his seizing hold of Mr. Tileston in kindness, or in anger, or in fear; his angry look when Mr. Young appeared at the door, all present a congeries of symptoms admitting only of one explanation, one hypothesis. This poor sufferer, under two of the saddest forms of human disease, apoplexy and epilepsy, and their sequel of demency or mental dilapidation, had of all this scene before him no intelligent comprehension at all!

Another example of strong conclusions drawn from extremely limited observation, is shown in the testimony of Mr. Gibson—conclusions which pass into nothingness when viewed from another position. He calls on Mr. Parish, (II. f. 1865,) and presents the charitable claims of an asylum. Mr. Parish is soon noticed to be making the old spontaneous sign, a motion of holding up his two fingers. He gradually expands his hand from the two digits, which were considered as indicating a contribution of \$200, until all five are lifted, indicating of course \$500, which is accordingly subscribed, but which, for some unexplained reason, does not appear to have been paid.

Mr. Gibson, doubtless well pleased with so success-

ful a visit, noticed nothing peculiar about Mr. Parish's eyes, prominent as their diseased aspect was; *thinks* that it was his left hand which was raised; did not notice that any thing was the matter of either of his hands, (II. f. 1871;) but "from his observation of Mr. Parish and intercourse at that time," witness thought "his mental faculties were bright enough to understand the nature of my visit." No doubt he so thought. The contribution to his favorite object went up from two fingers to five, from \$200 to \$500. A man could scarcely question the mental soundness of a contributor, where his persuasive powers had "in fifteen minutes," raised a new subscriber from 0 to \$200, and successively to \$300, \$400, and \$500!

It does not seem to me necessary to analyze any more of the testimony of those who regard Mr. Parish as a sound man. In examining the minutes of the testimony of each in succession, I find no facts of a different type from those already considered; nothing which is substantiated by any tests; nothing where his signs of assent and negation would not fall under the same principles of explanation offered in relation to the statements of Major Delafield, Mr. Tileston, and the others named; nothing which offers any hint to reconcile the entire competency of mind which they deduce from the mere application of *yes* and *no* by him, with the great fact of his utter inability to express one idea in the manner used by all sane paralytic men in all times and places.

The testimony of the other class of witnesses who regarded Mr. Parish as essentially void of comprehension, requires no analysis, because theirs is not so much the expression of an *opinion*, where we are to see whether its basis of facts warrant it or not, as the statement of a *fact*, viz., *that they could not understand him, or as far as was perceptible to them make themselves comprehended*

by him. Many of this class of witnesses had a strong interest in recognizing his true condition. The testimony of his old partner, Mr. Kernochan, before alluded to, and his confidential clerk, Mr. Folsom, carry with them an element of great importance in this regard. Each was placed under circumstances requiring him to decide in reference to momentous acts involving pecuniary risk, and very probably involving reputation, whether he was, or was not, sound and competent to do business. They declined to act, because to their minds the evidence was adverse to his soundness. Mr. Kernochan, in his anxiety to decide correctly, instituted the simple test before alluded to, almost the only one referred to in the case, and refused to receive a power of attorney from one whom he believed to be no longer himself. And Mr. Folsom, abandoned as it were to his sole unaided judgment in a most embarrassing and responsible position, where those to whom he seemed to look at first for relief, refused even to advise in so delicate a matter—that of deciding whether he should deliver up the valuable papers of Mr. Parish, including his will—cannot bring himself to an affirmative belief in his soundness. How much must judgments arrived at under the pressure of such circumstances as surrounded these witnesses, overbalance the mere impressions or notions adopted without test or examination, by the great body of those who have spoken confidently of his perfect mental integrity!

The practical decisions of such men as the provision dealers, Case and Austin, have in them an element of earnest attention to Mr. Parish's manifestations, superior to the off-hand impressions of casual visitors, or of those who thought they transacted business with him, when some one claiming and exercising full authority, was at hand to decide and promptly to declare a reasonable import for every inarticulate response he made.

