Sin and Sanity in Nineteenth-Century America

by

Jodie Elizabeth Boyer

A thesis submitted in conformity with the requirements for the degree of Doctor of Philosophy
Department and Centre for the Study of Religion
University of Toronto

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Abstract

Sin and Sanity in Nineteenth-Century America is an intellectual and cultural history of moral insanity in America. It argues that moral insanity functioned as a naturalized description of the bound will, as a negotiation between theology and the scientific ‘study of man’, and as a critique of the selfishness of diseased society. This dissertation explores the writings of nineteenth-century alienists, trial transcripts, gallows sermons, newspaper coverage of sensational trials, an inmate literary magazine, and the American Journal of Insanity. It argues that moral insanity as a concept functioned not, as sometimes argued, as a secularization of the concept of sin, but as an attempt to sacralize society and, in particular, the law. I have employed the term politicization of grace to describe the complex ways in which the movement to reform the insanity defence to include diseases of the volition was understood in the context of broader religious debates about the self, sin, responsibility, and punishment.
Acknowledgments

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I want to thank Dale Van Kley and Jim Bratt for posing questions worth spending a lifetime answering, likewise Grant Wacker whose prompt “write on the theology of a non-theologian” led me to the asylum for sources nearly a decade ago. I am deeply grateful to Phyllis Airhart for graciously reading this thesis swiftly and incisively both times I handed it to her. I would have been lost in the mire of nineteenth-century theories of the will if David Novak had not provided a broad historical frame. I also would like to thank Stanley Hauerwas for generously reading the first draft. Most importantly, more thanks than I can offer are due to my supervisor Pamela Klassen who demonstrated an unwavering trust in my scholarly instincts and faith that this dissertation would get done and done well. She is an incredible supervisor and I will
not be surprised if, thirty years hence, there is a whole generation of scholars in North American religions attesting to her influence.

This dissertation would have been an improble venture if it were not for the faithful support of Junia House Community, my friends at Toronto United Mennonite Church (especially Doreen Martens, who professionally copy edited each chapter without complaint or remuneration), my PhD cohort, my in-laws, my siblings, and my kids Jo, Sim, and Sam. Doug, thanks for your intellectual companioniship and chesed. This dissertation is dedicated to my late Mother, Mary Boyer Hatlem, and to my Father, John Hatlem.
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<td>Nathan Benedict</td>
<td>Utica Asylum</td>
<td>1849-1854</td>
<td>Unknown</td>
</tr>
<tr>
<td>Amariah Brigham</td>
<td>Utica Asylum</td>
<td>1844-1849</td>
<td>Unitarian, had documented religious “conversion”</td>
</tr>
<tr>
<td>John P. Gray</td>
<td>Utica Asylum</td>
<td>1854-1886</td>
<td>Son of Methodist Circuit Rider, attended Reformed Church in Utica</td>
</tr>
<tr>
<td>William Hammond</td>
<td>Professor Bellevue Hospital Medical College and New York U</td>
<td>1867-1900</td>
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</tr>
<tr>
<td>Thomas Kirkbride</td>
<td>Pennsylvannia Hospital for the Insane</td>
<td>1840-1883</td>
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<td>Isaac Ray</td>
<td>Butler Asylum (Rhode Island)</td>
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</tr>
<tr>
<td>Samuel Woodward</td>
<td>Worcester State Hospital</td>
<td>1833-1846</td>
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Introduction  Moral Insanity

In 1844 Massachusetts Chief Justice Lemuel Shaw, future father-in-law of Herman Melville, presided over the trial of Abner Rogers, a convict accused of murdering the warden of the Massachusetts State prison. The defence argued that Rogers was not guilty by reason of insanity, that he suffered from monomania, a form of partial insanity in which the mind is rational on most subjects but is “under a delusion upon a particular subject.”¹ Rogers’ insanity is purportedly one of the sources for Melville’s portrayal of Captain Ahab’s monomania in Moby Dick.² Ahab’s single-minded pursuit of the whale is described by Melville as an insanity that did not dethrone Ahab’s “great natural intellect” but instead, by causing his thoughts to become fixed upon one object, had given Ahab’s reason “a thousand-fold more potency.”³

Moby Dick explores the tensions that exist between the unstable self and cruel nature, between human depravity and God’s inscrutable will. Ahab is transformed from a “living agent” into a “living instrument” in part through his awareness that nature is “but a pasteboard mask” behind which lies, not nature’s benevolent God, but

³Herman Melville, Moby Dick, or The Whale (New York: Harpers and Brothers, 1851), 204.
instead, “inscrutable malice.” Melville’s novel speaks of that dark, chaotic Leviathan that broods beneath official optimism about nature and nature’s God. Melville repudiates Calvinism for its abhorrent picture of the Divine yet recognizes, in the words of Walker Herbert, that Calvinism is “consistent with the realities of human experience that cannot be explained by the theory that God respects liberal conceptions of human dignity.” Melville’s dark image of the self and nature calls into question the very basis for the “laws of nature” and the “laws of duty” that jurists, moral philosophers, theologians and asylum doctors sought to discover throughout much of the nineteenth century. At the centre of _Moby Dick_’s imagined universe lies not the rationality of laws but only the inscrutable will, the sovereign power, the malicious impulse expressed in “the living act, the undoubted deed” whereby an Ahab strikes at the white whale or Abner Rogers stabs the warden.

Nineteenth-century American medico-legal experts would attempt to make Abner Rogers’ successful defence a legal precedent for broadening the insanity plea to include partial insanities, not only Jean-Étienne Esquirol’s monomania, but also Philippe Pinel’s _manie sans delirium_, and James Cowle Prichard’s moral insanity. These

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4Ibid., 181.


7Melville, _Moby Dick_, 181.

trials, sometimes sensational, led some to question liberal constructions of the human person and others to affirm them more vigorously.⁹ At the heart of what follows are arguments amongst asylum doctors, also known as alienists, about the moral, legal, and religious implications of expanding the definition of insanity to include one particular form of partial insanity called “moral insanity” or “moral mania.” The early designation of asylum doctors as alienists, especially in legal settings, is thought to arise from the estrangement they were considered uniquely capable of commenting upon. These experts, like Melville, often vacillated between their rejection of innate depravity and their own observation of nature’s cruel chaos observable both in the asylum and in a society in which professionals worried that insanity had reached pandemic levels.¹⁰

This dissertation is a cultural and intellectual history of legal, medical and religious accounts of human agency and attempts to offer an alternative history of Christian understandings of sin and the will in nineteenth-century America that focuses on the courtroom, the prison, and the asylum over the seminary and the revival tent. A particular focus throughout the chapters that follow are medical concepts that developed within the asylum such as homicidal monomania and moral mania, but particularly the concept of moral insanity. The definition of “moral insanity” forms the subject matter of a major portion of this introduction. At the most basic level, moral

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insanity should be understood as an abnormal corruption of the faculty of the will; it is a concept that played an oversized role in a few of the nineteenth century’s most dramatic legal trials and has generally been misunderstood. The dissertation as a whole describes how early nineteenth-century asylum superintendents employed moral insanity as a naturalized description of the bound will, as a negotiation between theology and the scientific 'study of man,' in keeping with a longer tradition of philosophical voluntarism, and as a critique of selfishness and of diseased society. It argues that 'moral insanity' functioned not as a secularization of 'sin' but as an attempt to sacralize society and, in particular, the law. As a work of cultural history, it pays attention to the unusual places where debates about moral insanity and the relationship between sin and sanity occurred in nineteenth-century America. The dissertation recounts vitriolic contests in professional psychiatric meetings about the proper reading of Romans chapter seven, stories penned in the inmate journal of the Utica Asylum that connect 'the Asylum' to Old Testament 'places of refuge,' and testimony in murder trials in which witnesses demarcate where depravity ends and madness begins.

This history is necessary. While the field of history of psychiatry has seen dozens of important monographs since the groundbreaking works of David Rothman and Michel Foucault, a sustained treatment of the creation of the asylum in the U.S. within its religious context, beyond a few “founding friends,” has yet to emerge.11 While

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Foucault and Rothman’s so-called “social control” thesis has found champions and detractors, a more nuanced rereading of the place of the asylum within American religious history complicates some of their most basic questions and assumptions about the politics of psychiatry, at least in the American context, and is most certainly in order. Such a reading is required to account for the ways in which the asylum was not only a place of control, but also the intellectual site of vigorous and potentially destabilizing societal debates regarding the nature of the human person, criminal justice, and emerging scientific and theological paradigms. The outcome of debates over the broader concept of asylum continues to influence a wide array of social forces, and in this period raised anew the spectre of a thoroughgoing antinomianism. The next section here reviews literature regarding religious history and psychology or asylum medicine in nineteenth-century America. A working definition of moral insanity is the subject of the third introductory section. An overview of my engagement with the philosophical concept of the will, especially with respect to nineteenth-century American thought, forms the subject matter of section four below. Section five introduces the important thought of Benjamin Rush and J.C. Prichard, two incredibly important figures in the proto-history of American psychiatric thought. The concluding section here argues for a re-examination of 'secularization' theories in light of the material of this dissertation. Taken together with the following chapter ("Animal Magnetized


Calvinism”), these sections should function as the required background for the dissertation as a whole and pave the way for the introduction of the term “politically grace,” particularly as taken up in the introduction to chapter two (“Death Penalty Reform, Asylum, and Christian Mercy”).

**Nineteenth-Century Asylum in American Religious Studies Scholarship**

As stated above, the method of inquiry will be both intellectual and cultural. The development of the thought of major intellectual figures in the field of nineteenth-century medical jurisprudence, particularly Isaac Ray, Luther Bell, Amariah Brigham, and John Gray, will be set within the context of relationships to secular and denominational institutions, academic debates, and especially the legal trials in which they participated. As Susanna Blumenthal has suggested, in the nineteenth century “the courtroom figures as an important cultural arena in which Americans contested social meanings of freedom, rationality, and sanity, all the while airing insecurities about the boundaries of the self.”

Particular attention to specific legal trials serves both as a reasonable limitation on the project and as a common focus for the variety of material under discussion.

A number of dissertations on madness or insanity or mental health in nineteenth-century North America have been produced in recent decades. Some of them approach

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their subject matter in a more general fashion while many of them work with specific reference to particular states or regions from New England to South Carolina, from Wisconsin to Hawaii, and on into Upper Canada. My aim is to tell a story with local flavor that nevertheless gives greater insight into American cultural history as a whole. These studies have informed my attempt to relate succinctly the historical record with which I am working to a broader set of phenomena while also allowing me to avoid the perils of purely localized accounts.

Methodologically, Albanese’s term “vernacular culture” offers a helpful approach that attempts to understand the impact and interrelationship between elite

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sources and their common reception.\textsuperscript{16} What follows, then, draws from many disciplines: law, history of medicine, church history, religious studies, cultural history and theory, and intellectual history. The focus on “vernacular culture” means in part that even though medical officers are working out of professional, scientific, elite forms of discourse, in court cases, they still employ common forms of validation to explain their findings. Serious attention to trials where the insanity defence was used and where there was a good deal of public rancour concerning its use contextualizes the various types of sources that I employ. Focusing in part on court cases allows shifting between legal understandings of insanity, medical understandings (through the eyes of psychiatric experts and medical treatises employed in the trial), popular views (through articles, editorials, and letters to the editor in the press), and also religious conceptions (through funeral sermons, religious publications, private diaries, and gallows sermons). The common subject matter in these areas is also displayed very well in the ways that asylum superintendents replicated theological arguments in the pages of their professional journal, the \textit{American Journal of Insanity}, and in the meetings of their professional society, the Association of Medical Superintendents of American Institutions for the Insane (AMSAII).

To be quite clear, this dissertation attempts to work at the nexus between 'Calvinist-Evangelical' and 'Pluralistic' schools of thought in the study of U.S. religious history. The tensions between the Reformed and Pluralistic schools of thought, while

understandable, cannot be left to stand indefinitely. There are already several instances of Canadian scholars whose work on topics such as revivalism, the social gospel, and foreign missions are particularly noteworthy because they avoid this dichotomy.\footnote{Phyllis D. Airhart, Serving the Present Age: Revivalism, Progressivism, and the Methodist Tradition in Canada (Montreal: McGill-Queen's University Press, 1992); Nancy Christie and Michael Gauvreau, Full-Orbed Christianity: The Protestant Churches and Social Welfare in Canada, 1900-1940 (Montreal: McGill-Queen's Press, 1996).} In important ways Sydney Ahlstrom not only wrote the largest articulation of a “Protestant” telling of American history, he also gestured to the need to constantly give a “Re-telling of US Religious History” to include relative outliers and to understand the significance of alternative religious movements in what he calls the “Age of Aquarius.”\footnote{Thomas A. Tweed, ed., Retelling U.S. Religious History (Berkeley: University of California Press, 1997).} Ahlstrom ended his Religious History of the American People by referencing Carl Becker’s provocative little essay on the philosophy of history, “Everyman His Own Historian.”\footnote{Sydney E. Ahlstrom, A Religious History of the American People (Yale University Press, 2004), 1096.} According to Ahlstrom it will be the role of post-puritan historians, both professional and amateur, to be “pioneers on the frontiers of postmodern civilization.”\footnote{Ibid.} It is the responsibility of these everyman historians to understand the present situation by telling new, coherent stories of the past. Moreover these historians will use their “lifestyle and moral stance” as “elements in an interpretation of … the past.”\footnote{Ibid.} In one sense, Catherine Albanese begins where Ahlstrom ends. She writes at the opening of Nature Religion in America: “I understand what I do here as a version of what Michel
Foucault has called 'history of the present'."  Although the past must be understood "in terms that respect its integrity," the past is also helpful in the task of explaining ourselves to our self.  

Both scholars writing with a Pluralistic emphasis and those writing with a Calvinistic-Evangelical emphasis have shared an interest in understanding the connection between emerging “sciences of the mind” and changing Christian conceptions of the self. Both agree that in important ways the nineteenth century saw an unprecedented and multiple culture of human ability. In the Calvinist-Evangelical camp particular attention is placed on the intellectual history of the revivalist tradition and how the understanding of human moral ability was transformed in this era. There has also been interest in the mental strain of trying to get converted. Those in the more Pluralistic stream are interested in the empiricism often evidenced in proto-sciences like phrenology. Both schools are interested in explorations of the significance of “experience” as a way to validate religious truth and to shore up the fractured soul.

Authors writing within the Pluralistic school and those writing from within the Puritan-Evangelical consensus nevertheless each reject consideration of the asylum as a source for nineteenth-century conceptions of the Christian (or religious) self. Ann Taves simply identifies asylum medicine with faculty psychology and argues that it is

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23 Ibid.

hierarchical and politically conservative.\textsuperscript{25} Her vision of asylum medicine is more or less as an extension of the kind of science of the self and duty that emerges in the writings of John Witherspoon, Thomas Upham, and Charles Finney. Other works have taken as their centre the lecture circuit and the séance table over the revival tent.\textsuperscript{26} They have debated whether the nineteenth-century understanding of the mind was primarily inductive or deductive, Baconian or metaphysical, natural or religious. They have worked to show the broader significance of the self that emerged, intimately and sympathetically wedded to the body in Spiritualism, in phreno-magnetism, in body reforms, and in water-cures.\textsuperscript{27}

It would appear that the reason the asylum has never been as interesting to scholars of religion as the revival tent, the seminary classroom, or the lecture circuit has much to do with the degree to which the story of the asylum has not been able to escape its place as the perfect example of the most vicious kind of social control and of a very particular, and important, version of a secularization narrative from “sin to insanity” or “from theology to medicine.”\textsuperscript{28} The story of the emergence of psychology in America

\begin{footnotes}
has been viewed by some as a “triumph of the therapeutic,” as a movement toward a liberal, enlightenment, secular understanding of human personhood, and a repudiation of the explanatory category of innate depravity and sin. At the same time, a movement to reform the insanity defence in the nineteenth century, although never seriously studied in the context of American religious history, has been presumed by Calvinist-Evangelical scholars in the field to fit within a narrative of decline from “sin” to “self-realization.” This way of telling the story is, simply put, an oversimplification. It holds together only if Calvinism is perceived to be the normative beginning of religious life in America. A wide variety of recent works have stressed the profound theological and religious diversity and the plethora of deeply cosmological understandings of personhood and human agency that could be found in America from the beginning. Antebellum alienists’ views of human personhood preserved emphases on the bound will and corporate sin even as they sought to navigate multiple understandings of human ability and human perfectibility – Unitarian, Universalist, Methodist, New School Presbyterian – that permeated the theological landscape.

