

humor, which will not incapacitate a man from managing his own affairs, or making a valid contract. It must be something more than this; *something which, if there be any test, is held by the common judgment of mankind, to affect his general fitness to be trusted with the management of himself and his own concerns. The degree of proof must be still stronger, when a person brings a suit on allegation of his own incapacity, by exposing to view the changes of his mind." *Turner v. Meyers*, 1 *Hagg. Cons. Rep.* 414. And an eminent physician, in "*An Inquiry concerning the Indications of Insanity*," observes, that "the same intellectual light may be given to all; but in some obscured by a gross organization, and in others, more happily organized, shining forth more brightly. Itself out of the reach of physical injury, it works by physical instruments; and the exactness of its operations depends on the growth, maturity, integrity, and vigor of its instruments, which are the brain and nervous system. If the nervous agents of sensation are unfaithful, the mind receives false intelligence, or transmits its orders by imbecile messengers: if the seat of thought, the centre of intellectual and moral government, is faultily arranged; the operations of the understanding are impeded and incomplete. Nay, so dependent is the immaterial soul upon the material organs, both for what it receives and what it transmits, that a slight disorder in the circulation of the blood through different portions of nervous substance, can disturb all sensation, all emotion, all relation with the external and the living world; can obstruct attention and comparison, can injure and confound the accumulations in the memory, or modify the suggestions of imagination." *Conolly Ind. Ins.* 62. **385**

The plaintiff has been subject to attacks from a disorder, that has repeatedly darkened her understanding with delirium; the proofs exhibit some of her conduct as indicative of lunacy; and that dotage, or intellectual weakness, which the bill represents to be her present condition, is a species of insanity which does not appear to have been very attentively considered, either by the profession of medicine or of the law. Its approaches are most commonly so gradual as to be for some time imperceptible, and the early evidences of it are almost always exceedingly equivocal. Under the generic legal term, *non compos mentis*, is comprehended every species of mental derangement which incapacitates a man from assenting to, or making a legal contract. But, for the purpose of obtaining as clear a view as may be of a subject so obscure, and without placing too much reliance upon any general definitions, *I shall follow what appear to be the substantial distinctions marked by external indications, and recognized by our law as manifested in idiocy, delirium, lunacy, and dotage. 1 *Par. & Fonb.* 307; *Rush on the Mind*, 234; *Shelf. Lun. intro. s. 2.* **386**