When, for example, Mr. Parish appeared to be transacting business to an extent of thousands of dollars, instead of that appertaining to the purchase of a few chickens, vegetables, or oysters, it must not be forgotten that Mrs. Parish was at his side, and that her explanations of his decisions were naturally, and as a matter of course, accepted as his exact wishes. If Mr. Parish had visited Mr. Ward accompanied only by a nurse, would the notes and securities which he was examining, have been delivered on the mere strength of his imperfect sounds and gesticulations? Is it to be presumed that a person who cannot make a tradesman comprehend how many and which of his stock of fowls or oysters he would order, is equal to the purchase of securities in the stock market?

I have alluded at various times to the consequential fact, that tests might have been applied to substantiate impressions or to disperse them. I may be asked of what tests, what methods of verification would I have availed myself? This is very easily answered; many tests would at once occur to any earnest investigator. I will suppose one. At a suitable time and in a proper manner, some one of those who believed, as many of the witnesses profess to have done, that his mind was perfectly sound and intact, should have approached him with language essentially of this import: "Mr. Parish, I wish to have a full, frank conversation with you on a subject, which it may not be pleasant to you to have broached, as certainly it is painful for me to present, but feeling that you ought not to have any thing of moment in your affairs concealed from you, especially as I and your immediate friends are aware that you perfectly understand every thing, although you cannot speak to us; I will tell you frankly and fully what we all think you ought to be informed of; you know that you have directed several codicils to be

prepared and have executed them, which entirely change the purport of your will, while you have refused, and doubtless for good and sufficient reasons, to have the original will abrogated. You know that the first of these codicils, having been executed when you were very ill, was, by the advice of Mr. Lord, re-executed some months afterwards to avert danger of doubt or question respecting your capacity to execute it in the first instance. The subsequent codicils effect most essential changes, and as the whole matter is a good deal more involved by your giving to your wife large sums as gifts, which Mr. Lord says are of questionable validity; therefore, as things now stand, it is certain that your testamentary dispositions and these gifts to your wife will be contested by those who will think, from the tenor of your original will, which you prefer to stand uncanceled, that they have a better right to a part of your estate than she has to the whole.

“That will may be considered by some to be a natural disposition of your estate, and, consequently, there may be an endeavor to sustain it and give the go-by to the codicils. The event of lawsuits is proverbially uncertain, and of course you would be distressed to feel that it were a possible thing to dispossess your wife of the liberal provision which you have finally and maturely decided to give her. Now, to put all this beyond question, it is absolutely necessary for you to make a brief effort to counteract any chances of dispute.

“To do this, you must give us at this time, when your pressing illness is over, a more clear and definite expression of your wishes than we can reach in your ordinary way of merely assenting to or negating what we offer, not, of course, for the satisfaction of your friends, who understand you well enough, but to demonstrate to all who care to inquire, that there is

not the slightest ground for disputing your will. It is very easy for you to do this; it is not necessary for you to go through the tiresome processes of endeavoring to write with your left hand on slate, paper, or blackboard, as persons who have had a shock of palsy often do, but to which we know you have a great aversion, still, if you would consent to practise two or three days, and thus write, it would be a conclusive thing.

“There is, however, an easier way. I will simply turn to an alphabet, which we can find in any primer, grammar, or dictionary, and point along to each letter until I come to the one which you need to make the first letter of the first word of what you would say. When I reach the one you want, raise your finger or touch my arm, and I will write it down. In an hour, yes, in half an hour, you will have dictated a communication which will leave nobody in doubt about your having clear ideas of all that has been done in relation to your estate. Just spell out some sentence to the effect that you desire these codicils to be regarded as the expression of your precise wishes concerning the disposition of your property. Any other views or wishes you may have, especially any which will explain your singular reluctance as to communicating with us otherwise than by saying ‘yes’ and ‘no’ to our questions, would render ‘assurance doubly sure’ as to your mental competency. Or, my dear friend, if you cannot follow my pointing to these letters of the alphabet, I will slowly call them over by their names, and when I reach the one wanted to make the word you would express, just press my hand and I will write it down. You see there cannot be much trouble in this, and how perfectly it will cut off the objections of any who think that you have not the full possession of your mind, and that you cannot make a valid will.”

