

The doubtful and uncertain point at which reason disappears, and where incapacity becomes evident and manifest, can only be fixed by the particular circumstances of each particular case. And it must be admitted to be difficult to lay down, with any thing like positive precision, any rules by which the sanity of the mind can be tried. Insanity is, however, a fact; and like every other fact, upon which the rights of persons or of property may depend, must be established by proof clear, strong, and demonstrative. (z) In cases of this sort, the evidence of medical men is, in general, produced; and, in proportion to the great improvements in that branch of science, such evidence is now more than ever to be relied upon. (a) I therefore deem it a sufficient answer to this argument, derived from considerations of public policy, to deny the truth of the fact upon which it is based; and to rely upon the circumstance, that if there ever had been any such foundation for it, we should not, at this day, be at a loss to find any clear evidence of those facts in any foreign code, or in the innumer-

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the medical inquirer will not have much difficulty in detecting such impostors; although there are cases where the investigation becomes a subject of extreme delicacy and importance, as in those persons reporting themselves sick and unfit for military service, or *malingersers*, as they are technically called."

"Insanity has in all ages been feigned for the accomplishment of particular objects; we read of its having been thus simulated by David, Ulysses, and Lucius Brutus. In general, the detection of such an imposition will not be difficult; the feigned maniac never willingly looks his examiner in the face, and if his eyes can be fixed, the change in his countenance, on being accused, will be strongly indicative of his real state of mind. It is, moreover, very difficult to imitate the habits of a lunatic for any length of time, and to forego sleep. An insane person generally sleeps but little, and talks much during the night; but the pretender, if he thinks he is not watched, will sleep, and only act his part when he believes his conduct to be observed."—1 *Par. & Fonb.* 335, 359; 3 *ibid.* 137; 1 *Hale, P. C.* 33, 35; 1 *Hawk. P. C.* 2; 3 *Inst.* 6; 4 *Co.* 124; *Coop. Med. Jur.* 266, 322; *Rush on the Mind*, 18, 216; 1 *Sam.* 21, v. 13; *Con. Insa.* 455; *Shelf. Lun.* 69.

It appears from the circumstances related by Messrs. Paris and Fonblanque, that during the wars arising out of the French Revolution, the French and English surgeons became exceedingly skilful in detecting recruits in their attempts to escape from service in the army or navy by feigned diseases. But in all ages, under arbitrary or corrupt governments, it has been common to endeavour to defeat oppression by fraud; and where that has failed, or could not be successfully practised, there have been frequent instances, in which the individual has voluntarily maimed and disabled himself from being made an instrument in the hands of his oppressor.—*Gibbon, D. & F. chap.* 17; *Co. Litt.* 127; 2 *Diver. Pur.* 21. But no instance is mentioned by Messrs. Paris and Fonblanque, nor have I any where met with any allusion to a case where a party feigned insanity as a means of evading the obligation of his contract.

(z) *Attorney General v. Parnter*, 3 Bro. C. C. 441.—(a) *Sherwood v. Sanderson*, 19 Ves. 286; 1 *Pari. & Fonb.* 315; *Shelf. Lun.* 70.