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Ann Taves’ work, more than anyone else’s, has sought to bring the narratives of the Christian self of the revival tent and the religious self of the lecture circuit together. Her book remains one of the finest examples of a groundswell of literature in the humanities that has attempted to recode the “naturalness” of the religious mind, its powers of agency and cognitions, with the embodiedness of the self’s even most seemingly disembodied experiences. This groundswell includes cultural histories of metaphysical mysticism such as Catherine Albanese’s *Republic of Mind and Spirit* and Christopher White’s discussion of phrenology in *Unsettled Minds*. These works have suggested that there is a metaphysics to secularism, that a phenomenon can be natural and religious, that the spirit world was understood as a republic, in short that nineteenth-century Americans sought to enchant the secular, a secular that may have always been enchanted. Cumulatively, they have demonstrated that the modern world, far from being an arena shorn of grace, was invested with mysterious force, energy, power, correspondence and harmony. These movements are understood as dynamic “counter secularization narratives,” and such scholars have worked to prove that enlightenment discourse never “minimized or obliterated religious belief but ... abetted religiousness in unexpected ways.” Instead of attempting to portray nineteenth-century religionists, in spite of their most fevered desires, as unwitting dupes of the corrosive powers of secularization, there are, in fact, those who believe that

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“science and religion merged.”

In this growing scholarship on the metaphysics of secularism, there is also a burgeoning discourse on the ways that, through notions such as healing, liberals and free-thinkers began also to sacralize their understanding of disease. Lack of health, for instance, came to be viewed as an absence of energy, flux, and flow. These studies have tended, however, to focus on relative, if nevertheless important, outliers—new thought, automatic writers, magicians and explorers of radio mind. It is impossible to understand the moral cure, monomania, or moral insanity without understanding the critical combinative project of nineteenth-century asylum medicine that brought together phrenology, republicanism, common sense realism, and myriad Protestantisms to form unmistakably new understandings of the self and its relationship to society. At the same time, cognitive study of religion has witnessed an explosion of books such as Ann Taves' *Experience Reconsidered* as well as conference panels, new faculty postings, and major research initiatives.

However, with some notable exceptions, including John Modern's book *Secularism in Antebellum America* and Pamela Klassen's *Spirits of Protestantism*, these attempts to challenge the secularization thesis have tended to replicate a crucial

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problem in secularization theory – a focus on religion as exclusively privatized, individual experience. They have therefore done little to describe the degree to which a science of the self that balanced material and spiritual accounts proved to be broadly socially disruptive. My focus on the asylum as a critical site for the creation of the nineteenth-century self adds an important political dimension to this academic discussion.

In what follows, controversies in the courtroom and among asylum and prison reformers about monomania, moral insanity, and other non-intellectual forms of insanity is used as a lens through which to view the interplay of Christian theories of the human person. It will be argued that monomania and moral insanity, far from just fashionable defences, were actually central to nineteenth-century asylum medicine. Moral insanity, rather than a secularization of sin, should be understood as a naturalization of the Protestant tradition of the bound will and a continuation of a long tradition of philosophical voluntarism. Moral insanity, and the companion idea of monomania, served as a kind of theoretical hybrid between theology and the scientific 'study of man.' Moreover, it was often employed, in the early years of the asylum, to critique a broader culture that was seen as maddening due to its underscoring of self-interest and self-absorption. All this is to say that moral insanity was not so much a secularizing discourse as it was a sacralizing one. It was a means, that is, of importing theological concepts such as grace and mercy into non-religious settings. Indeed, it will be argued, many alienists sought to make the murder trial, much as execution sermons
of old, an opportunity to reflect on human fallibility, fallenness, and the general human condition.

Asylum medicine was, furthermore, no simple rehashing of faculty psychology. It offered a vision of the intractableness of human fallenness that was less individualistic and optimistic than the vision held forth by Calvinist evangelicals or Unitarian advocates of self-culture. A thoroughgoing cultural-intellectual history of the nexus of the relationships between psychiatry, religion, and law in nineteenth-century America must reject the easy dualisms of free-will versus determinism or religious versus secular for a much more complicated set of categories. This is in part because as Charles Rosenberg suggests, “The similarity between scientific and religious values made it natural for most Americans to move fluidly from one intellectual and emotional realm to another.”\(^{38}\) It is also because, as Ann Taves argues more recently, rather than a dualism of secular and natural versus religious and supernatural, there are in fact (at least) three ways of understanding religious experience: natural and not religious, supernatural and religious, and natural and religious.\(^{39}\) Crime and sin were medicalized by 19th century alienists, but medicine was also moralized. Moral insanity, a natural offspring of this philosophy, resisted both purely medicalized and moralizing accounts of crime.

In recent histories of the religious mind, the will’s contradictions have been much


\(^{39}\)Taves, *Fits, Trances, & Visions*, 352.
touted yet undertheorized. This is in spite of the fact that such research regularly suggests that humans are governed by their very evocation of agency. For instance, in both a collection of essays in *Towards an Anthropology of the Will* and in a recent Social Sciences and Humanities Research Council of Canada (SSRCH) funded symposium “Politically Unwilling” the focus was not on engagement with the will as such but upon insisting that religious subjects are continually governed through their very invocations of choice and agency.  

Moreover, this undertheorization of the conceptual complexity of the will continues despite the fact that the Puritan-Evangelical thesis was launched in part on the wings of Alan Heimert's arguments concerning the political radicality of Edwards' followers. Heimert and company make this argument on the basis of the way Edwards' thinking, in offering an integration of will and emotion, upset a hierarchical vision as offered in rationalistic, Unitarian faculty psychology. Evangelicals, on this account, were more likely to support the American Revolution and republicanism than "liberal" Christians.

Those histories that emphasize the centrality of American revivialism and the activated will have generally told a history of the mind from Edwards through New Divinity figures of the nineteenth century that emphasizes the Americanization of

40 Keith M. Murphy and C. Jason Throop, *Towards an Anthropology of the Will* (Stanford University Press, 2010).


42 Ibid., 518.
Calvinism. In particular, what is unique to the American religious ethos, it is oft said, is a synthesis between American Evangelicalism, common sense realism, and whiggish republicanism.\textsuperscript{43} This led to a corresponding shift in the meaning of words such as freedom, virtue, vice, and sin.\textsuperscript{44} Mark Noll and Robert Abzug cite Benjamin Rush as a representative figure who brings together these three strands of thinking into a distinctive American religious and political synthesis.\textsuperscript{45} This synthesis would lead to an insistence in the nineteenth century, in spite of the Calvinist insistence on human depravity, that humans have an innate moral sense and that their culpability rests precisely in freely chosen decisions to disregard their conscience. Noll carries through with Heimert's most basic claim that an anti-traditional character of revolutionary political ideology predisposed Christian thinkers in the nineteenth century to the anti-traditional thinking of the Scottish Enlightenment.\textsuperscript{46}

Despite the importance of Rush to Noll’s story, little attention is given to the legacy Rush was most remembered for throughout the nineteenth century as the “founding father” of American asylum medicine.\textsuperscript{47} Moreover, Noll does not maintain his focus on faculty psychology throughout his study of American theology and for that reason, as John Corrigan notes, tends to downplay the importance of people such as

\textsuperscript{43}Mark A. Noll, \textit{America’s God: From Jonathan Edwards to Abraham Lincoln} (Oxford: Oxford University Press, 2002); Abzug, \textit{Cosmos Crumbling}.

\textsuperscript{44}Noll, \textit{America’s God}, 50.

\textsuperscript{45}Ibid., 64; Abzug, \textit{Cosmos Crumbling}.

\textsuperscript{46}Noll, \textit{America’s God}, 6.

\textsuperscript{47}American Psychiatric Association, \textit{One Hundred Years of American Psychiatry} (New York: Pub. for the American Psychiatric Association by the Columbia University Press, 1944).
Catherine Beecher, Horace Bushnell and Thomas Upham. Noll, while furthering a vision of Benjamin Rush as kind of “representative” nineteenth-century man, who embodied a unique American synthesis, completely downplays if not outright ignores Rush's radical views on Universal salvation and his naturalized description of sin. Because of this, scholars of nineteenth-century American religion following Noll can ignore men such as Isaac Ray, Amariah Brigham, and Luther Bell who, I will argue, thought of themselves as furthering the intellectual tradition of Rush and, in particular, believed defending “moral insanity” to be a defence of the legacy of the founding father of American psychiatry.

Neglecting the significance of Rush's universalism and the undeniable connections that held between his doctrine of salvation and his speculation on the cause of human sinfulness follows a persistent trend in American religious studies, and it is something that Catherine Albanese publicly worried about in 2008. While it is simply beyond the scope of this study to completely correct the neglect of Universalism in American religious scholarship, Universalism is a significant player in what follows, especially in chapters three and four.

“Moral Insanity — What is it?”
In 1884 American neurologist James Kiernan wrote an article entitled “Moral Insanity — What is it?” Kiernan attempted to understand moral insanity in the light of Calvinism. He noted that the many critics of the concept insisted that (1) the doctrine of

49 Albanese, A Republic of Mind and Spirit, 156.
moral insanity is materialistic and godless and (2) that it is metaphysical or religious and not scientific. Critics who worried about materialism also feared that the doctrine was deterministic.\(^5^0\) In America, he added, the doctrine of free will was “almost a *sine qua non* for an orthodox believer,” and any suggestion that one’s will could be bound seemed like the strange invention of “modern German pagans” intent on destroying the grounds of moral responsibility.\(^5^1\) Kiernan reminded his readers of a long tradition of Christian determinism. The doctrine of moral insanity was “a natural outgrowth of a school of philosophy that was first systematized in the theology of St. Augustine, [and] found a later expression in the theology of Wickliffe and Calvin.”\(^5^2\)

Moral insanity functioned in the nineteenth century more as a cipher than as a distinct diagnosis. The term was initially coined by the English alienist James Cowle “J.C.” Prichard. Prichard argued that alongside “intellectual insanity” there is a moral insanity wherein one’s volition or emotions are diseased without any obvious diminishment of intellectual capacity.\(^5^3\) Moral insanity has sometimes been understood as a kind of rudimentary version of the psychopathic personality.\(^5^4\) Yet Eric Carlson and Norman Dain have argued forcefully that moral insanity was a kind of “catchall” for a


\(^5^1\)Ibid.

\(^5^2\)Ibid.

\(^5^3\)Prichard defined moral insanity in various ways including as a “madness consisting in a morbid perversion of the natural feelings, affections, inclinations, habits, moral dispositions, and natural impulses, without any remarkable disorder or defect of the intellect.” James Cowle Prichard, *A Treatise on Insanity and Other Disorders Affecting the Mind* (London: Sherwood, Gilbert and Piper, 1835), 6.

diversity of identifiers and as yet unclassified conditions including bipolar disorder, kleptomania, and homosexuality. Moral insanity expressed the early alienists' conviction concerning the importance of the will and emotions to a fully integrated picture of the human person.

The term “moral” itself meant different things to the variety of supporters of moral insanity. Sometimes the term was employed as a synonym for moral rectitude; more often it meant simply “non-intellectual”; other times, it might mean emotional or “psychological” as opposed to somatic; and still other times it meant something quite close to our notion of social or psycho-social. Among those who opposed moral insanity it was generally portrayed as being closely related to morality as such.

Charles Rosenberg argues that by the middle of the nineteenth century “moral insanity had come to symbolize “a number of “socially sensitive legal problems.” He goes on to say that this was partially because the definition of moral insanity kept changing, but also because the term itself was extraordinarily elastic. He writes, “a study of the concept—if conceived in terms sufficiently broad and international—would amount to a history of clinical psychiatry in the late eighteenth and nineteenth

56 Ibid., 799.
centuries." Gary Belkin argues that debates between proponents and opponents of moral insanity had as much to do with theological beliefs as they had to do with scientific allegiances or clinical perspectives. Arguments about moral insanity were often a unique mix of clinical observations, quotations from European experts, references to philosophers, and exegesis of biblical passages such as Paul’s nascent discussion of the will in the book of Romans. It is my position that a study sufficient to the concept would also trace the tensions that surge forth from understanding the will or willing as a “cross-dimensional concept” in law, theology and asylum medicine.

Kiernan’s connection of “moral insanity” with an Augustinian strain of piety oversimplifies but points to an affinity between the theory and the theology of Paul and Augustine, namely a shared notion of an independent faculty of the will. This dissertation draws theoretically from Arendt's philosophical genealogy of “willing” in her *Life of the Mind*. As Nikolas Rose remarks, “psychology has a short history and a long past that includes “a continuous tradition of speculations concerning the nature, vicissitudes, and pathologies of the human soul.” Arendt claims that the conception of the will as an autonomous, executive faculty, different from Aristotle's rational appetite

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58 Ibid.


60 I have borrowed the term “cross-dimensional concept” from Herbert Figarette who uses the term to describe insanity. *The Meaning of Criminal Insanity* (Berkeley: University of California Press, 1972), 37.

61 Ibid.
or *proairesis*, emerged first from Paul's declaration of the will's primal bondage.⁶²

Arendt's study points to a classic tension that lies at the heart of Western traditions of the will. The concept of the will does not initially emerge out of an affirmation of human power, freedom, and autonomy. Instead, it is introduced in the midst of a discussion of humanity's contradictory moral situation. Thus, although most Christian theologians – including Augustine and especially Aquinas according to Arendt – believe that humans have a faculty of the will that is autonomous and not just an adjunct to the reason, they tend to argue that this will is really not able to accomplish anything positively.⁶³ While philosophers such as Aristotle and Plato believed that if humans knew the good, they would do the good, Augustine argued that the will, expressed in self-love, functions in a way that prevents the reason from seeing the world truly and is independent to the degree that it can say no to reason even when reason recognizes the good. For Plato and Aristotle human evil arises because we do not know the world correctly. For Augustine, human evil grows out of a will that purposefully prevents us from seeing the truth. For this reason many in the Western theological tradition pressed a strong analogical connection between a state of sinfulness and a state of insanity or unreason.

Moral insanity was not initially a theory of materialist determinism; instead it

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⁶³Arendt finds a strong exception in the thought of John Duns Scotus. See Arendt, *Willing*, 125–46 & 195 (from the latter ... “Of all the philosophers and theologians we have consulted, only Duns Scotus, we found, was ready to pay the price of contingency for the gift of freedom—the mental endowment we have for beginning something new, of which we know that it could just as well not be.”). I have written an unpublished paper on Aquinas' views of sin and sanity that would differ slightly from Arendt's assessment though would not ultimately challenge the force of her claim here.
was first a medical articulation of a longer theo-philosophical tradition of the bound will. Herein lies the chief contradiction of this study. I will suggest that while theology was making a turn toward a stronger notion of individualized human moral agency, early asylum medicine, while moving in important new directions, was preserving a venerable Protestant tradition of bemoaning human moral inability. Moreover, in this tradition, humanity's sinful nature was not only or even primarily a result of an individual choice, but was imputed on account of one's collective identity “in Adam,” to choose one particular rendition of the collective nature of sin. Moreover, this central irony that the will is realized most concretely in its bondage is at the centre of many theorizations of moral insanity.

Those who defended moral insanity were often strongly committed to the existence of the will as an executive faculty and yet were equally committed to the strong possibility that the will could become diseased. For this reason moral insanity is interesting not only because it marks a physiological reduction of the notion of sin, but also because it preserves corporatist elements of sin that were being jettisoned in the era under consideration.  

Moreover, Kiernan’s over-simplification is a helpful corrective to the undue weight given to the view that moral insanity represented a rejection of the explanatory power of sin and human depravity in the face of an optimistic vision of human ability.
found in common sense realism. Some have seen the connection as deriving logically from the connection of morality and freedom in Scottish common sense realism.

Because, for common sense realists, the moral sense is innate, people who appear to lack conscience or moral ability seem defective in their very constitution. Instead of a Calvinist view that takes a murderer to be a paradigmatic sinner, in this view, moral insanity required painting the criminal as a kind of “moral monster” almost ontologically different from normal human beings.