What man in his senses thus addressed, seeing before him, as he could not fail to do, a foreshadowing of what we are now engaged in, his beloved wife and his friends exposed to sore troubles from the question of competency, just as fully expected to be the inevitable subject of litigation in 1849, as it is known to be this moment, and realizing that his own infirmities would necessarily be dragged out before the world, could have resisted a call so reasonable, so just, so much a demand of honor and of duty! To comprehend the emergency of the future and to refuse meeting and counteracting it, where the effect would require so little power, mental or physical,—indeed, vastly less than he was exerting daily, as those who believe him sound aver, in buying notes, settling accounts, &c.,—would be contrary to the course of sane men as exhibited by universal experience. His failure to comprehend the appeal or to respond to it, would present an anomaly. It could only be explained on the idea that some huge delusion overshadowed his mind in relation to the disposition of his property, and that he preferred that all his plans and arrangements should “go by the board,” rather than lift his hand to secure their accomplishment. If Mr. Parish were so keen and exacting as to demand from Mr. Tileston an order of securities more extortionate (using the word in no disrespectful sense) than any financial practice would justify, to protect a portion of his property, is it possible to believe that he would run the hazard of his whole estate being lost to his wishes, from an unwillingness to make a much slighter effort? The idea is preposterous.

It may be objected to the application of such a test as we have suggested, that there was an irritability about Mr. Parish, which would not permit a ready approach to him, on so delicate a topic. Perhaps so; and to meet such a difficulty, was just one of the purposes

for which the aid of an expert in mental disorders should have been invoked. The same order of skill which enables the oculist to get a clear view of a sensitive eye, which the ordinary practitioner cannot even open, would have been the means of a free access to Mr. Parish's mind in the manner suggested. If Mr. Parish were a rational man, it is absurd to suppose that during the six long years of his indisposition, no opportunity would have been afforded for a free interchange of views. No known condition of irritability, and few, very few forms of hypochondria have a continuous existence, without periods of relief or mitigation, and there is no evidence that Mr. Parish was habitually under any appearances either of irritability or hypochondria. He had occasionally fits of indefinite anger; he had paroxysms of weeping and sadness; but we more frequently see him externally placid, sometimes cheerful in expression.

Indeed, a grade of hypochondria which would produce all the strange effects referred to, would have entered into the domains of insanity.

These three volumes of testimony give us no account or hint, that any of the persons around Mr. Parish, from his attack in July, 1849, to his death, ever approached him to counsel him or confer with him on those subjects so momentous to him and to them. He never was once addressed, as it would seem these persons ought to have addressed a sound, rational, competent man, on the subject of his questionable testamentary dispositions. Yet there was not one amongst those around him who did not fully appreciate that a litigation was inevitable, unless avoided by some distinct proof of capacity being presented by Mr. Parish himself.

Under all these imperious demands for some such action, he was allowed to go down to his grave without

the suspicion ever being presented to him that his will would be contested ; he was suffered to die—yet make no sign. Is not this fact pregnant with the conviction, that he was not looked upon by those around him as a sound, rational man ?

There are still other tests, which might have been applied every day, without the possibility of giving offence, or the formality of any serious address, such as we have just supposed. For example, when Mr. Tileston was dumb with amazement that his whole Board of Bank Directors had been asked to give an individual guaranty in addition to the already abundant security proffered, had some one in the interest of those who doubted Mr. Parish's sanity been present and resorted to the experiment of asking Mr. Parish whether he also expected a deposit of bullion as collateral ; what would have been the response ? Who can say ? Perhaps it would have been a nod, and in that event what would have been Mr. Tileston's view of Mr. Parish's soundness and capacity ?

How many methods of verifying Mr. Parish's responses as intelligent and applicable, could have been devised ! An absurd or amusing question to bring forth a smile and an unmistakable gesture—a question involving in its proper response both assent and dissent, and of course not to be answered with either a nod or a shake ; a reiteration of the same question with an interval, an interrogation in different phraseology, but carrying the same meaning, all would have helped to demonstrate whether the *yes* and the *no* were rationally applied.

