

**INSANITY IN ITS MEDICO-LEGAL
RELATIONS: OPINION RELATIVE TO THE
TESTAMENTARY CAPACITY OF THE
LATE JAMES C. JOHNSTON, OF
CHOWAN COUNTY, NORTH CAROLINA**

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Insanity in its medico-legal relations: opinion relative to the testamentary capacity of the late James C. Johnston, of chowan county, North Carolina by Wm. A. Hammond

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WM. A. HAMMOND

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Insanity in its Medico-Legal Relations.

OPINION

RELATIVE TO

THE TESTAMENTARY CAPACITY
OF THE LATE

JAMES C. JOHNSTON,

OF CHOWAN COUNTY, NORTH CAROLINA.

BY

WM. A. HAMMOND, M.D., &c.



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OPINION:

PART I.

James C. Johnston, of Chowan County, State of North Carolina, died in March, 1865, far advanced in years, leaving a will dated April 10th, 1863. By the terms of this instrument, his natural heirs are disinherited, and the whole of his large property is devised to persons not connected with him by blood or marriage, and for whom he had never previously evinced any particular esteem or regard.

The testator was unmarried, had inherited a large estate, was a gentleman of influence, culture and high position in society, was possessed of a great deal of family pride, and had always lived in ease and comfort, managing his property by a general supervision, but giving no particular attention to the details connected with its administration. He was not at all of intemperate habits, nor addicted to pleasure; on the contrary, he was inclined to seclusion, and up to the 17th of March, 1863, evidently took more pleasure in the society of his relations—some of whom lived in the same house with him—than he did in that of other persons. On that day he wrote a letter to a member of his family for whom he had always previously exhibited the greatest affection, and whom he had brought up and educated as his son,

dismissing him from his home, and forbidding him ever again to enter his dwelling. From that period to the day of his death, he continued to manifest the most decided aversion to him and others of his blood relations.

The instrument which it is now sought to establish as the last will and testament of James C. Johnston is contested by the heirs-at-law, and it is alleged by them that at the time of its execution the testator was not of sound and disposing mind, and that consequently he was legally incapable of making any valid disposition of his property.

In my opinion, these allegations are well founded. I am entirely satisfied, after a full consideration of such evidence, documents and statements as have been submitted for my examination, that on the 10th of April, 1863, the date of the will, and for some time previously and subsequently thereto, James C. Johnston, the testator, was not of sound and disposing mind, but was, on the contrary, the subject of such a degree of mental derangement as to destroy his freedom of will, and consequently his testamentary capacity. The reasons which have induced me to form these conclusions are shown in the following pages.

Every medical witness who appears in a case involving the mental capacity or responsibility of an individual is expected to give a definition of insanity. It is extremely difficult to do this satisfactorily—to give such a meaning to the word as will cover all possible cases of deficiency or aberration in the mental faculties, and yet not include those instances of cerebral disease which cannot properly be classed under this head. Dr. John

Haslam,* who has written one of the most lucid treatises on insanity in the English language, and who was for many years one of the physicians to Bethlehem Hospital, confesses his inability to give a thoroughly comprehensive and yet a sufficiently exclusive definition of madness; and Dr. Prichard† frankly admits that it is better to give up the attempt to define insanity in general terms. Notwithstanding the reluctance of these and other medical authorities on the subject to formulate the phenomena of insanity, the attempt has frequently been made with more or less approach to completeness. If the word can be even imperfectly defined in simple language, without conveying erroneous ideas, it is certainly advisable to make an effort in this direction.

According to Hoffbauer,‡ an individual is insane when the understanding is arrested or changed in its operations; when he is powerless to avail himself of his intellectual faculties, or to make known his wishes in a suitable manner.

This definition, though embracing all cases of insanity, is not satisfactory, for the reason that it is applicable to certain cerebral disorders which are not properly classed under this head. Among them may be mentioned apoplexy and concussion and compression of the brain.

Dr. Bucknill, in his *Essay on Criminal Lunacy*, defines insanity as “a condition of the mind in which a false action of conception or judgment, a defective power

* *Observations on Madness and Melancholy, including Practical Remarks on those Diseases, &c.* 2d Edition, London, 1809. p. 37.

† Article Insanity, in *Cyclopedia of Practical Medicine*.

‡ *Untersuchungen ueber die Krankheiten der Seele.* Halle, 1803. p. 11.

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