In fact, early doctors who supported moral insanity were considerably more nuanced. They often said that the moral philosophers' general method of introspectively studying their own minds was inferior to a close clinical observation of the mind in its diseased state. Indeed, far from seeing the morally insane as mental monsters, the defenders of the concept often perceived a strange normativity in 'unsettled minds.' Many of its proponents were quite interested in phrenology, for instance, because they believed it offered a more complex understanding of the structure of the mind than did the tripartite or bipartite vision endorsed by many moral philosophers. They also drew heavily from the works of French alienists such as Pinel and Esquirol, arguing, much as Freud would later, that studying the mind in its

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diseased state is superior because mental illness and mental health are differences of degree and not kind.\(^6^9\) Indeed, critics of the American alienists lampooned their belief that all people were insane to some degree.\(^7^0\) The early alienists, far from suggesting that some people were born criminal, insisted that the most fundamental test for moral insanity was a “change in character”; this change alone was the thing that would separate a long life of wicked habituation from the sudden onset of a disease debilitating the moral and affective powers.\(^7^1\)

The alienists generally realized that curing the mind was not as simple as invoking the incredible powers of individual reason or will. Like Calvin, who spurned faculty psychology because it provided a relatively mild view of sin and presumptively assumed that reason can rule the lower faculties, alienists often sought to understand the mind in a more complicated way than via a hierarchy of faculties.\(^7^2\) At times alienists such as Prichard followed Calvin in examination of the viscera of the heart and bowels as “the seat of the feelings.”\(^7^3\) In so doing they were struggling to articulate a vision of the self, self-control, and freedom that recognized that human beings are more


\(^{70}\) See in particular The Trial of William Freeman for the Murder of John G. Van Nest Including the Evidence and Arguments of Counsel with the Decision of the Supreme Court Granting a New Trial and an Account of the Death of the Prisoner, on of the Post-mortem Examination of His Body (Auburn: Derby Miller and Co., 1848), 435, and Rosenberg, *Trial of The Assassin Guiteau*, 149.


\(^{73}\) Ibid., 133.
than just rational machines.

Early alienists sought to understand the connection between a fractured mind and a fractured society. Proponents of the doctrine of moral insanity were not immune to the dominant message in American political, religious, and philosophical thought that one must maintain the hierarchy of moral and rational powers over the emotional and instinctive powers. However, many who wrote on the question of mental alienation were struggling to articulate a less hierarchical and more unified image of the mind. Since Plato, the image of reason's primacy within the mind had found its analog in a commitment to clear hierarchy in society. Mental disorder and political disorder were linked. The early works of alienists such as Rush, Tuke, Pinel, Esquirol, Prichard, and Amariah Brigham, concerned as they were with the impact of “hurly burly” democracy on the human mind, have an indubitable Burkean flair. However, many alienists turned to phrenological thought precisely because it offered a vision of a non-hierarchical mind.

The period under consideration in this thesis, roughly 1830-1880, saw the explosion of various sciences of human activity and action—psychology, anthropology, and sociology. In many ways, moral insanity functioned as a sort of theoretical hybrid. Moral insanity had one foot in the world of philosophical ethics and theology and the

74 Howe, Making of the American Self, 5.

other in the emerging world of the “psy disciplines” and the “social sciences.”

Prichard, as noted below, is often included in the pre-history of anthropology.

Moreover, his moral insanity would eventually become one of the sources of a theory of sociopathology, and his examples of the social problems besetting a civilization experiencing a collective crisis of faith would later be concerns of the social worker and social scientist.

**Philosophy of Will In Nineteenth-Century American Relief**

Kiernan in his essay “Moral Insanity—What is it?,” argued that it is difficult to maintain, on a historical basis, the position that the “free will” is a key Christian doctrine. His comments track with the recent work of Cambridge psychiatrist and historian of psychiatry G.E. Berrios and the Spanish medical doctor M. Gili who, like Arendt, give particular attention to the central role of Christianity in the invention of “the will.” They insist that Christians were the first to “distinguish between deliberative decision making and an executive faculty (the will),” and chart a course through the nineteenth century in which there was a growing reductionism about the will.

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Gili and Berrios claim that American psychologists and moral philosophers such as Thomas Upham, in their attempt to reconcile the science of the mind with their Arminian theological commitments, actually drew their views of the relationship between will and reason much closer to ancient Greek conceptions. Berrios and Gili eventually argue that the will as an autonomous faculty simply fell out of philosophical fashion around the turn of the nineteenth to the twentieth century. Freud and Behavioralism wiped psychiatry of the language of the will and intention and replaced it with the language of “instinct, drive, motivation, decision-making, frontal-lobe execution.” Marianna Valverde tells a similar tale where, in the twentieth century, the will moved out of elite and professional discourse and into a popular, cultural explosion of self-help books.

This dissertation argues that the will was excised from American psychiatry first and foremost because of misplaced concerns about theological orthodoxy. The loss of the will was not at first a turning away from theology; instead, it occurred in the midst of debates about the relationship between sin and insanity, about naturalized theories of the bound will and its perceived social danger, and between doctors who, in competing ways, attempted to sacralize the law by secularizing sin.

Taken as a whole, this dissertation tells a story of progress and declension, but one a bit different than the narrative of decline from sin to liberalism. There are a good number of histories to date that recognize Evangelicalism in America as something new

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80 Ibid., 87.
81 Valverde, Diseases of the Will.
and radical yet as also somehow successfully managing to paint itself as taking up true Christian orthodoxy. Nowhere is this more apparent than in the work of New Divinity theologians to be discussed in the first chapter. Greater exploration, however, is required of the complex relations wiring certain orthodox or traditional Christian ideas with more radical movements for political and legal reform. Most importantly, the chapters that follow constantly return to the theme of a strong collectivism, corporatism, or a nascent sense of the social nature of the human person that shaped purportedly secularized, medicalized notions of sin such as moral insanity. In what follows I will track with Berrios and Gili and suggest a different narrative wherein an early generation of alienists such as Isaac Ray, Luther Bell, and Amariah Brigham sought to naturalize the will in order to sacralize the law, while their successors, most notably John P. Gray, jettisoned the will in order to preserve the immutability of personal responsibility.

For this reason, I will argue that asylum medicine stood in an ambiguous position with respect to an increasing valorization of the will and of the self in early America. This is not to deny a close association between self-control and the social control of the asylum. Countless theorists of the self, not the least of which include Michel Foucault and Charles Taylor, have seen a radical new understanding of the self emerging during the late eighteenth and early nineteenth century. Taylor focuses on the centrality of the will in Locke as a way of understanding the phenomenon he terms the
“punctual self.” The “punctual self” is a description of a self that possesses a subjectivity of self-destruction and re-construction. The mind is reified and the will becomes a “power to the contrary” that allows the self to change itself. Taylor, sees the explosion of prisons and asylums as well as institutions of learning, correction, healing, and reformation as the natural outgrowth of this focus on self-control and self-fashioning. Foucault saw the same kind of phenomena as part and parcel of a larger move from physical constraint to self-constraint. It must be noted, however, that this complicated relationship between self-control and social control was often employed by asylum heads self-consciously as a way of insisting upon the social malleability of the human will. In their writings we see the pre-history of the sociological insistence that the self is always embedded in the social.

Moreover, most of the studies of early nineteenth-century America operate on the assumption that the discovery of the asylum occurred in a unique period in the history of the will - that indeed there existed, for a long cultural moment, something strange and different, a new beginning. This culture of ability is seen in histories of revivalism, democratization, and the burgeoning market economy. All in all, this literature persistently underscores the importance of the will in self-construction. In particular, Daniel Walker Howe details how the ideal of self-construction was a marriage of


83 Ibid., 167.

84 Ibid.

85 Ibid., 159.

86 Foucault, Madness and Civilization, 250.
Protestantism and Enlightenment thinking. Howe's story of the self in America tracks with Taylor's, noting a strong connection between the self-control of American Evangelicalism and Unitarianism and the social control of revivals and the asylum.\textsuperscript{87} Nowhere is this marriage more obvious to Howe than in faculty psychology, with its ideal of balanced character in which intellect, spirit, emotions, and body are in perfect harmony.\textsuperscript{88} Howe summarizes the profound transformation in nineteenth-century America as a democratization of formerly elite traditions of self-cultivation.\textsuperscript{89} Most contemporary works seem to agree with Howe's assessment that in the nineteenth century a teeming class of restless souls, free-thinkers, and unsettled minds sought to craft new and more stable individual identities in times of rapid intellectual and cultural change and to employ phrenology, nature, or the power of the mind to ground this newly empowered self.\textsuperscript{90}

The argument here is that professional psychiatry was not just a slightly more cultivated flower in the same spiritual hothouse that produced so many wild shoots: Shakers, spiritualists, travelling phrenologists, homeopaths, vegetarians, users of Graham's flour, and communitarian perfectionists. In surprising ways, given the overweening optimism of the time, many early American alienists resisted an over-


\textsuperscript{88}Howe, \textit{Making the American Self}, 8.

\textsuperscript{89}Ibid.

optimistic view of the self. In this vein, their oft-repeated invocation of Paul's lament, concerning humanity's vexing moral inability is perhaps most enlightening.

Moral insanity seemed in this case to be the physical manifestation of a spiritual truth, a spiritual truth that many arguing for a stronger vision of self-control and self-construction seemed to deny at their own peril. Paul's statement of humanity’s profound moral inability had never been juridically applied, for perhaps obvious reasons. Determinists heretofore had recourse to the idea that while humans are not capable of any moral good, they are nevertheless responsible for their wickedness, but in this era, it was precisely this commonplace that was being called into question. When understood in this light, it becomes clear that early American psychiatry represented more than just a secularization or physiological reduction of sin. Rather, early American psychological reasoning became a way of trying to understand how a pervasive culture of self-deification malforms the human mind. Moral insanity began its life as part of an anti-secularization narrative as told by prominent cultural scolds.

Finally, we must view the asylum, as Robert Abzug and Noll view Evangelical reform, as a synthesis of republicanism, Christianity, and Scottish moral philosophy – a cousin of Evangelicalism and evangelical reformism, perhaps, but one that had at its symbolic centre not an immediate salvation created through the secondary means of the protracted meeting or the anxious bench, but rather one rooted in a systematized, gradual application of grace through secondary means. It is precisely such a grace that would prove so threatening to the larger world and precisely such a grace, a grace that I have termed politicized grace, that animates the explorations of particular historical
Rush’s Republican Universalism, Prichard’s Inherent Tendency to Insanity

The claim that “moral insanity” was an attempt to sacralize the law, politicize grace, and in a larger sense was part of an anti-secularization narrative is clarified by attending to the thought of Benjamin Rush and James Cowle Prichard. The concept of moral insanity finds its prehistory in the thought of Benjamin Rush, who helped shape a uniquely American synthesis of republicanism, common sense realism, science, and Evangelicalism. Although he never left the Presbyterian Church, and never forsook the doctrine of total depravity, Rush was also a Universalist and believed that Universalism was the spiritual complement to republicanism. Ann Lee Bressler challenges the tendency to view all “liberal religious groups through the same lens.” For Bressler, Rush is a fitting representative of Universalists in the first decade of the nineteenth century, holding, as he did, to a Universal vision of salvation not because of a belief in human goodness or any innate quality that would lead to perfection. Rather, Rush’s Universalism found its genesis in his belief in the graciousness of God and God’s loving and rational moral government. Early Universalism, with its notion of communal salvation, presented an alternative to the individualism of both Evangelicalism and liberal Christianity.

91 Abzug, Cosmos Crumbling, 6; see also Noll, America’s God, 204.
93 Ibid., 7.
94 Ibid., 19-23.
95 Ibid., 23.
Rush’s Republican Universalism

In 1812 Rush recalled, in a letter to John Adams, a sermon by his Uncle Samuel Finley titled “The Madness of Mankind” in which he compared the world to “a great Bedlam, filled with people strangely and variously disturbed.” The strong connection between sin and madness has its origins in Paul’s letter to the Romans and had a particularly active life in nineteenth-century American theology. Theologians, who otherwise disagreed on sin, grace, reason, and will, employed the metaphor of mass insanity to describe the moral state post lapsum. Lyman H. Atwater, writing in a Princeton theological journal, spoke of the difficulty of demarcating the delusion “that excuses from crime, from that which constitutes its essence.” Horace Bushnell remarked that only in heaven will we “discover how far from sanity” we have always been. Charles Finney argued that all unregenerate humans are morally insane, afflicted by “will-madness.”

Rush differed from Finney, Finley, or Bushnell, insisting that part of the cure for mass human delusion was a medical treatment that would unite body, soul, and republic without forgetting “that supernatural and mysterious remedy” inherent in

99 Charles Grandison Finney, “Moral Insanity” ed. Katie Stewart, The Oberlin Evangelist, Lecture VII (September 10, 1856), 2 in Skeletons of a Course of Theological Lectures Finney also suggested that all atheists suffer from monomania (Oberlin: James Steele, 1840), 36.
“[God's] moral government of his creatures': his forgiveness of sins.” Rush wanted the physician to be graceful as God was graceful. He emphasized this point in his 1786 speech “The Influence of Physical Causes Upon the Moral Faculty.” Rush hoped that by showing the physical causes of some people’s moral failings he would help “beget charity towards the failings of our fellow creatures.” He argued that one can partially lose one’s moral faculty, a state he called *micronomia*, or one can fully lose one’s moral faculty, a state that Rush termed *anomia*. For Rush the moral faculty is linked not with conscience, which he described as a faculty of knowledge, but with the moral powers of volition. Human volition can be impaired by several physical causes: climate, diet, certain drinks, extreme hunger, fevers, bodily pain, idleness. It can also be impaired by social causes such as poor education, bad association, or having been treated with profound cruelty.

On the other hand, physicians can improve impaired persons by exposing them to music and sermons, good odours, as well as silence and solitude and, most
importantly education and good example. Rush did not deny the power of divine influence. Instead, in language that strangely resonates with the justification of Charles Finney’s much later “new measures,” Rush forwarded the notion that he was merely trying to enunciate some of the physical instrumentalities that have been used in the reformation of humans: “I only maintain, that the operations of the divine government are carried out in the moral, as in the natural world, by the instrumentality of secondary causes.” Moreover, Rush did not rule out the possibility that in some cases people are suddenly reformed without the aid of physical, moral or rational causes, but in these cases he takes Paul’s language that a person has become “a new creature” as a literal physical fact. He hoped that he might prompt other denominations to follow the practices of Methodists and Quakers that already included a number of physical remedies in their religion and therefore were most distinguished for their good morals.

While Rush was hopeful that humans could be morally improved by a rational application of the kind of secondary causes that God often employs in divine government, he wed this vision of amelioration not to an optimistic construction of the self but to a view that postulates a “madness” or anarchia originating in the human

\begin{footnotes}
\item[106] Ibid.
\item[107] Ibid., 201. The ‘new measures’ were Finney’s controversial methods employed in his revival meetings. Finney’s argument is different than Rush’s insofar as Finney emphasized the newness of the measures and the uniqueness of the social situation. However, they are similar in the way that they presume that one can find the natural analog to the work of the Holy Spirit in specific methods. See Ted A. Smith, The New Measures: A Theological History of a Democratic Practice (Cambridge: Cambridge University Press, 2007).
\end{footnotes}
An appeal to reason is not enough to rid a person of anarchia. Rush stated that he was not afraid of being termed an enthusiast when he affirmed the belief that God might eliminate anarchia instantaneously, but he believed that, for most people, healing requires a moral education throughout an entire lifetime. “Such is the effect of a moral education, that we often see its fruits in advanced stages of life, after the religious principles which were connected to it have been renounced. ... The boasted morality of the Deist is, I believe, in most cases, the offspring of habits produced originally by the principles and precepts of Christianity.”