Unfortunately, except in the trifling experiments of Messrs. Kernochan and Folsom, we have nothing which looks like bringing to a test the mere impressions of mental soundness received by many of those around him

In view of the eminent intelligence of many of those interested in Mr. Parish, and of those domiciliated with him, it is difficult to understand the reason for not subjecting him to such tests, if not for their own satisfaction, still to meet what they could not but foresee would be the first demand of those who subsequently to his decease would require to be satisfied of the exact truth. The omission, especially under the six years' opportunity for considering every thing connected with so great a contest as was impending, like the failure to call in a single expert in mental disorders, is to be explained by those in whose power it was to employ any method of investigation which the case might require. The inference is irresistible that such forms of proof were pretermitted because it was felt that their application would operate adversely to those who wished to uphold his acts, as those of a sound, responsible agent.

We have now arrived at a point in this inquiry, where we may lay aside all concern with the mere inferences and opinions of others, as well as with all the experiences and observations which are not in perfect harmony, and judge of Mr. Parish's condition in the light of conceded and virtually agreed facts. It is true that touching the material facts of his case, what his sounds and movements and looks, habits and infirmities were, there is as general an accordance of testimony as could be expected from witnesses at different stand-points. We can, therefore, bring him and the scenes of his daily life almost as clearly before us as if we had been present ourselves, and almost disassociated from any impressions traceable to this or that witness. To be sure, a witness may represent his expression to have been uniformly pleasant and cheerful, while others recollect him only as sad and melancholy; some never could perceive any thing like an articulate sound, capa-

ble of being expressed in words or letters in his vocal attempts; others recognized *yes* and *no*, and nothing more; some heard other short phrases, to the extent of two or three, in distinct articulation. Yet after reading over the great mass of testimony of so many persons, very many of them having had fair opportunities of observation, it is not likely that there will be any great degree of discordance in opinion as to his actual situation, among dispassionate and disinterested judges. The evidence will leave about the same general impression as to the facts.

Mr. Parish heard with readiness; his eyesight, so far as one eye was concerned, is represented by those around him to have been good; one side, in its muscular powers, had been unaffected by the shock which had annihilated all power in the other.

Those who regarded him as mentally sound, of course believed that he had a full and clear comprehension of all that he saw or heard. They are satisfied that there was not merely an abstract power of intelligence, but an active exercise of every function of the perceptions, the volition, and the judgment. He was equal in their opinion to the high responsibility of negotiating for the great sum of \$200,000 in one mass, passing out of his hands; he was equal to trading for a house, deciding upon the repairs of his roof, and attending to the daily marketing of his household.

Yet with all this completeness of capacity, this integrity of intellectual powers, believed to exist by these witnesses, they all without exception agree that his power of communicating his thoughts to others, was singularly, nay, to an unprecedented and anomalous degree, limited and restricted. He could not articulate to any degree—he could not write with his affected hand. There was nothing peculiar or unusual in these defects among the victims of apoplectic disease. But

he could not indicate his wishes in any of many ways which are common to paralytics from apoplexy. He did not write with his left hand. He did not search out the words he wanted to indicate his meaning, in the dictionary. He did not place block-letters in the collocation required to express his wants, nor point to the letters of the alphabet. He did not raise his finger to or press the hand of a friend, who might call off the letters, when that one was reached which would make part of the word and the sentence required—a method so much in vogue of late years in certain mesmeric or *spiritualistic* experiments, that its facility and effectiveness are recognized all over the country. Unlike the great body of paralytics from apoplectic lesion of the brain, deprived of the use of the vocal organs and the right hand, Mr. Parish only communicated, assuming that he did communicate at all, by assenting or dissenting when propositions were made to him orally, or perhaps in a few cases presented to him in writing. Such assent or dissent was expressed in sounds and signs, interpreted by his friends then about him, all deeply interested in establishing his sanity. Such an indirect method was indeed of the most clumsy and uncertain nature, and it is without surprise that we read of the long, persevering, yet fruitless endeavors, to catch his meaning through it. At times, indeed, this was impracticable, and the attempt was, under the trials of those who held themselves out as interpreters of this strange language, necessarily adjourned to be resumed another day, or was abandoned in despair.

As before stated, a method so crude, imperfect, and unsatisfactory, was not acquiesced in without some struggles for a better. Abundant trials were made to induce him to write with his left hand, a process invariably, in my experience of many cases, performed with exceeding ease. This capacity is attainable with

so much readiness, in fact, that I confess myself surprised at the presentation of *fac-similes* and testimony on this point to the Surrogate. Paper, slate, and the black board were brought into use; copies were set of his name to fix his attention, but all in vain. It is stated that he sometimes went as far as "H. Par.," and that his name was more than once written by him. But though "coaxed" and "persuaded," this was the extent of his post-apoplectic success in chirography.

I perceive among the *fac-similes* various of his alleged signatures, made after the attack, differing considerably from each other, and greatly differing from his veritable *sign manual*. I am at a loss to explain them in the light of his proven incapacity to go so far. But as we find in the account of his most important signatures, *i. e.* his mark to one of the codicils, his counsel aided him by placing one of his hands on Mr. Parish's forearm and the other on his hand—positions in which a stuffed image could have been guided into some form of chirography—it is possible that *all* these dissimilar *fac-similes* resulted from such auxiliary manipulation, to meet his fancied wishes. We at least need more direct testimony and precise explanations, as to the *modus in quo* these signatures were made, before they can be received as palpable exceptions to the admitted fact, that for some reason or other he did not use his left or sound hand, as ordinary paralytics do. The utter obscurity of his early effort at chirography, received by his wife with so much emotion as being the word *Wills*, when it carries no such significance, indeed no significance at all to any unprejudiced observer, seems to warrant a demand for information more definite than can be found in the evidence, as to some of these very legible, if not characteristically individual specimens of his alleged autograph attached to various important documents.

I pass over these trifling attempts at handwriting, as of little moment in any scale of proofs touching capacity to use the pen—a capacity in fact stopping far short of the power daily exhibited by a vast majority of those almost vegetative forms of dementia, found dozing around any large receptacle of incurables under mental disease, and inquire how it could be, assuming his mental integrity, that his powers of communication should have been circumscribed and restricted to the narrow limit of signifying assent or dissent to some proposition presented to him, by some accepted sound and movement.

We can imagine no other than the following possible explanations why a sound, intelligent man, accidentally deprived of the use of his voice, and his right hand, should not take advantage of the methods commonly used by persons so afflicted, except the following:—

1. The possession of an irritable, impatient temper, contrary to his natural disposition, as proved throughout in this case, and ascribable to disease, which induced him to set himself against any attempts to write or communicate by letters or words, and refuse simply *because he would not*, without reasons, and disregarding of consequences present or future. He would not be pestered, and plagued, and teased into writing copies, or picking out children's play-things in the shape of block-letters,—he did not please to point or have others point to the letters of the alphabet or to words of the dictionary, nor, in fact, to resort to any other process, except that of saying *yes* or *no* to questions put to him by diligent guesses as to his possible desires.

The reply to any such explanation has already been suggested in part. There is proof that Mr. Parish manifested at times a vague, unexplained irritability, occasionally rising into a state of wild fury, as where he gathered a mob about him, when his wife was absent

a short time at the daguerreotypist's, and leading to repeated attempts to push and strike her, actions absolutely incompatible with the whole tenor of the man's life and being, as delineated by all who had known him from his youth to the fatal nineteenth of July, '49. But if the views of his friends concerning his state of temper after his attack, are correct, as doubtless they are, there was no such habitual condition as to make him recoil from any thing in the way of common every-day duties. He evinced, taking their account for the reality, no disposition to avoid a thousand duties, far less in importance, while equally as difficult, as certifying to his wishes respecting his estate, either in the manner intimated, or in some other method, so clearly as to leave no doubt as to his intentions or capacity. As before suggested, nothing but a continuous and unbroken series of monomaniacal ebullitions of temper in the one sole direction of making known his wishes, (which would of course include his testamentary dispositions,) can be conceived of to explain such incapacity to communicate. Such a monomania may be conceived of, but there is no evidence whatever of its presence in Mr. Parish's case. If it did exist, when these codicils received their cross-mark of authentication, they should of course be rejected.

2. That Mr. Parish was suffering under a peculiar, specific condition of mind, of which some few alleged specimens are found on record in the books, where it is assumed that the intellect is clear and normal, but where the connection between the thought and the oral or written symbol, through which it is conveyed to another mind, viz., spoken or written language, is broken off and lost. In such cases as described, the power of *receiving* ideas from others by language is not annihilated, but the capacity to *originate* speech in reply—the calling up the symbols, and presenting them to others—is extinguished.