Prichard’s “Inherent Tendency” to Insanity
J.C Prichard first used the term “moral insanity” in 1835 when he was worrying about “the decline of religion in a materialist age.” Like Rush, Prichard was more concerned with “moral redemption” than with legal innovations. His theory of moral insanity drew from Rush as well as the theories of French alienists Esquirol and Pinel. For Pinel, “nefarious selfishness” marked political life. For Esquirol excessive self-love was itself the defining mark of monomania and it often involved someone believing

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109 Ibid., 192.
110 Ibid., 202.
112 Ibid.
they were God.\textsuperscript{114} He believed that one of the problems facing British society was a growing rationalism and, in particular, the belief that “reason was the final arbiter of humanity.”\textsuperscript{115} He defined moral insanity as a “morbid perversion of the affection of the moral feelings exclusively, ... without any perceptible lesion of the intellectual faculty” and he linked it to his belief in the monogenesis of humans (in a historical Adam and Eve), his rejection of Locke in favour of realist faculty psychology, and his aversion to materialism that he saw implicit in Locke and explicit in phrenology.\textsuperscript{116} Prichard is often considered to be one of the founders of British anthropology, interested, as he was intensely, in mythology, language, and biblical criticism.\textsuperscript{117} He joined these interests together in a field that he called ethnology. He affirmed the unity of humankind on the grounds that all were made in the image of God and for this reason rejected emerging theories of racial classification.

Prichard’s understanding of human madness pervades his vision of human unity. He wanted to show that madness was an integral part of the human condition. It was a way to understand psychologically the Christian narrative of the corruption of human nature.\textsuperscript{118} Following the teaching of the Scottish common sense school, Prichard

\textsuperscript{114} Etienne Esquirol, \textit{Mental Maladies:A Treatise on Insanity} (Philadelphia: Lea and Blachard, 1845), 322.

\textsuperscript{115} Ibid.

\textsuperscript{116} J.C. Prichard, \textit{A Treatise on Insanity and Other Disorders Affecting the Mind} (London: Sherwood, Gilbert and Piper, 1835), 12.

\textsuperscript{117} George W. Stocking, \textit{After Tyler: British Anthropology, 1888-1951} (Madison: University of Wisconsin Press, 1995); Augstein, “J.C. Prichard's Concept of Moral Insanity,” 313.

\textsuperscript{118} Augstein, “J.C Prichard’s Concept of Moral Insanity,” 313.
believed that humans have a moral sense and that the best way to support his belief in monogenesis—the view that humans had a common origin—was to demonstrate unity in the psychological structure of human beings.\(^\text{119}\)

However, this belief presented a vexatious problem. If all humans had a similar psychological structure, why did some people become insane and others not? Prichard feared a scheme, such as the one proposed by the German alienist Johann Christian Heinroth, that explained all insanity and all moral inferiority as a result of individual vice.\(^\text{120}\) While Prichard would not deny that human moral nature shows visible signs of corruption, he found the cause in an innate tendency to insanity. He was convinced through study of the Quaker Thomas Hancocks' theory of instincts a natural predilection to insanity inhered in the mind.\(^\text{121}\) Hancocks’ theory had allowed him to adhere to the Quaker theology of inner light while still asserting that some instincts can draw people away from their moral centre and can cause insanity. Instincts such as fear and anxiety, designed to aid humans in their survival and their pursuit of heavenly felicity, could potentially overwhelm psychological equilibrium.\(^\text{122}\)

Prichard and Rush were each intent on describing a form of insanity that has its seat in the volitional faculties. Rush tied *anarchia* in the soul to the will as an executive

\(^{119}\) Hannah F. Augstein, *James Cowles Prichard’s Anthropology: Remaking the Science of Man in Early Nineteenth-Century Britain* (Amsterdam: Rodolpho, 1999), x.

\(^{120}\) Prichard, *A Treatise on Insanity*, 236.

\(^{121}\) Augstein, *James Cowles Prichard’s Anthropology*, 25.

\(^{122}\) Ibid., 26.
faculty, while Prichard sought to describe an integration of heart and mind that he believed to be best captured in the German word “Gemut.”\textsuperscript{123} The two men shared a suspicion of rationalistic psychology. In questioning a hierarchal rationalism, Prichard, located the source of some mental processes in the spinal cord and much of insanity in the viscera (particularly the stomach).\textsuperscript{124}

What precisely, then, was the relationship between Rush’s category “anomia,” Prichard’s category “moral insanity,” and the religious category “sin,” which both men accepted? Rush, who asserted that his view was charitable to a variety of failings, seemed to be comfortable with his theorization serving as a kind of psycho-social analog to the spiritual state of sinfulness. At times, however, Rush suggested that “a state of mind in which the passions act involuntarily through the instrumentality of the will” is a concern for the law because such a disorder might be confused with ordinary degeneracy.\textsuperscript{125} Prichard was certain that he did not want to go down the path of Heinroth in blaming insanity on a subject’s vice and held instead that moral insanity has its root in extreme rationalism and the decline of religious faith.

Still, the two men differed. Rush anchored his reform cosmology in his description of the part that environment plays in the creation of bodies and minds fit for

\textsuperscript{123}Ibid., 36.

\textsuperscript{124}Prichard, \textit{A Treatise on Insanity}, 115.

the republic where liberty alone could not solve every social problem. Moral habituation was not just the task of self-culture; it would rather require broad social changes. Rush further presumed that the source of some sins was to be found in inferior social arrangements not just in the unruly wills of sinners. Prichard, like most alienists in the nineteenth century, believed that newly-emergent artificial ways of life led to increased insanity. He was less thorough than Rush, however, in his articulation of the social sources of insanity. Alternatively, he was committed to the view that moral insanity demonstrates the unruliness lurking beneath the surface in every individual.

Alienists in America were torn, therefore, between their rejection of Calvinism and their observations of the cruel chaos of nature. Rush and Prichard did not believe in intrinsic human goodness. Yet, they did believe in the possibility of moral regeneration. Their optimism, given the degree to which they focused on the darker side of human nature, was part of a larger form of millennial optimism for Rush and of a vision of human moral progress for Prichard. Abraham Luchins, in attempting to explain what has been called the “cult of curability” in antebellum asylum medicine, suggests this feature to be part and parcel of a larger evangelical cult of human perfectibility. While later alienists were never as open about their commitment to religious regeneration as Rush and Prichard, their optimism about insanity’s curability continued to be united to what Rush prescribed in a mixture of natural and supernatural remedies.

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126 Reiss, Theaters of Madness, 157.

An Initial Conclusion: Re-examining Secularization Stories

The early asylum superintendents under consideration spent a great deal of time attempting to name social forces that exonerated from guilt. This sometimes led to notions of moral imbecility as a hereditary trait. More often than not, however, defenders of moral insanity bemoaned a culture of self-absorption. Foucault describes the asylum as “a religious domain without religion.” In one way of reading Foucault, the asylum functioned in a critical way as a form of secularized religion. Yet another way of reading this statement is that the asylum is evidence of a sacralized political economy. The asylum moves both ways making secular something that was once sacred – the visitation of the mad by transcendent, divine visions or judgements – and the sacralization of state operations that were once perceived as being outside the realm of the sacred. Foucault simultaneously furthers Weber's insights on the secularization of the world while questioning whether what is happening might actually be a transformation of the sacred and a renegotiation of the relationship between the sacred and profane.

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128 Michel Foucault, *Madness and Civilization*, 257.

129 Scholars have recently begun noticing the stark debt owed by Foucault to Weber. Arpad Szakolczai *Max Weber and Michel Foucault: Parallel Life-Works*, New York: Routledge, 1998 discovered a little known quote of Foucault's to the effect that “If Nietzsche interests me, this is only to the extent that Nietzsche for Weber was absolutely determining” (p. 2). There is also David Owen, *Maturity and Modernity: Nietzsche, Weber, Foucault and the Ambivalence of Reason* (London: Routledge, 1994). However, Szakolczai and Owen’s writing purposes lead to the unfortunate situation that, in over 500 pages of relatively small print, the substance of Weber and Foucault’s remarkably similar treatments of work and rationality are never brought into conversation, similar treatments that give a clue to where Foucault may well have found the original intellectual launchpad for *Madness and Civilization*. Without a doubt, the following words of Weber quickly jolt one into the infamous first chapter of *Madness and Civilization*:

But it was felt necessarily to organize charities systematically for those incapable of work, such as orphans and cripples, for the greater glory of God. This notion often resulted in such striking phenomenon as dressing institutionalized orphans in uniforms reminiscent of fools attire and parading them through the streets of Amsterdam to divine services with the greatest possible fanfare … In any case, charity itself became a rationalized enterprise, and its religious significance was therefore eliminated or even transformed into the opposite significance. Max Weber, *The Sociology of Religion* (Boston: Beacon
In the broader context of Arendt's history of the will, what was happening culturally and intellectually in this period (late eighteenth and early to mid nineteenth-century America) was actually something new. In renewed attention to the voluntary, in an insistence on remaking the world as a whole, there existed for a long cultural moment, something strange and different, a new beginning. As noted by Arendt in her conclusion to *Willing*, "[t]he very capacity for beginning is rooted in *natality*, and by no means in creativity, not in a gift but in the fact that human beings, new men, again and again appear in the world by virtue of birth."130 Those advocating for the concept of moral insanity sought to offer something genuinely new. In the process they followed Benjamin Rush and drew the line between sin and insanity perilously close, not because they believed that politics was devoid of grace, but because they insisted that it should be infused with it.

In the next chapter, I will discuss a particularly interesting example of an unexpected interplay between metaphysical religious practice and the Reformed thinking of asylum doctor Luther Bell, a self-identified staunch Calvinist. It is an interesting case in which, to keep one's footing, insight is required from the Evangelical, Reformed, or Puritan-thesis in American religious history and from studies whose concerns have been more Pluralistic. Chapter two draws attention to a growing tension amongst certain Evangelicals and others involved in the early asylum and prison reform movements, especially via the mature thinking of Ray and the trial of Abner

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Rogers. Chapter three is an in-depth look at the trial of William Freeman and the competing visions of a variety of doctors and important political figures such as William Seward and President Martin Van Buren’s son who acted as opposing lawyers in that trial. The tension in the Freeman trial surrounds the collective sins of racism and of harsh treatments in prison and what sin's collective nature meant in terms of individual crimes or sins. The most important alienist in that chapter is Amariah Brigham, the first superintendent of the Utica asylum in New York and someone deeply committed to applying the theoretical insights of concepts such as moral insanity to the world of and emanating from the asylum as a whole.

Chapter four attends to the inmate journal *The Opal,* published from the late 1840s to the mid 1850s out of the Utica asylum. Here, the question of corporatism takes the form of attention to the way the disciplines of the asylum initially attempted to recreate a space set apart from the Law where Republican virtue or something comparable to Jürgen Habermas’ “public sphere” could be inculcated in those harmed by the excesses of democratic revolt.

All of this prepares the way for chapter five, in which asylum superintendent, *American Journal of Insanity* editor, and super witness for the prosecution John Gray reacts against the politics of collective grace with an extraordinarily forceful valorization of individual sin and responsibility for crime. Gray, along with prominent members of Association of Medical Superintendents of American Institutions for the Insane (AMSAII), understood the doctrine of moral insanity in such a way that it led
them to jettison the will. My analysis in chapter five shows that while psychiatry may very well indeed have lost the will, it was not merely because of a turn from sin. It cannot simply be a secularization narrative that explains this loss. Nor was it the growing importance of “scientific determinism” and “materialism” that vanquished the will. The argument here is that the idea that the will was autonomous but bound, spiritual and natural, proved to be a deep challenge to the cult of individual self-construction and to the assertion that “individual responsibility” was a traditional Christian value.
Chapter 1 Animal Magnetized Calvinism

Introduction

On October 20th, 1855 Dr. Isaac Ray attended a séance with Dr. Luther V. Bell. At each of the two previous annual meetings of the Association of Medical Superintendents of American Institutions for the Insane (AMSAII), Bell had presented “Dissertations” on “What are Termed the ‘Spiritualist Phenomena’.” 1 Bell had reported that the medium was not communicating with the dead; however, he had not detected any signs of conscious fraud. 2 Moreover, Bell reported witnessing tables weighing as much as fifty to sixty pounds “obey the will” of the medium, and he remarked that she was capable of reading the minds of participants through “mesmerism or animal magnetism.” 3  

In his report to AMSAII, Bell noted that his observations of Spiritualism proved that “personal identity” was not unitary and that part of the brain sometimes forms “a different individuality.” 4

In his Short History of Ethics, Alasdair MacIntyre notices that “[a] striking feature of moral and political argument in the modern world is the extent to which it is innovators, radicals and revolutionaries who revise old doctrines, while their conservative and reactionary opponents are the inventors of new ones.” 5

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1 Luther Vose Bell, “Two Dissertations on What Are Termed the ‘Spiritual Phenomena,’ Read at the Meetings of the Association of Medical Superintendents of American Insane Hospitals at Washington and Boston in 1854 & 1855” (unpublished, handwritten, Harvard University, Countway Library of Medicine, Rare Books, Circa 1855), 177. (The material on the jointly attended séance is included as an addendum to the material presented at the two meetings, the latter of which occurred in the Summer of 1855.)

2 Ibid., 13.

3 Ibid., 177ff., 132.

4 Ibid., 140.

sin in nineteenth-century America marked the cultural arena in which contests occurred between psychiatry and the law. In this context, as evangelical theology transformed the primary power of 'sin,' a human condition, into 'sinning,' a series of discrete human acts, many early asylum doctors were contrarily incorporating versions and revisions of the language of native corruption and a bound will into their theories of moral insanity. In the chapter that follows, I will argue that while contemporaneous versions of American Calvinism would more intimately connect 'sin' to legal guilt, early American Alienists, like Bell and Ray, would wire Calvinism to magnetism and phrenology preserving notions of corporate identity and the bound will.

Ray and Bell were long time friends. Bell ran the private and exclusive McLean Asylum in Boston, while Ray superintended the public asylum in Providence, Rhode Island. Both were among the original thirteen members of AMSAII, a group that would become the American Psychiatric Association. The two shared a commitment to the moral cure and a desire to reform what they believed to be a woefully unscientific legal definition of insanity. Bell described himself as a stern Calvinist, “an ultra Conservative” both in religion and in politics, holding to “the Old Scotch Presbyterianism of my ancestors” and to “old fogy Whig” politics. Ray was a Congregationalist with Unitarian sensibilities. Both attended Bowdoin College and grappled with key components of a rapidly Americanizing Calvinism – republican

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6Ibid., 25. Bell was enough a Whig to present the eulogy at the funeral of President Zachary Taylor. See also Luther Vose Bell, Eulogy of Gen. Zachary Taylor, Late President of the United States: Delivered by the Appointment of the City Authorities and Citizens Conjointly, of the City of Cambridge, August 13, 1850 (Cambridge: Printed at the Chronicle Office, 1850).
politics, revivalism, and common sense philosophy.\textsuperscript{7} They also each engaged the writings of Benjamin Rush, Prichard, and Pinel and studied phrenology and chemistry in the school's medical department.\textsuperscript{8} The latter sources would shape their visions of self and society.

Issac Ray was born in Beverly, Massachusetts in 1807, the oldest child of a sea captain. He attended Phillips Academy where he was inculcated into “scholarly rigour and Calvinist discipline.”\textsuperscript{9} Luther Bell was born in Francestown, New Hampshire in 1806. Ray and Bell were each introduced to phrenology at Bowdoin College. Bell, the wealthy son of the governor of Massachusetts had attended Bowdoin with Nathaniel Hawthorne and Henry Wadsworth Longfellow, graduating in 1823. Ray began his attendance a bit later and had to leave before graduation because of illness and financial difficulties. He returned in 1826. It was his interest in phrenology that first introduced him to troubling questions around the laws of insanity.\textsuperscript{10}

Bowdoin, like so many Congregationalist schools, was in the midst of a pitched battle between Congregationalist Trinitarians and Unitarians.\textsuperscript{11} Students were versed in phrenology while at the same time being privy to the “fire breathing” Calvinism of the


\textsuperscript{10}Ibid., 17.