The first objection to this explanation of Mr. Parish's case is, that the alleged instances of loss of power to communicate by language, while capability of receiving through it continues, are not satisfactorily substantiated. The assumed cases are among the rarest of the rare in the described phenomena of psychology, and these few described or reported cases come in a very questionable shape. They are confined mostly, if not wholly, to the writers on phrenology, who are naturally anxious to bolster up their imaginative science by any thing which looks like proof that there is a specific organ of language, and that a portion of its functions might be obliterated, without influencing the remaining *organs*. It never has been my fortune to witness any approach to such a condition. I never have known any one who has seen any thing nearer to it than the inability to connect here and there a word or a name with the thing signified, an occasional sequel of lesion of the brain from apoplexy.

The second objection obtains in the certainty that Mr. Parish's mind was not intact and natural in all the rest of its operations. No person, it seems to me, can read over the whole detail of his actions and bring himself to the belief that there were not wide divergencies from soundness, irrespective of this one point of not communicating. His random searchings, in doors and out, his eating rapidly when an evacuation was impending, with no intelligent way of protecting himself, his wild and indefinite wrath at various times, his pushing his wife, &c., will all occur as proofs, at least of some mental infirmity in other directions, while the theory of this incapacity to originate language is, that it co-exists with entire mental integrity.

The third objection to this theory is, that if the witnesses who think him sound are to be believed, he *did originate* language. Dr. Delafield testifies to his

originating his signature "more than once," and such a signature is several times repeated in the *fac-similes*; he originated the word, a most important one, too, in its connection, "wills."

If such were the facts, the theory does not meet the case.

So far as I have examined these unproven and, (even as dubiously reported,) most rare cases of the *cas rare* of medical science, the incapacity to avail one's self of language, extends also to the non-use of its written or printed forms. These cases, it should be remarked, do not appear at all in the authoritative treatises, monographs, or systems of medical science. They are buried in the almost forgotten pages of periodicals devoted to phrenology, and in works devoted to the possible eccentricities of cerebral action.

If these patients are assumed to be capable of *receiving* written language, and their gist is in non-ability to *originate* alone, it is obvious that Mr. Parish did not fall at all within the description. If there be proof that there was any degree of comprehension at all—that his faculties were not under a complete dementia, there is evidence that he did comprehend something at least, of what was written and printed. The selection and reading of paragraphs in the newspapers, of the matter respecting the loan to Mr. Tileston, on the slate, and five or six times varied, of the broker's list of notes, of the footings in his bank deposit book, are all cases in point.

While I am ready to show that if such a condition as that referred to, is a reality at all, it did not accord with Mr. Parish's symptoms, and while I am willing to give respectful hearing to the rarest narratives of professional experience, I cannot, even by a possible implication from my silence, permit it to be supposed that I have a personal belief in any such state

of mind as that under consideration. I can scarcely conceive of a state in which the images of things should be brought distinctly to the invalid's mind, by means of words used by another, and yet he, the recipient, should have no capacity to conceive of the language by which the same or similar images could be depicted in return. Independently of its innate impossibility, it seems to me that the cases supposed to prove its existence are too few in number, and too closely connected with a fanciful theory, to be accepted as at all demonstrative of it.

3. As Mr. Parish was an aged, afflicted invalid, with trials and ailments enough to be spared any thing which was painful to him, it may be urged that so long as those around him had no doubt of his mental competency, it was not worth their while, nor consistent with due tenderness, to plague and harass him with attempts to make him express his mind in any manner other than that which he saw fit to adopt. If the reason was mere inertia, or prejudice, or indifference, it was kinder to indulge him, than to unduly urge him to exertions in learning to write, &c.

To this I reply: the importance of his giving better evidence of his competency was felt and shown in the re-execution of his first codicil; repeated attempts *were* made, and that sometimes under what was evidently considerable irritation, with slate, paper, black-board and block letters, to induce him to express himself; he was "coaxed" and "persuaded," again and again, but it was all in vain.

It is certain, that neither of these three suggestions gives us the clue to the cause of the non-communicability of his supposed wishes, through any one of the many convenient and certain conduits which were within his reach. It becomes necessary to consider what recognized condition of mental change will meet and cor-

respond with the indications which Mr. Parish presented, during the long and dreary history of his affliction and infirmity.

We think we see clearly a progressive tendency of disease in the brain, commencing with *vertigo* (and which might have been connected with hereditary predisposition) manifesting itself in the slighter attacks in Europe, and coming to a climax in the overwhelming stroke of apoplexy, in July, 1849. That there were other and more extensive pathological changes in the brain than such as pure, uncomplicated apoplexy would occasion, appears highly probable. Indeed, this is nearly certain, for he had from an early period in his disease, very frequent and severe paroxysms of epilepsy. These were so well marked, so perfectly in accordance with the universally recognized manifestations of this not uncommon malady, that one is entirely at a loss to understand why any question is made as to their character, or why the fits should be called "spasms," "spasmodic," or "epileptiform." They were plain, everyday epilepsy, nothing more, nothing less.

There is no evidence that he was subject to epilepsy prior to the decisive apoplectic fit. There is no reason to believe that the specific cerebral lesion, which accounts for apoplexy, and its consequent palsy, is ever the cause of or connected with epilepsy. The two diseases co-existing, it is highly probable that an augmenting cerebral disease, after inducing apoplexy, perhaps by increasing the circulation within the cranium, or weakening the strength of the vessels, or other incidental cause, went on to produce these epileptic fits.

I consider that epilepsy occurring as a sequence of apoplexy, would be a most probable ground of belief that extensive disease existed within the brain. And it is hardly necessary to observe, that while some occasional examples of lesion, especially of one hemisphere

of the brain, with no mental impairment, are reported, the general law is the reverse. *Where organic brain disease exists, the functions of the organs are impeded; the intellect is perverted or weakened.*

Even the continuance of epilepsy for a few years in its mildest and most uncomplicated forms, as most general experience amply shows, is not compatible with soundness of mind. The powers of observing, reflecting, comparing, judging, are enfeebled and lost, constituting progressively the various stages of dementia or imbecility—a form of mental impairment running through a wide scale of gradations, until it terminates in almost vegetative fatuity.

It is worthy of observation, as an important ground to infer the existence of extensive brain disease in Mr. Parish from a very early period, that the constant recurrence of these intense epileptic seizures did not seem, from the evidence of those who looked upon him as intelligent, to have affected his intelligence. He is represented as just the same from the first to the last.

If, as is most probable, his mind was reduced to a deep grade of dementia, ever after his first attack in July, 1849, and that the belief in his having mind was due to a misinterpretation of his sounds and motions, and a self-deception in thinking they meant something, this uniform dead level, this absence of change, under fits, sometimes as frequent as every ten days for many years, is accounted for. But on the assumption that he was perfectly himself, as several of the witnesses believe, from within a few weeks after the apoplexy to within a brief period of his death—undergoing in all that time no deterioration, certainly his case is anomalous and contrary to all ordinary experience.

To fix upon the degree of imbecility which existed, becomes an important element in deciding upon his competency to execute a valid testamentary instru-

ment. As he could neither speak, nor write, nor communicate, except in a method which, as we have shown, it was extremely difficult to say carried light from the mind within, and was most liable to induce mistake, it is scarcely practicable to say from what he actually did, how low the grade of mental power was. A patient who writes disconnected, incoherent jargon, indicates his mental change at once; one who has a power of ready muscular movement, may indicate his dementia by the absurdity and grotesqueness of his gesticulation, or he may show, by placing himself in positions of danger, that he is reduced below the point at which the instinct of self-preservation remains. To witness an intoxicated man dancing on a railway while the train was approaching, would leave no place for doubt as to his mental incapacity. But when an invalid is too much physically diseased to walk, when every effort at muscular motion is avoided, when, from some cause, he can neither speak, write, or communicate in any of the usual ways of such invalids, we must look at all we have—the mere passive indications, and see what they suggest or prove. As an expert in mental disorders, I am ready to stake any reputation I may have, in saying that I regard *the circumstances connected with Mr. Parish's involuntary, disregarded evacuations, as pathognomonic of his condition*. I say that the symptoms alone of a man eating his dinner with augmented rapidity, and fumbling at the same time at the opening of his pantaloons when an involuntary faecal evacuation was about to occur, are precisely such as extremely demented persons constantly exhibit, and such as no others than such demented subjects ever would manifest. Were I *a priori* to lay down the most significant characteristic symptom of such dementedness in cases otherwise in doubt, I could devise nothing more graphic, or more certainly denoting that condition.