\textsuperscript{11}Joseph C. Abdo, \textit{The Quiet Radical: The Biography of Samuel Longfellow} (Lisbon: Tenth Island Edition, 2008), 43.
school's president William Allen and the introspective Protestant philosophy of Professor Thomas Upham.\textsuperscript{12} It should be noted that Ray did not seem particularly impressed by Upham. Ann Taves points to the similarities between Upham's Protestant moral philosophy and antebellum asylum medicine.\textsuperscript{13} Yet it is perhaps instructive to note that Issac Ray, who spent his entire life writing on the human mind and cited significantly from experts in France, America, Scotland, England, and Germany, never once cited Upham. In fact, in his treatise on insanity, Ray suggests that it is a deplorable waste of time to attempt to understand insanity through the lens of one's own self-consciousness.\textsuperscript{14} Ray instead gravitated to the professor of chemistry and anatomy Parker Cleaveland. Cleaveland was noted for his piety and his unflinching examination of the natural world.\textsuperscript{15} Ray's first book, \textit{Conversations on the Animal Economy: Designed for the Instruction of Youth and the Perusal of General Readers} (1829), was dedicated to Cleaveland. The book functioned as an introductory biology book organized around conversations between a young girl named Emily and a Dr. Benjamin. Ray and Bell were frequently called on to testify in trials where the insanity defence was employed. The first trial in which they both appeared was that of Abner Rogers (1844), a convict who stabbed to death the warden of the Charlestown Prison in Boston.

\textsuperscript{12}Charles Calhoun, \textit{Longfellow: A Rediscovered Life} (Boston: Beacon Press, 2004), 35,

\textsuperscript{13}Ann Taves, \textit{Fits, Trances, and Visions: Experiencing Religion and Explaining Experience from Wesley to James} (Princeton: Princeton University Press, 1999), 123.


\textsuperscript{15}Leonard Woods, \textit{Address on the Life and Character of Parker Cleaveland, LL.D., Late Professor of Chemistry, Mineralogy and Natural Philosophy in Bowdoin College} (Brunswick: Joseph Griffin, 1835), 78.
In the séance Bell attended with Ray, they reported having seen a “yellow, nebulous, curtain of light” and a table moved from one parlour to the other unassisted. Ray was indulgent towards Bell’s fascination with Spiritualism. He left the séance unconvinced, but grudgingly admitted that the theory that the medium was “pushing the table was not tenable for a moment.” In his report to AMSAII, Bell claimed that more alienists should study “spiritualist phenomena.” The examiner, he argued, would come to understand the reciprocal relationship between mind and body. Such examinations also provided evidence of the “dual action of the brain.” Bell learned from Spiritualism that “personal identity” was not unitary and that part of the brain sometimes forms “a different individuality.” Bell believed the study of Spiritualism was a religious obligation, if only because it was proving so influential. Spiritualism, he claimed, was a delusion that “was influencing the religious faith of two million people ... and ... striking at the roots of the best settled ideas of the last 6000 years.”

Bell's examination of Spiritualism went beyond giving a natural explanation for phenomena disagreeable to his religious orthodoxy. It also confirmed some of his religious commitments. He was plainly enchanted by exhibitions of a staggering power of the medium's unconscious will. Taves contends that “asylum physicians rejected

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17 Ibid.
18 Ibid., 134.
19 Ibid., 140.
20 Bell, “Two Dissertations on What Are Termed the ‘Spiritual Phenomena’,” 2.
animal magnetism because they viewed the loss of a subjective sense of personal agency and a tendency toward involuntary actions as characteristic of mental and moral decay.”

Bell’s tentative acceptance of something like magnetism shows, in fact, not a suspicion of the loss of subjective agency, but great awe for its power and the insights it provided into human selves. He was curious of the profound and unknown powers of the will – a power whereby the mind not only automatically moves certain human muscles, but also, potentially, can move heavy tables or read minds. This is not to say that Bell did not associate the loss of conscious agency with moral and mental decay. Spiritualism supported Bell's Calvinism—his belief in an essentially divided self and the bondage of the will. However, he also associated such practices with his belief that the human self had powers and depths not readily accessible to consciousness.

Bell's examination of Spiritualism finally rejected the occult, while affirming that Spiritualism might give evidence for human interconnectedness. Bell noted that the medium seemed to have access to the minds of the participants at the séance; when the medium had made factual errors about the deceased, the mistake matched what the séance participants believed to be the truth.

Bell's animal magnetized Calvinism, much like the concept of sympathy during the early national period, evinced a “cross-fertilization” between “the occult, the social, and the physiological.”

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21 Taves, *Fits, Trances, and Visions*, 122.

22 Ibid., 139.

Catherine Albanese's history of metaphysical religion in America describes her interest in what she calls “networks.” Instead of thinking of the ways in which metaphysical religion is a tradition, Albanese is interested in how religious actors form networks that are temporary, self-erasing, and self-transforming. This view seems to have some connection with Max Weber’s “elective affinity of ideas,” but the affinity for analysis is between people and not ideas. Network analysis, understandably, works well with Albanese's commitment to vernacular religion or religion as it is lived. Networks form around people who speak the same religious language. While functioning in many ways as a world apart, metaphysical religionists and influential institutional asylum superintendents such as Isaac Ray were in some sense “networked” temporarily. They spoke intelligibly similar religious languages through the interventions of people like Luther Bell.

Bell's fellow séance attendee Ray, along with alienists Samuel Woodward and Amariah Brigham, were networked with metaphysical ways of being in another critical way. Each believed, to varying degrees and in varying intellectual time periods, that phrenology mirrored common sense moral philosophy in being both a science of the self and a science of society. It offered potent tools for transforming the self, for gaining spiritual assurance, and for understanding the relationship between the self and society. It gave insights into “sensation” and conversation of mind with mind. The hierarchy

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25Ibid., 9.

26Cox, *Body and Soul*, 34.
and internal structure of the brain provided a useful analogy for understanding the 
proper workings of republican society. In a well-run brain, each faculty had its own 
seat of governance and would act as a check and balance on other faculties. Phrenology 
could also serve, the three believed, as a methodological basis for various reforms. John 
Lardas Modern argues that “phrenological reforms were a mix of common sense 
empiricism, republicanism, and the desire to integrate the two.”27 Modern also sees 
strong connections between the aims of Spiritualism and the aims of phrenology: “like 
Spiritualism, phrenology sought to disclose the organic connection between human 
matter and human spirit.”28 In this regard, Ray recognized the consonance between 
asylum medicine and Spiritualism when in the midst of his 1863 treatise On Mental 
Hygiene he commented,

> Animal magnetism, biology, [and] communication with the spiritual 
> world, have raised in multitudes a deeper interest than they ever 
> manifested in those immutable laws of nature, which if understood and 
> observed, would vastly enlarge the sum of human happiness.29

These immutable laws for Ray included the sympathetic relationship between 
physical brain and ethereal mind. Such laws also included the growing belief that what 
was most spiritual about people, their minds or even their souls, were formed in part, 
not through a super-added spiritual power, but through immanent, physical networks 
of moral relations.30


28 Ibid., 622.


30 Ibid., 3, 9, 63, 146, 276,
Luther Bell was insistent that his investigations into Spiritualism did not mean that he had abandoned his Calvinist faith. Indeed, Bell saw the phenomena usually grouped under 'magnetism' or 'mesmerism' as evidence of the conflicted state of the will. At the seance table he observed “the unconscious operation of the will over half the brain, not recognized by the other half.” Bell associated this with diseased states such as moral mania or moral insanity. He argued that in “certain periodical states of mania, a party is as different morally and intellectually from his ordinary state, as if a new sensorium had been exchanged.” Yet Bell refused to see such an experience as abnormal. We all experience “feelings, reflections, which we do not recognize as at all ours; these temptations seem to be in opposition to our rational moral beliefs.” He argued that what he had seen at the séance table might provide evidence that these thoughts do not find their origin in “our own state house.”

Bell connected the phenomenon of the divided self evidenced in Spiritualism with the normal, fallen condition of having desires that are not products of our conscious, subjective, and autonomous self, yet are still our own. These desires arise not out of the passions or an animal nature, but instead, from a contrary seat of governance, another will, a counter-will. Evidence of human consciousness was believed to be critical confirmation of the freedom of the will. Unlike Bell, most other Christian moral

31 Bell, “Two Dissertations on What Are Termed the ‘Spiritual Phenomena’,” 139.
32 Ibid., 140.
33 Ibid.
34 Ibid.
reasoners writing at the time (such as Thomas Upham, Asa Mahan, and Charles Finney) were arguing that inner moral states were entirely open to consciousness.\footnote{James Hoopes, \textit{Consciousness in New England: From Puritanism and Ideas to Psychoanalysis and Semiotic} (Baltimore: Johns Hopkins University Press, 1989), 149.}

For instance, Nathaniel William Taylor (1786-1858) sought to absolve God of any responsibility for individual sinfulness. James Hoopes argues that this this is not surprising given pressure from a broader legal culture debating “whether courts could justify punishing people conscious of doing wrong but compelled to do so by mental derangement.” In this context, it seemed capricious that God would punish sinners for a “divinely created heart bias.”\footnote{Ibid., 204.} Taylor worked to square a vision of God as a just moral governor with Edwards’ vision of sinfulness imputed organically from Adam.\footnote{Sydney E. Ahlstrom, \textit{A Religious History of the American People} (New Haven: Yale University Press, 2004), 308.}

Jonathan Edwards (1703-1758) had previously argued that “responsibility” is part of a larger narrative of divine economy, covenant, and grace. Humans proceeded from Adam “much as the buds and branches from the stock or root of a tree” and “should be treated as one with him.”\footnote{Jonathan Edwards, “A Treatise Concerning Religious Affections,” in \textit{A Jonathan Edwards Reader}, ed. John E. Smith, Harry S. Stout, and Kenneth P. Minkema (New Haven: Yale University Press, 1995), 242.} For Edwards, “there is no such thing as any identity or oneness.”\footnote{Ibid., 204.} There is no personal identity and strictly speaking no personal responsibility. Humans, on Edwards’ view, are absolutely morally identified with Adam. The question of ‘how or to what extent is an individual responsible for their own sin and misconduct?’ would be a false start. Moral responsibility in Edwards’
theology does not require that 'sinful acts' find their source in a particular self. While Edwards' successors are deeply concerned with absolving God of culpability for human sin, Edwards is far more concerned with avoiding the kind of contingency that totally undetermined human willing would introduce into the world. If humans could will in an undetermined fashion, then the sovereignty of God would be undermined. God would be little more, as Ahlstrom describes Edwards' view, than a “Great Tinkerer who could not even know if ‘the incarnation, life, death, resurrection, and exaltation of his only begotten Son’ had provided ‘any tolerable restoration’ of the divine economy.”

Taylor argued that sinfulness is not about someone's moral ontology (a la Edwards' view of Adam), it is rather about one's moral choices. Taylor shifted from talking about innate sinfulness to focusing on “sins” and sinning, from sinful understood as a native (though not natural) lack or depravity to sinning as concrete activity. In his famous wording, “sin is in the sinning.” Taylor hoped to exonerate God, while keeping the doctrine of the universality of human sinfulness.

In Charles Finney this theological vision was wedded to a legal mentality. Finney became interested in theology while practicing law in Adams, New York. He claimed to have the Lord, Jesus Christ on retainer, and to keep William Blackstone's

39 Ibid.

40 Ahlstrom, A Religious History of the American People, 306.

41 Ibid., 420.

Commentaries on the Laws of England (1765-1769) and his Bible “side by side reading the
two in the same manner.” He brought the legal logic of “case and point” to his
prosecutorial preaching. On a deeper level, Finney connected civil law to divine law.
He insisted that the moral law is “the eternal and necessary idea of the divine reason.”
Human beings were made to follow the moral law. Moreover, moral guilt, in the hands
of Finney, became deeply connected to individual, legal guilt.

Bell, like Edwards, insisted that human identity was not simply unitary and
individual. Bell's animal magnetized Calvinism articulated an Augustinian insistence
on the self's mysterious depths, just as an arminianized, American Calvinism was
affirming a self completely conscious of itself. Similarly, Isaac Ray's phrenological vision
was a way of expressing psychological connections between the mind and its social (or,
in the parlance of the day, its 'moral') context. Ray would later articulate in his work
*Mental Hygiene* an understanding of the collective nature of the self closer to Edwards
than Taylor. He wrote, “independent, self-originating movement is, probably, a far rarer
thing than that which springs, more or less directly, from some outward source.”

James Hoopes claims that New Divinity thinkers such as Taylor and Dwight
were attempting to understand the fact that “human beings experience psychological

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44 Smith, *The New Measures*, 236.
conflict which they would not experience if the conscious mind alone or, as the schoolmen put it, in a parallel world, the understanding alone were in control.”

He argues that Taylor and Dwight struggled, and ultimately failed to square a “bound will” with common sense realism. For instance, Theodore Dwight (1764-1846) located “the origin of sin in the understanding rather than in the substantial bias of the heart.” The human problem, in this view, is not a crooked will but rather a fundamental ignorance about the self and the self’s good. Conversion became a kind of “voluntary conformity to the truth.”

Bell associated the automatic power of the brain with irresistible impulses or moral insanity. He was one of many early nineteenth-century asylum doctors who advocated for a change in the common law's procedure for adjudicating insanity. In particular, Bell worked to convince jurists that legally recognized insanity should include partial insanity and moral insanity. In so doing, Bell worked out of, and not against, his strongest Calvinist convictions.

Isaac Ray, in his obituary for Bell, remarked that Bell looked at vice and crime as absolute social facts, an intractable part of the human condition. Bell was a man completely conversant in the “darker aspect of our nature,” and his “extensive

48 Ibid., 207.
50 Ibid.
knowledge of men prevented any child-like faith in their rectitude.”\textsuperscript{51} However, this did not make him pessimistic.\textsuperscript{52} Ray commented that Bell was quite indulgent with the faults of others, not because of any naïve faith in human nature, but because of the kindness and benevolence of his own character.\textsuperscript{53} Bell was a man of profound sympathy. His desire to learn more about Spiritualism was driven by the expansiveness of his very humanity.

Bell’s reflections on Spiritualism earned him the ridicule of many members of the AMSAII.\textsuperscript{54} This was despite his respected position as one of the original thirteen members of the association and as the leader of one of the most prestigious asylums in America. Isaac Ray would come to his defence, suggesting that Bell's exploration of Spiritualism was evidence of his calm, methodical observation of facts and rejection of prejudice. Bell’s expertise in statistics had given him a reputation for being methodical, and Ray argued strenuously that many of the writings of early asylum superintendents were no match for Bell in “that precision and accuracy necessary to a statistical shape.”\textsuperscript{55}

The obtainment of scientific knowledge of insanity would require a codifying of psychiatric knowledge that was not yet available. Ray, in defending Bell, also insisted that it would require the Association to reject fear and prejudice.

\textsuperscript{51}Isaac Ray, \textit{A Discourse on the Life and Character of Dr. Luther V. Bell: Read to the Association of Superintendents of North American Institutions for the Insane, at its Annual Meeting, in Providence, R.I., June 10th, 1862} (Boston: J.H. Eastburn’s Press, 1863), 47.

\textsuperscript{52}Ibid., 48.

\textsuperscript{53}Ibid., 47.

\textsuperscript{54}Ibid., 16.

\textsuperscript{55}Ibid., 34.
Bell's interest in understanding the sources of human sin through the study of psychology were far from unique. While his strong commitment to the Calvinism of his childhood set him apart from many of the Unitarians and Quakers involved in the early asylum movement, his exploration of the essentially conflicted self, a self in opposition to the conscious, autonomous self of the moral philosopher, was of persistent interest to Ray and other members of the Association attempting to understand the source of the phenomena of monomania, moral insanity, uncontrollable desires, and the automatic processes of the brain. Moreover, while the Association thought that Bell was credulous to believe in the power of the medium to read the mind of the participants at séances, his reason for this belief, the presumption of relatively permeable boundaries existing between the self and other selves, was a much more common belief in early American psychiatric thought than is typically acknowledged.\footnote{Roger Luckhurst, \textit{The Invention of Telepathy: 1870-1901} (Oxford: Oxford University Press, 2002); Cox, \textit{Body and Soul}; Jill Galvan, \textit{The Sympathetic Medium: Feminine Channeling, the Occult, and Communication Technologies, 1859-1919} (Ithaca: Cornell University Press, 2010); Molly McGarry, \textit{Ghosts of Futures Past: Spiritualism and the Cultural Politics of Nineteenth-Century America} (Berkeley: University of California Press, 2008).}

While Bell investigated Spiritualism to better understand the relationships between mind and brain, the communication possible between mind and other minds, and internal will and physical nature, other early asylum heads turned to phrenology. Bell claimed that he never was able to “see anything in [phrenology] which allowed me to arrange it in the category of a true science.”\footnote{Bell, “Two Dissertations on What Are Termed the 'Spiritual Phenomena',” 25.} In this he was out of step with many founding members of AMSAII and other prominent figures in the early asylum movement including Amariah Brigham, Samuel Woodward, John Fonerden, and
Horace Buttolph. Ray, for example, believed that phrenology was not only an important Baconian science which held forth anatomical knowledge, but also a source of important knowledge of the relationship between body and soul and between self and society.\(^58\)

**Isaac Ray: Early Life and Phrenological Dabblings**

It is clear from Ray’s *Conversations on Animal Economy* that his willingness to accept phrenology had much to do with the way it supported his understanding of the analogical relationship between the construction of human societies and the structure of the brain. Ray finds in phrenology, with its vision of a material brain composed of myriad faculties, an image of a less hierarchical brain than the one offered by moral philosophers. Phrenology provided a philosophy of the mind well suited for republicanism. This mental balance could not be formed merely through the reign of reason over the passions. It required an equality among the mental faculties. Phrenology, for Ray, taught the interdependence of all human faculties and that the mind itself is a republic, a republic in which there is not clear hierarchy but “necessary and mutual relations.”\(^59\) Phrenology teaches that the human mind is “very like the economy of our own Republic … where [an individual faculty] not only regulates its own concerns, but contributes to the management of the common interest.”\(^60\) This analogy lasted long after Ray formally rejected phrenological theory. In his work *Mental*


\(^59\)Ibid., 241.