If demented, there can be no more sure proof that it was of that extreme grade which would allow little further deterioration. As there seems scarcely any evidence of change from first to last, it necessarily follows that, if demented, it was continuous and uninterrupted, as well as complete.

Such is my full belief. And under the whole evidence in the case, in my opinion he never had any comprehension, clear or obscure, sound or perverted, of what he was doing when these codicils were executed, and that they do not in any sense represent any rational act of his own.

LUTHER V. BELL.

MONUMENT SQUARE, CHARLESTOWN, MASS., *Sept. 5, 1857.*

P. S.—Since writing the above, I have been desired to look over an article in the September number of the *New York Journal of Medicine*, upon “the Intellectual Faculties in Cases of Apoplexy and Hemiplegia,” avowedly addressed to the present suit, and to express my opinion as to its bearing and importance.

I have done so, with as much care and thoroughness as was in my power. Arriving at the conclusion that there is nothing in its facts or reasonings to disturb the views which I had reached, under the direct evidence as to Mr. Parish’s mental condition, I have not thought it necessary or desirable to encumber these already extended commentaries by analyzing the foundations on which its conclusions are grounded.

In fact, I see no reason to differ from the writer in the conclusion to which he arrives, after a pains-taking exhumation of the multitudinous relics of European hospitals, that there are occasional examples where, after decided apoplexy, and sometimes with epilepsy

superadded, the patient may exhibit a good degree of mental power.

I should, however, dissent from the suggestion that a careful inquisition into the mental condition of such sufferers would generally develop a less degree of impairment, than at first view of the external indications might have been anticipated. On the contrary, I think that the physician is often amazed to find how deep and extensive is the dilapidation of the faculties, where the external manner, the effect of routinal habits and the self-deception of friends, had betrayed him into the feeling that his patient was escaping the common doom! But the spontaneous response to all the reasonings and illustrations of this paper, as to apoplectic patients having more intellectual power than has been generally supposed, is, that whether the fact be so or not, whether the world and the profession be mistaken or not on this head, it has no possible bearing on the case of Mr. Parish. For he failed throughout, under any form of ingenious intonation of the same sound, of sign-making or pantomime, of acting under the request of others, and the like methods employed by the various subjects of these cases as proofs of their intelligence, just as much as he did in the greater methods of speech, of writing, and of arranging the elementary letters, when offered in separate blocks, or pointing at them when in order before him. He is brought into no resemblance to or parallelism with these examples.

A second and a much more important point is most amply demonstrated in the cases adduced in this paper, and especially in the last sixteen, furnished in the recent experience of this vicinity. This is the fact, that however much the ordinary methods of communicating with others are cut off, the individual never fails, if he has ideas to convey, to transmit them in an intelli-

gent and satisfactory manner. He may be deprived of the use of speech, of the use of hands, so far as writing is concerned, and yet leave no doubt on the minds of those communicating with him that there is a perfect exchange of ideas.

The celebrated cases of Laura Bridgman and the Caswell boy, both, a while since, pupils of the Blind Asylum at Boston, both deaf-mutes and totally blind, illustrate very fully to how great a degree the machinery of intercommunication may be destroyed, and yet a perfect substitution be found, so far at least as the proofs of interchange of ideas are concerned.

It being then admitted, as this paper demonstrates, that if there be mind, it will not fail to give its outer manifestation, the converse of the proposition stands on the same basis. If there be no external exhibit of mind, there can be no reason to believe that the faculties are other than in a state of absolute dilapidation or are absent.

Bringing the case of Mr. Parish to this standard, is it not but too apparent that any power of expressing his ideas is not shown in all this seven years' history of his life, or rather of his existence? Can any other deduction be justified than the painful one that he gave no signs of mind *within*, because there was no mind?

L. V. B.

October, 1857.