\(^60\)Ibid.
Ray, early on, believed that phrenology supported his religious commitment. While Prichard shaped his vision of moral insanity as a challenge to the determinism of British phrenology, Ray initially found much more use for the pseudo-science. Phrenology, as Ray understood it, taught that “man is now and, for anything we know, always will be, in a transition state; ever passing from under the bondage of the animal propensities, and ever subjecting himself, farther, and farther, to the government of the moral powers, and the enlightened intellect.” The language Ray used is one of moral progress, yet it presumed that moral struggle will always be an important aspect of human existence.

Ray insisted that it is a capacity for complex networks of relation that makes humans human. Phrenology offers “a profound insight of the relations of man to the sphere in which he moves.” The immanent force that travels from person to person, at times like a contagion, at other times like a spirit is what separates humans from the lower animals. Ray claims that animals are inferior to humans because an animal only

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61 Ray, Mental Hygiene, 141.
63 Ibid., 9.
uses its reason to advance its own well-being. The brute has no “desire to advance the welfare of his species.” It is the social nature of human personhood that “points him to the Divinity for fellowship.”

In Ray’s psycho-social vision, as in Bell’s, the boundaries between selves were much more permeable than imagined by either Unitarian self-culture or evangelical self-discipline. The closest religious corollary was found in Horace Bushnell’s *Christian Nurture* (1847), which was published after Ray’s formative works. Ray’s work, like Bushnell’s, saw growing individualism as corrosive. He sought to understand how moral formation occurred in the midst of community and not just through the efforts of the individual. For instance, Bushnell in his work *Christian Nurture* (1847) impugned the New Divinity theological project for its abandoning of a Puritan vision of the world. In particular, Bushnell insisted that an excessive focus on the individual was a rejection of the Puritan concern with collective responsibility. Moreover, individualism denied the Puritan teaching about the organic transmission of human sinfulness. Bushnell argued that various aspects of revivalism and evangelicalism were dangerous innovations.

Bushnell’s vision was a type of soft determinism. The unity of the family means

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65 Ibid.

66 Ibid., 152.

that the effects parents have over character are actually greater than “mere influence” and are, in fact, an organic cause. This organic unit, the family, is a complement to Bushnell’s notion of the individual. Indeed, “until the child comes to his will, we must regard him still as held within the matrix of the parental life.”

Bushnell remarked that the question of original or imputed sin has been a great source of modern debate and speculation. He suggested that while it has been clearly affirmed that “no man is responsible for any sin but his own,” there is wisdom in older doctrines of federal headship insofar as there are “connections between individuals, by which one becomes a corrupter of others.” The family as well as the sect, the state, the church, and armies can be involved in this kind of corruption of formation.

When Ray wrote his lectures Conversations on the Animal Economy, he had not yet begun to practice asylum medicine. Yet already, Ray displayed a strong philosophical commitment to communal construction of the self that would shape his notions of criminal responsibility. Later, Ray would become but stronger in his cautions about the corrosive powers of individualism, as evidenced in both Utilitarian philosophy and in revival religion, insisting in his work On Mental Hygiene that the culture of self-formation was inciting many cases of mental instability.

Ray on Selfishness and Society

Overall, Ray’s vision was very skeptical of the moral value of self-interest. For

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69 Ibid., 196.
70 Ibid., 198.
many New Divinity thinkers schooled in the Scottish Enlightenment, self-love could not simply be equated with human sinfulness. In fact, in this view, God has given human beings self-love in order that they might be able to seek and find God. A truly enlightened self-love would find pleasure in God. Humans have a natural desire to be happy that shapes all of their choices. If this self-love was truly enlightened, according to the New Divinity way of thinking, it would understand that the Christian life is the kind of life that should be chosen. Sin, however, transmogrifies self-love into selfishness. This leads to a conflicted self in which the desire to love God is never abated. Confusion reigns. The human mind is then divided; it is “capable of opposite tendencies at the same time.”

The self is at war between its deepest desire to love God and other selves and its sinful fall into selfishness and self-regard.

Ray’s identification of a lack of moral progress, or evil, with selfishness not only included the “prurient imagination,” which he argued “brings the aspirations and sympathies within the circle of an intense selfishness.” He also critiqued revivalism for its overly individualistic tenor. One of the reasons enthusiastic religion is apt to lead someone to insanity is because it presses a person to think wholly of the self. It induces a kind of piety in which the person “is not concerned with affairs of fellow creatures.”

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72 Ibid., 207.

73 Ray, Mental Hygiene, 57.

74 Ibid., 146.
Ray insists that truly human rationality transcends mere utilitarian self-interest. Animals also “exhibit mental manifestations, the same in kind if not degree, as those of man.” They use language, possess instrumental rationality, and experience joy and sorrow. Humans are separate from the other animals not because of any particular power—reason, upright posture, the ‘form of his hand,’ or the will—but because of the “the organization [and] inter-workings of all the organs.”

In *Animal Economy*, Ray displayed the bio-social-psychological view of the person that would later shape his acceptance of Prichard's moral insanity. He brought together a commitment to human animality, which he termed human “animal economy,” with a vision of what makes humans distinct as a capacity for concerted benevolence, their possession of a voluntary faculty, and the social nature of their personhood.

In this Ray shared the perspective of Adam Smith who insisted that this capacity to identify with others, or “human sympathy,” was a “guardian against self-interested behaviour.” Ray wrote that humans “are bound together, not merely by that community of interests which is discovered by the process of reasoning, but by an intuitive sense of the emotions which agitate the breast.” Furthermore, this social

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75 Ibid.
76 Ibid.
78 Cox, *Body and Soul*, 27.
sense whether acting “quietly and irresistibly upon scattered individuals” or upon “mass crowds” often is the real spring of human action. This insistence on the social nature of the human person would profoundly shape Ray’s understanding of the relationship between sin and insanity.

Phrenology and Ray’s Moral Mania

Already in 1829, Ray was uneven in his acceptance of phrenology. Animal Economy presents phrenology as a Baconian endeavour that offers an anatomy of conical shaped organs within the brain; still, Ray admitted that anatomists had yet to discover evidence of the “form, size, or even existence of these organs.” The fictional Emily is confused. She asks Dr. B. how can one believe in phrenology without any anatomical evidence of “these organs which are the very foundation of the phrenological doctrine?” Ray’s answer was weak. Phrenology offers “sound reasoning” about the interrelationship of the faculties, the innateness of the moral faculty, and the relationship between the structure of the brain and the mind’s function. In short, phrenology theorized that there existed yet-to-be discovered physical evidence which would support many of Ray’s most cherished views about the nature of the human self and its relationship with the broader world.

John Lardas Modern, writing about phrenological reforms at Sing Sing, claims

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80 Ibid.
81 Ibid., 145.
82 Ibid.
83 Ibid.
that they carried the “arminian strain of evangelical piety to its logical conclusion.”

In treating phrenological reform in the prison, Modern notices both studious attempts to create self-control but also the effort to educate prisoners in the potentialities of the inchoate self. These potencies are best achieved not through individual effort alone but through an awareness of immanent networks of moral influence. These networks were understood through the metaphysical language of force, energy, and power. Historians have tended to give these immanent networks a simpler name--social control--yet Modern's work shifts focus to the way moral influence was understood among nineteenth-century reformers to be literally contagious. Eliza Farnham, matron at Sing Sing, taught prisoners that the key to redeeming the inner capacities of the self was to better understand the ways in which power worked in antebellum America—through the influence that coursed through social networks via human connections.

This understanding of the “power” of phrenology was shaped by early American asylum doctors such as Ray. By the time Farnham worked at Sing Sing, the language of phrenological power had become commonplace among a ragtag group of “free-thinkers.” Phrenology, in its more optimistic American version as popularized by George Combe, was a way for Unitarians, Universalists, and Methodists to scientifically support their attacks on a Calvinist vision of total corruption and original sin. Yet, phrenology, especially as presented by Franz Joseph Gall, could include a vision of

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84 Modern, “Ghosts of Sing Sing,” 615.

innate evil in the human soul. Gall included murder among the faculties of the mind.\textsuperscript{86} While Modern claims that the theory behind the reform work of matron Farnham was strikingly Arminian in that it “defined intentionality as the sole ground of moral and legal responsibility,” Ray’s theory of moral mania and the practice of the moral cure insisted that behind and predating every intentional act there were social and moral pre-conditions.\textsuperscript{87} It would be his constant insistence on these pre-conditions that would make his category of moral insanity so socially disruptive, however, it was also his insistence on these moral pre-conditions that wedded his theories of moral insanity to an older tradition of theological voluntarism.

\textbf{The Doctrine of Sin in the Early American Republic}

The most quoted scriptural passage in the interaction between American Asylum Medicine and the American court was Romans 7:15-18. It is worthwhile to quote Paul in full:

\begin{quote}
I do not understand my own actions. For I do not do what I want, but I do the very thing I hate. Now if I do what I do not want, I agree that the law is good. But in fact it is no longer I that do it, but sin that dwells within me. For I know that nothing good dwells within me, that is, in my flesh. I can will what is right, but I cannot do it. (Rom. 7:15-18).
\end{quote}

In later chapters I will discuss exegesis of the passage in \textit{The Opal}, an inmate magazine at the Utica asylum, in debates at professional meetings of the AMSAII and the American Medical Association, in articles in the \textit{American Journal of Insanity}, and in newspaper accounts of sensational trials. As the nineteenth century proceeded, this


\textsuperscript{87}Modern, “Ghosts of Sing Sing,” 627.
passage from Paul was quoted frequently by both opponents and defenders of moral insanity. For opponents, Paul's “the good that I would, I do not” proved that the moral insanity of the doctors was simply sin. For defenders, the text described a state of moral bondage that was synonymous with the physical disease of partial moral mania.

Throughout the nineteenth century, jurists, doctors, and theologians would be forced to distinguish sin from insanity; many of them would do so by attempting to make sense of a particular Christian tradition of the self that presumed that the fundamental human condition is one that is analogous to insanity. Moreover, American psychiatry would face unique challenges drawn from a particular American Calvinist theological context. Especially as thinkers such as Dwight and Taylor attempted to absolve God of the responsibility for human sinfulness. My claim that men such as Ray and Bell sought to medicalize sin in order to sacralize the law must be read in the context of this verse and it centrality to broader theological debate about moral and natural inability.

Edwards had famously insisted that God is not the cause of human sins. The simple reason? Humans are not causally determined to sin. Instead, humans are morally determined to sin. There is a distinction to be made between moral inability and natural inability. For Edwards, human beings are naturally unable to fly or breath under water. They are not naturally unable to pursue virtue. This would imply that God made humans to be the kind of creatures that sin. This does not mean—in Augustinian parlance—that human beings are free not to sin (*posse non peccatum*). Human actions are
determined by their *post lapsum* “moral nature,” which is marked by a radical incurvature and a selfishness of human motivation. Even human righteousness is vitiated just to the degree that it is self-interested. Human beings practice “true virtue” only to the degree that through the gift of “divine and supernatural light” they love “being” for itself.\(^88\)

Edwards’ successors felt a good deal more pressure to absolve God of responsibility for human sinfulness. Taylor also drew heavily on this Edwardsian distinction insisting that humans do not sin necessarily; however, humans do sin inevitably. Humans were not made to sin, they are even invested with a “power to the contrary,” a power to resist, a power to say “no” to sin and sinning.\(^89\) This power is the will. That this power is literally never effectual, according to Taylor, does not seem to concern him. He takes his satisfaction in having absolved God on a technicality.

Finney absolutely rejected the technicality. Perfect human obedience to divine law was “possible on the ground of natural ability.”\(^90\) This is due to the fact that sin is evil willing. It is “deliberate, intelligent, and intentional rebellion against God.”\(^91\) Finney published a sermon in 1856 titled “Moral Insanity.”\(^92\) In that sermon he gave no

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\(^{88}\)Ibid., 309.

\(^{89}\)Ibid.

\(^{90}\)E. Brooks Holifield, *Theology in America: Christian Thought from the Age of the Puritans to the Civil War* (New Haven: Yale University Press, 2003), 367.


indication that moral insanity was a category with legal or medical implications. The sermon elaborates on themes that Finney had worked on for a decade and a half or more. In *Skeleton of a Course of Theological Lectures* (1840), Finney polemicized against atheism as “a species of moral monomania, as it is in respect to the existence of God, the setting aside of all the evidence and therefore the perfection of irrationality.”

For Finney, the term moral insanity is an especially evocative metaphor for the “will madness” of the sinner who may not have the intellectual impairments of the “true” madman, but who is just as blind and irrational. Finney’s moral insanity was used to describe the person who is not innately insane but who has chosen to act against the tenets of reasonableness. In particular, in rejecting heaven for the meager rewards of this earth despite the looming terrors of hell, Finney’s morally insane individual is not unlike the person who has not carefully weighed Pascal’s wager. He noted in his memoirs that “revivals of religion are sometimes accused of making people mad. The fact is, men are naturally mad on the subject of religion; and revivals rather restore them than make them mad.”

More tellingly, Bushnell’s theology of sin still depended heavily on an analogical connection between sin and insanity. Bruce Mullins has argued that Bushnell rejects out

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93 Charles Grandison Finney, *Skeletons of a Course of Theological Lectures* (Oberlin: James Steele, 1840), 36.
94 Finney seems to have borrowed substantially from an article by George B. Ide, Pastor of The First Baptist Church, Philadelphia that appeared in the *The American National Preacher* in 1841 titled the “Moral Insanity of Irreligious Man,” XV, no. 12 (Dec.): 269-289.
of hand a connection between “morality, prudence, and self-interest.” Bushnell insistently quoted Paul to claim that sin demonstrates humans’ fundamental irrationality. “I do not understand my own conduct, for that which I will to do I do not practice but that which I hate to do ... if Paul had taken a different view of sin ... as the proper working of first principles in the agent, he would have done the cause of his master a very questionable disservice.”

In sharp distinction to Finney and in keeping with Ray, Bushnell claimed that rationality is part of the problem. Since the Fall, humans are in a constant state of epistemic disaster. As Bushnell put it, while all humans are not insane, they are all unsane. Because of this, rightly ordered reason must take into account human “unsanity” in order to “see the world rightly.” To trust in one’s own reason is to fall into the broader logic of the Fall and the universality of human insanity.

Where Nathaniel Taylor and others claimed that sin was not to be found in nature but in distinct “sin acts,” Bushnell argued that this view of sin confused sin with vice and salvation with respectability. He pithily claimed that most virtue is really only “respectable sin.” Sin is in the motivation that undergirds the sin, not in the showing forth of the sin. Bushnell argued that the New Divinity theology of sin too easily

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97 Ibid., 47.

98 Ibid., 311.


100 Ibid., 329.
confused polite gentility with rectitude, and sinfulness with the lower classes and their vice.

Most importantly, however, Bushnell shared with Rush, Ray and Bell the sense that the vexing problems that Edwards had attempted to solve with his distinction between natural and moral inability were not so easy to solve. It is not easy to distinguish between the physical inability of insanity and the moral inability of sin. In part this is because, as Bushnell insisted, we “death-struck” beings, do pass on “disease…, damaged quality, … moral disorder” to our children.\(^{101}\) Moreover, this is not only the witness of scripture but is also the clear testimony of “physiology.”\(^{102}\)

Similarly, Ray's vision of moral mania was an attempt to overcome the dualism of material versus spiritual. Ray's view of the relationship of the mind and brain, body and soul were closer to Aristotle than Descartes. Phrenology had been attractive in part because it offered “a framework for interpreting human behaviour and social relations in bodily terms.”\(^{103}\) He argued that the vital principle was that the “living principle is inseparable from the body as the mind is from the brain.”\(^{104}\) From early on Ray was accused of being a materialist. He firmly denied this charge right up through the end of his career. Ray claimed that “matter is imperishable as mind.”\(^{105}\) To deny the


\(^{102}\) Ibid., 175.

\(^{103}\) Cox, *Body and Soul*, 75.

\(^{104}\) Isaac Ray, “Brain, Mind, and Insanity,” Handwritten Lecture, Transcribed by Jacques M. Queen (Isaac Ray Medical Library, Butler Hospital, Providence, RI, ca. 1870), 2. Ray’s biographer John Starrett Hughes places the lectures circa 1870, around the time Ray is known to have given lectures at the Jefferson Medical School in Philadelphia (Hughes, *In the Law’s Darkness*, 11, 179).

\(^{105}\) Ray, “Brain, Mind, and Insanity,” 2
immortality of matter is to “assign a limit to the power and wisdom of the creator.”

Ray, following Rush, would steadfastly maintain that grace and sin work through physical causes. He would not go so far as to deny the possibility for immediate spiritual conversion. No one who had witnessed “a hardened reprobate suddenly abandon his evil course ... and begin to live a Christian life” would argue that all that had occurred was a material transformation of the brain. But, Ray also noted that no one should deny that conversion creates a change in the brain's physical structure. Similarly, it is not easy to separate the spiritual from material in the commission of crime. Suggesting that someone might enter a life of vice in part because of a “tendency to nervous disease,” Ray asserted that the relationship between brain and mind is more complicated than those who would argue that mental manifestations are ethereal and synonymous with the soul are willing to admit.

Ray would insist that sympathy is the true “spring ... of human action.” He went on to argue that human acts are often determined by the moral, social atmosphere and not merely the “qualities of ... character.” This vision would shape his understanding of moral mania. In this period, Ray's bio-psycho-social vision of the importance and dangers of collective sympathy would especially come to influence Christian Universalists. As Ann Bressler notes, their interest “in the physical makeup of

106 Ibid.
107 Ibid., 3.
108 Ibid.
109 Ray, Mental Hygiene, 158.
110 Ibid.
humanity and the environmental influence on it, in effect a concern with individual and social psychology, amounted to an early form of liberal behaviorism.”¹¹¹ Universalists voraciously read the criticisms of revival found in emerging psychiatric literatures and reiterated the alienist's rejection of denunciatory preaching, often repeating a similar litany of negative effects revival terror had on the mind and soul.¹¹² Universalism, in fact, remained more attracted to phrenology and mesmerism than other Christian denominations.¹¹³ Universalist phrenologists, such as T.J. Sawyer, would echo Ray’s concerns that the problem with the revival is that it inculcates “selfishness” and “self-esteem” instead of true benevolence.”¹¹⁴

Most importantly Universalism would insist on its own vision of the importance of sympathy and Christian collectivism. Universalists very often equated sympathy with grace and insisted that Christ was distinguished by his incredible sympatthy for the sinner, the wretched, the criminal and the unfortunate.¹¹⁵ Universalists, almost uniquely, brought this sensibility to their work to abolish the gallows, and it has been argued that Universalists “unquestionably provided more gallows reformers than any other denomination.”¹¹⁶ Some, such as Charles Spear, would see themselves as forerunners of a great moral revolution in which love would finally overthrow force.¹¹⁷

¹¹² See for instance, Anonymous, “Terror on the Mind,” *Universalist Union* 12, no. 24 (Saturday, Nov. 21, 1846).
¹¹³ Bressler, *The Universalist Movement*, 98.
¹¹⁴ Ibid, 103.
¹¹⁵ *Universalist Union* 1, no. 4 (Dec. 5, 1835).
¹¹⁶ Bressler, *The Universalist Movement*, 84.
¹¹⁷ Ibid.
E. Chapin, another Universalist, longed for the day when “the great law of love, of Christian sympathy” would reign in the heart and “fraud and oppression and all sin will die from the face of the earth.” He went on to prophesy the day when “false institutons will crumble having no support. And humanity will rise and shine in the splendor of a new day, and a beauty of a new power.”

Conclusion

Issac Ray, like his colleague Bell, rejected a vision of human freedom grounded in consciousness and self-knowledge. Both chose to focus on a vision of freedom that equated liberty with the human capacity to do “the good,” to be moral; Bell and Ray could have followed the common law path, the path of Finney, and formulated an ideal vision of the 'rational man' or, as Susanna Blumenthal writes concerning, the “default legal person,” from this association of true freedom with moral virtue. However, they tended to draw other conclusions more in keeping with an Augustinian sense that most humans are incapable of that kind or extent of self-mastery.

As debates about free will and determinism left the seminary classroom and came to the courtroom, many critical questions re-emerged in more muted language. The conflict between the soft determinism of medical professionals like Ray and Bell and the free will of the court was neither a simple matter of professionals competing for societal prestige, nor was it only a contest between the materialism of medicine and the rationalism of the law. Alienists insisted on the more physical causes of crime not to

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119 Ibid.
explain away 'sinning,' but to insist on the importance of discussing the deeper problem of 'sin.' Bell and Ray did not reject the doctrine of moral responsibility. They rejected the relatively new insistence on the centrality of sole individual responsibility.

Ray's moral mania was shaped by phrenology, but not a simple, materialistic determinism. Ray's view of insanity was shaped by a phrenological vision of a republic of the mind and an attendant social definition of humanness. Bell's understanding of the automatic processes of the brain was shaped by an exploration of Spiritualism that sought to better understand his theological commitment to the will's bondage. Indeed, much more in keeping with Protestant sermonizing, nineteenth-century alienists frequently used individual crimes as an occasion to highlight societal madness. In this way they showed remarkable connections to Horace Bushnell's theology, long thought to be an especially important source for developing the concept of social sin. In the next two chapters, I will discuss how Isaac Ray, Luther Bell, and Amariah Brigham did not so much seek to address the exceptional individual criminal as they sought to address the besetting insanity of society.

Chapter 2  Death Penalty Reform, Asylum, and Christian Mercy

Introduction

In January of 1844 a petition was sent to the Massachusetts Legislature calling for
abolition of all laws that “require the infliction of death as a penalty for crime.”¹ If this abolition is judged “inconsistent with public welfare and an infringement of the law of God,” the cheeky petition requests that clergymen instead of sheriffs be appointed executioners as it is they who are said to be “consecrated as ministers of Him whose law is said to require blood for blood.”² Furthermore, all executions should be moved to the Sabbath and be held on the doorsteps of the church.³ The satirical petition requests that the work of execution be done by a “clerical executioner” with “consecrated hands” instead of laymen who might lack the necessary moral worth. It exploits the tenuous place the executioner has always held in Christian theo-politics.⁴ Moreover, the request that executions be held “in or near some place of public worship” and not in the jail yard sought to challenge the claim that capital punishments were required for sacred and not secular reasons.

The 1844 trial of the convict Abner Rogers for the murder of the warden of the Massachusetts State Prison put on display competing understandings of the self and how it is formed, corrected, and connected to broader society. Lawrence Friedan argues that “law reflects the agenda of controversy.”⁵ In the trial proceedings and the corresponding public tumult there was obvious controversy about the role of the

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¹“Clerical Hangmen,” *The Liberator* 14 no. 6 (Feb. 9, 1844): 23.

²Ibid.

³Ibid.

⁴Tenuous, at least until Martin Luther rejected the practice of a hangman apologizing to the man or woman he was about to hang and argued that the punishment of evildoers is the vocation of the hangman. Luther went so far as to declare civil magistrates “God’s hangmen.” Petrus Cornelius Spierenburg, *The Spectacle of Suffering: Execution and the Evolution of Repression from the Preindustrial Metropolis to the European Experience* (Cambridge: Cambridge University Press, 1984), 33.
penitentiary. This concern is evident in a number of debates: What should a Christian juridical system look like? What is the role of Old Testament law within it? What is the connection between moral and legal guilt? Are prisoners bent beyond repair? If not, how does rehabilitation occur—through the head, the heart, or the proper constitution of the faculties? Is insanity an exceptional human state or the common condition of fallen humanity? The trial manifested opposing political theologies. One side argued for mercy towards Abner Rogers in keeping with the sympathy that was the spirit of Christianity. The other side argued for the necessity of civil government to execute murderers in obedience to God’s ordinances. It is too simple to claim that those who opposed capital punishment held to an optimistic view of human nature and those who supported it to a pessimistic view of human capacity. However, the opposing factions did have divergent understandings of the self’s relationship to society. Those that opposed capital punishment were more organic in the way they connected self, society and morality. The side that supported capital punishment was more individualistic and rationalistic in its understanding of the relationship between divine and human law. Both sides sought to formulate a theo-politics that sought to understand America as a Christian nation and to understand the role of the prison in such a state. It is important

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8 Ibid., 153.
to remember that both these theologies were new, emerging, being created in order to “place,” theo-politically, the “reformed” prison and to limn, theologically, the relationship between human nature, sin, and illness.

In this chapter, the thought of Isaac Ray and other alienists involved in the trial of Abner Rogers serves as a lens through which to understand changing notions of the relationship between sin and sanity. Previous chapters have hinted at the term politicized grace. The next section here discusses what is meant by the term much more fully, as a way of introducing the major theme of this chapter and the following two chapters as well. Then, after extended attention to Ray’s *A Treatise on the Medical Jurisprudence of Insanity*, the Rogers’ trial takes centre stage. An initial section summarizes the trial, including reaction to it in the popular press and the testimony at trial by asylum doctors such as Ray and Bell. Next, the Rogers case is placed in the wider context of divisions within the Boston Prison Discipline Society and reflection on the importance of the early anti-death penalty movement, especially in Massachusetts where the Rogers trial took place. Besides holding a lantern to the Rogers trial, attention to the early American anti-death penalty movement also provides an important context for the sensational trial of William Freeman that is the subject of chapter four. In the penultimate section, diverging opinions, popular and medical witnesses are analysed before the concluding section returns to the theme of politicized grace.

Moral insanity was a medical theory of human fallibility that provided a
scientific justification for the politicization of the Christian concept of grace. Most critically it brought to discussion of crime a broader criticism of society. Far from secularizing sin, these movements sought to politicize grace by insisting that Christian understandings of grace, mercy, justice, and human corruption applied not just to individuals, but also to wider society. This chapter and the next seek to suggest that antebellum asylum medicine and what was sometimes called the mental hygiene movement might have critically shaped the later emergence of the category 'social sin.'

**Politicized Grace**

Trials like Abner Rogers' are important for understanding the full workings of a metaphysics of secularism or, as a corollary phenomenon will be called here, a "politicization of grace." For instance, in most forms of Protestant theology, capital punishment represented an ordinance given to the state by God. Its origins were for all people, not just the elect, having their foundation in God's commandments to Noah and not to Moses. As Foucault noted, historically the power to kill or let live represented a kind of limitation on the power of the state. The state was a wrathful instrument of a merciful God. By the time of the Abner Rogers trial, however, this power of the state seemed to some to be an usurpation of divine prerogative and of divine grace. In this context, the possibilities held forth by the moral cure seemed to offer a way to sacralize punishment, to replace wrathful instruments with other more gentle methods of

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11 Ibid.

correction. It can be argued that ultimately this was a type of pastoral power that sought “to foster life or disallow it to the point of death.”

Nevertheless, this initial placement of grace and mercy within the political economy would profoundly shape the relationship between sin and insanity. Those who argue that sin was replaced by disease in early nineteenth-century psychiatry require a relatively static notion of sin and disease to make this claim. The founders of the moral cure were, in fact, attempting to find a middle way between materialism and Spiritualism in their accounts of mental illness and mental cure. Crime and sin were medicalized by 19th century alienists, but medicine was also moralized. Moral insanity, a natural offspring of this philosophy, resisted both purely medicalized and moralizing accounts of crime. The doctrine of moral insanity resisted both the formulation of insanity as a spiritual problem with physical results, and the conception of insanity as wholly the result of physical causation. The early asylum movement believed both that mental disease could be cured through the treatment of the body and that physical disease could be treated through the power of the mind. In fact, early asylum superintendents, as often as not, attempted to sacralize the law by medicalizing crime, rendering it explainable according to physical corruptions wrought on the brain by the activity of a corrosive culture. In doing so they offered an image of the intractableness of human fallenness and an attendant need for redemption that was often quite pessimistic. Moreover, their vision of the social context of human failing and of crime would fall out of psychiatry soon after the American Civil War, only to re-emerge in the

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context of the social gospel, with its analysis of social sin, structural evil, and the need for social forms of justice.

Subsequent debates within the early psychiatric guild over moral insanity often fell back on two interrelated theological debates— the relationship between law and grace and the role of fear in human salvation and moral transformation. Certain prominent Calvinist evangelicals maintained a use for the “terror of the law” in their understanding of punishment; alienists, however, questioned whether terror might prompt stunted, self-interested moral transformation.\(^{14}\) These debates were also in the background in debates about prison discipline. Jennifer Graber’s excellent work on nineteenth-century American prisons limns the degree to which terror of the law was seen as both a theological and practical necessity.\(^{15}\) Those who questioned the necessity for pain and punishment on theological grounds— people like the Quakers— were marginalized from places of growing institutional power. This is not surprising given the fact that Graber traces an underlying narrative question regarding the place of legal violence in a “Christian” America.\(^{16}\) Many of the early asylum reformers agitated for a model of human transformation that they saw as fundamentally different from the prison, arguing as much or more for asylum as a refuge from the law as for asylum as refuge from the world. The particular complexity of moral insanity then, must be


\(^{16}\) Ibid.
understood as a both a theory of the moral fall of humans and as a theory that had juridical applications that could prove destabilizing, as we shall see, to “the law and its penalties.”

The asylum movement was of one piece with a broader transformation in moral pedagogy and theories of ethical transformation. Rush and Prichard, Pinel and Esquirol, Amariah Brigham and Isaac Ray all believed that humans were transformed and healed not through fear, pain, or violence, but through more gentle forms of constraint. Moreover, they believed in improvement not by appeal primarily to the intellectual faculty, but by regularized correction of habits. To improve, people needed an asylum from fear, a refuge dedicated to a new habituation. This focus of the asylum, in and of itself, was not politically radical. As Foucault, Rothman, and many others have demonstrated, it was as often as not (or perhaps better, became) quite powerfully reactionary and regressive. However, when superintendents stepped out of the curative atmosphere and brought their understandings of asylum and of moral insanity, of human self-ideology and of punishment to the world outside, and especially into the courtroom, a great many Americans openly took the idea of asylum to represent graciousness become profligate. A grace so politicized might just overwhelm a fear of the law that was not only widely seen as necessary for salvation, but which also held together the tenuous relationship between church and state and perhaps even functioned as the very underpinning of the jurisprudential state. The public controversy

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18 Jones, *Against the Gallow*, 146.
over the trial of Abner Roger displays competing narratives on the relationship between self-culture, punishment, and the state.

**Isaac Ray's *A Treatise on the Medical Jurisprudence of Insanity* and McNaughton**

The trial of Abner Rogers brought together Isaac Ray and Luther Bell as well as Samuel Woodward, the first president of the Association of Medical Superintendents of American Institutions for the Insane (AMSAII). Sustained study of nineteenth-century insanity trials has shown a wide diversity of medical testimony on display in such trials, but in the trial of Abner Rogers, Ray, Bell, and Woodward gave strikingly similar testimony. Ray would come to have far greater influence on medical jurisprudence than his friend Bell or Woodward. Bell abandoned asylum medicine to seek a political career and fought and died in the Civil War. Woodward's health would suffer while he served as superintendent of the Massachusetts asylum and he would die early. Ray, meanwhile, made a name for himself early in his career and lived and practiced asylum medicine for many decades afterward. While he was still a doctor in rural Northern Maine, Ray wrote perhaps the most influential treatise on medicine, law, and psychiatric themes in the English speaking world. He published *A Treatise on the Medical Jurisprudence of Insanity* in 1838. The work would go through four revisions before his death in 1881. Ray's correspondences demonstrate that he had been able to make strong, early connections with other reform-minded New Englanders. He procured books from powerful friends like lawyer and future anti-slavery crusader

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Charles Sumner. He dedicated the 1838 Treatise to the high-profile public education advocate Horace Mann and unsuccessfully asked Mann for help procuring a job as chief physician of the new Boston Asylum for the Pauper Insane.²⁰

Ray's definition of criminal insanity in his Treatise was an outworking of his vision of the interconnection between self and society. He argued forcefully that “moral powers” must be formed in a moral community.²¹ For Ray the person is fundamentally a social creature: “man is destined for the social condition.”²² As such, the human mind is made to be in “harmony with the external world.”²³ As he would describe it in Mental Hygiene, a few years after attending the séance with Bell, every human being is moved in great degree by “prevailing mental movements that, like the atmosphere about us exert an increasing, unconscious, inevitable pressure.”²⁴ Ideas run from “mind to mind with the rapidity of an electric flash.”²⁵

According to Ray, all legal responsibility is premised on the facts that (a) we are born with the requisite capacity to be morally formed in harmony with our world, and (b) that we are “placed in a situation suitable for exercising and developing” this

²⁰Isaac Ray, “Letter to Horace Mann” Handwritten, Transcribed by Jacques M. Queen (Isaac Ray Medical Library, Butler Hospital, Providence, RI, ca 1839).
²²Ibid.
²³Ibid.
²⁴Isaac Ray, Mental Hygiene (Boston: Ticknor and Fields, 1863), 158.
²⁵Ibid., 163.
capacity. This second premise, opening up the possibility that some people might be placed in situations in which it is impossible for them to develop their moral sense, follows Benjamin Rush’s grim description of the social situation into which many people are born. He insisted in the treatise and throughout his career that innate moral sense was composed of two completely distinct powers: (1) the power to distinguish right from wrong, and (2) “the disposition to pursue the one and avoid the other.” In making this distinction he also echoed Rush, who distinguished conscience from the moral sense.

By the writing of the Treatise, Ray had formally abandoned the science of phrenology. He realized in “The Case of Major Mitchell” the limitations of phrenology, in particular its tendency towards a materialistic determinism that could not be proved through clinical evidence. Ray, in his review of the Mitchell case, showed annoyance with its practitioner’s inability to satisfactorily distinguish mental disease from normal depravity. The Treatise sought to clearly demarcate the line between sin and insanity and to overcome what he believed to be an unscientific association between mental disease and depravity existing in the common law.

In the introduction to A Treatise on the Medical Jurisprudence of Insanity Ray argued that the seventeenth-century Puritan jurist Matthew Hale had woven an identification

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26 Ray, A Treatise on the Medical Jurisprudence of Insanity, 79.
27 Ray, Mental Hygiene, 61.
of crime with insanity into the very fabric of Anglo-American common law. He argued that, according to Hale, all human sin was by its very nature insane. More formally stated, for Hale, “all crime springs from partial insanity.” Hale had argued that because of the universality of human sinful unreasonableness, only total, furious insanity could excuse someone of committing a crime. In cases of 'partial insanity' it remained uncertain whether an irrationality that caused crime was the result of normal human moral turpitude or an actual mental disease. Hale's insistence that only 'total insanity' could be exculpatory led to the formulation that his predecessor Justice Tracey described as 'The Wild Beast' test. This total madness would leave its victims so devoid of reason and memory that they would be unable to count to ten or recall their mother’s name.

Ray warned that partial insanity would have an uphill battle overcoming the juridical and theological vision established by Hale. Hale's insistence that all crime proceeds from partial madness and for this reason only total madness could excuse one from criminal punishment led to two equally unacceptable positions according to Ray. In the Treatise, he argued that these could be worked out in syllogisms,

All Crimes must be punished
All Crimes proceed from madness
Madmen and criminals are equally responsible.

29Ray, A Treatise on the Medical Jurisprudence of Insanity, 45.
30Ibid.
31Ibid., 23.
Madmen are not responsible

All Crimes proceed from madness

Therefore madmen and criminals are equally irresponsible.\textsuperscript{32}

Ray asserted that both positions are “triumphs of absurdity,” and mocked the formulation as more suited to the scholastic debate of Duns Scotus and Thomas Aquinas than as appropriate doctrine for the courts.\textsuperscript{33}

Despite Ray’s impatience with Hale’s totalizing vision of the scope of human madness and his frustration that such a view left little room for partial insanity, defenders \textit{and opponents} of moral insanity often shared Hale’s universal attribution of madness -- some, because they were wedded to the stark doctrine of total depravity, others affirming universal human madness as part and parcel of their science of man. For instance, the radical communitarian and industrialist Robert Owen in his treatise \textit{The Revolution in the Mind and Practice of the Human Race} argued that society’s problems could be solved by treating every man like a patient of an asylum.\textsuperscript{34} In one essay published in the \textit{Examiner and Hesperian} soon after the \textit{Treatise}, an anonymous author asserted that no one is completely controlled by reason and that the Bible verifies this point in its assertion that “there is none that doeth good, no, not one.”\textsuperscript{35} Moreover, the

\textsuperscript{32}Ibid., 45.

\textsuperscript{33}Ibid.

\textsuperscript{34}Robert Owen, \textit{The Revolution in the Mind and Practice of the Human Race, on the Coming Change from Irrationality to Rationality} (Effingham Wilson, 1849), 35–37.

author bemoaned the fact that “a peculiar epidemic madness has spread itself far and wide over the earth, and that all are more or less subject to its influence.” 36 This madness leads people “to know the right and still the wrong pursue.” 37 In an 1841 sermon, entitled “Moral Insanity of Irreligious Men,” George B. Ide argued that the normal state of humans in this vast “moral bedlam” was moral insanity. 38

Perhaps especially because of this tendency, Ray was sensitive to a scholastic-like need to distinguish his description of partial insanity and partial moral mania from sin. He argued that although the sinner and the morally insane may seem externally similar, they cannot be. For instance, he suggested that we have it on the very best authority that “the heart may be desperately wicked” (taken from the book of Jeremiah in the Bible) and that a “depravity of character” or a “radical perversity” might sometimes mirror moral insanity. 39 Moreover, depravity and insanity may even have similar causes including “defective constitution” or “vicious education,” yet they are different in one crucial way — offences such as murder committed by the insane have no motive either in the reason or in the passions. In such an instance, the volition itself is the seat of disease. To set about showing this, Ray teased out a particular line of thinking. While Prichard postulated “moral insanity” as involving usurpation of one’s reason by the passions, Ray asserted that true acts of moral mania occur when there was “no extraordinary temptation to sin, but on the contrary, with every inducement to refrain

36 Ibid.
37 Ibid.
from it, and apparently in full possession of reason, [one] commits a crime whose motives are equally inexplicable to himself and others.”

Ray believed that whether the passions have been trained or whether they have been “allowed to seek their gratification without restraint,” offences committed by the morally insane result from a “irresistible motiveless impulse to destroy life.” This theory of moral insanity did not require that a person be born without a moral sense, as a kind of moral monster, brute, or 'Wild Beast,' nor did it require a denial of the existence of the will or a rejection of the possibility of uncoerced willing. To Ray the theory that insanity could be caused by a diseased will seemed to be a comfortable analogue to the theory that insanity could result from a diseased reason.

Ray’s 1838 revamp of the legal issues around insanity found an initial and pronounced success on the other side of the Atlantic in the trial of the British subject Daniel McNaughton (1843). McNaughton believed that he was being conspired against by Jesuits and Tories. In order to end this persecution, McNaughton schemed to shoot Prime Minister Sir Robert Peel. Instead, he mistakenly shot the Prime Minister’s personal secretary Edward Drummond. McNaughton’s attorney, Alexander Cockburn quoted extensively from Ray’s *Treatise on the Medical Jurisprudence of Insanity*. In particular, Cockburn referenced Ray’s discussion of the problems inherent in Hale’s definition of insanity and also made the case that insanity often is found in the affective

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40Ibid., 187.

41Ibid., 229.
aspect of human beings and not just in their rationality. McNaughton was declared not guilty by reason of insanity and sent to Bedlam.

This success would be short-lived. Aghast, and believing that such a verdict might undermine traditional conceptions of legal responsibility, Queen Victoria struck a judicial commission to examine the trial. The commission asserted that all people accused of crimes should be presumed sane until a preponderance of evidence proves otherwise. The language of the McNaughton rule, as it has come to be called, includes the oft-repeated test of legal insanity that “at the time of committing the act, the party was labouring under such a defect of reason, from disease of the mind, as not to know the nature or quality of the act he was doing; or, if he did know it, that he did not know he was doing wrong.”

The McNaughton ruling was a repudiation of much what Ray believed about the nature of insanity and the nature of the self. While Ray had insisted that the faculties were equal, McNaughton insisted that the intellect ruled over the will and the passion. It denied *prima facie* the possibility that the will or the passions could suffer from a disease that did not also affect the intellect. It was philosophically intellectualist, insisting that the will and passions of necessity obeyed the dictates of reason. Moreover, it defined cases of compulsion—where the will does trump the reason—as quintessentially crime.

42 Daniel McNaughton and Richard M Bousfield, *Report of the trial of Daniel M’Naughton at the Central Criminal Court, Old Bailey, on Friday, the 3rd, and Saturday, the 4th of March, 1843, for the Wilful Murder of Edward Drummond* (London: Renshaw, 1843), 39.

43 A full text version of the ruling can be found at [http://www.bailii.org/uk/cases/UKHL/1843/J16.html](http://www.bailii.org/uk/cases/UKHL/1843/J16.html).
The theory of the mind articulated in McNaughton was a rejection not only Ray's theory of criminal responsibility, but also of his theory of the self and society that undergirded it. Ray insisted that the assumption a person's thinking can be changed by emotional appeals was one of the key problems in evangelical based reforms where it is foolishly believed “that truth only needs to be known to be received.” He questioned “how much of the benevolent exertion of the present day proceeds upon the illusion that a virtuous character may be the work of a moment?” Ray argued that this was simply religious quackery that promised a quick cure to a serious and chronic ailment. Good reform would not try merely to convince the intellect and excite the emotions, but would work to transform the moral and social conditions that form volition. A change in moral character required the formation of habits. Finally, Ray comments that immediate conversions do not create truly virtuous people but only persons “actuated by the motive of selfishness.”

The Abner Rogers Trial

The McNaughton Rules spread quickly from England through the English speaking world: Canada, the United States and later Australia. The Rogers' trial was the first, widely known American trial to grapple seriously with the English standard. The participants in the trial of Abner Rogers not only struggled with the applicability of

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45 Ibid., 238.

46 Ibid., 240.

McNaughton but with the clearly more vexing question: what is the relationship between sin and compulsion? Several narratives were offered to explain Abner Rogers' crime and to navigate the tangled relationship between criminality and insanity. Participating in the trial were three of the founding thirteen members of AMSAII (Luther Bell, Samuel Woodward and Isaac Ray). Louis Dwight, the evangelical reformer at the head of the Boston Prison Discipline Society (BPDS), Jared Curtis, chaplain at the prison, opponents and proponents of capital punishment, and a future U.S. Supreme Court Justice Lemuel Shaw were also important characters in the drama.

On the 15th of June 1843, Abner Rogers stabbed Charles Lincoln, warden of the Massachusetts State Prison at Charlestown, with a shoe knife in a prison workshop. Rogers was a repeat offender, what was then called a “second-comer” at the prison. The prison doctor William Walker testified that Rogers was feigning insanity. He told the court that Rogers had entered his office gesticulating violently and while grabbing his head yelled, “I am in great distress here, and feel as if I could not govern my mind.”

The doctor wrote a prescription for Rogers to “keep at work” and reported to the warden his belief that Rogers was faking.

The prosecution committed itself to the argument that Rogers was a malingerer. All the psychiatric witnesses for the defence argued contrarily that the kind of insanity that afflicted Rogers was very difficult to simulate. Bell suggested that an insanity that

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48 Ibid., 30.

49 Ibid., 31.
displays itself in fixed delusions and auditory hallucinations is a kind of insanity known in medical communities but not in the community at large.\footnote{Ray, Treatise on the Medical Jurisprudence of Insanity, 153.} If Rogers had been faking, it would be more likely for him to feign a more commonly recognized form of insanity. Moreover, those who feign insanity generally over-report symptoms. That Rogers reported only a delusion of hearing and not a strange vision or odd smells gave validity to his claim. Ray concurred, testifying that the evidence against simulation is strengthened because Rogers clearly had not made a “constant effort ... to convey the idea that he was insane.”\footnote{Report of the Trial of Abner Rogers, Jr., indicted for the murder of Charles Lincoln, Jr., late warden of the Massachusetts State Prison: before the Supreme Judicial Court of Massachusetts, Holden at Boston on Tuesday, January 30, 1844 (Boston: Charles C. Little and James Brown, 1844), 163.}

Moreover, prison officials were far from unanimous in the charge of feigning. David Sargent, the turnkey of the prison, testified at trial that the day before the crime, Abner Rogers had told him about voices that he was hearing. These voices were telling him that he would never get out of prison until carried out feet first.\footnote{Ibid., 163.} They were also constantly shouting, “damn you, they'll kill you.”\footnote{Ibid., 150.} Rogers further believed that prison officers were putting “checkerberries” in his food. When asked what a checkerberry was, Rogers' claimed it was “something that sets your brain in a whirl.”\footnote{Ibid.} Sargent also testified that Rogers believed the guards to be playing the “popo” game with him.\footnote{Ibid., 110.} He
described the “popo” game as guards chasing you round and round your cell throughout the night. Sargent said he went to speak with the warden of the prison about these behavioural anomalies and was told that Rogers' was feigning insanity.

During the week prior to the crime, Rogers refused to work and continued to complain of voices, plots, checkerberries, and the popo game. His refusal to work was punished by solitary confinement, physical restraints and two shower baths. Shower baths were a nineteenth-century version of waterboarding where a subject was secured prone while water was dropped on his or her head from nearly seven feet. On the morning of the homicide, Abner Rogers had been showered with three-quarters of a barrel of water; the day before he had received half a barrel in order to punish his loud moaning and terrified screams.

The prison chaplain Jared Curtis, appointed by the BPDS, noted in his 1839 report that punishment was an effective way to discourage malingering. He gave the example of a large, strong man who was believed to have become insane in prison. He was very bothersome, refused labour, and had lost interest in everything. The prison doctor was of the opinion that he was deceiving. They informed the inmate that they knew he was an imposter and that he

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57 Rogers et al., *Report of the trial of Abner Rogers, Jr., indicted for the murder of Charles Lincoln, Jr., late warden of the Massachusetts State Prison*, 27. An article from the Dec. 18th, 1858 edition of Harper's Weekly describes the death of a black man shower-bathed at Auburn prison. In that instance five barrels were used. The Harper's article decrives the practice as a form of torture where the victim is "perpetually in imminent danger of suffocation."
58 Samuel Dickinson and Prison Discipline Society (Boston, Mass.), *Fourteenth Annual Report of the Board of Managers of the Prison Discipline Society, Boston, May, 1839*. (Boston: Published at the Society’s Rooms 51 Court Street. Stereotyped at the Boston Type and Stereotype Foundery, 1839), 345.
would be given ten stripes morning and night until he began to work industriously. Curtis remarked that the plan was a success and the convict had been faithfully employed for three years. It is unclear what Curtis' perspective on Rogers' insanity was. However, what is clear from the court report is the Chaplain played a key role in the delusions of Rogers. According to Rogers, it was Curtis who had imported the dreaded “popo” game from the prison in Auburn, New York Prison to the Massachusetts State Prison.

The Boston Prison Discipline Society and Early Massachusetts Anti-Death Penalty Efforts

The movement to reform the prisons and the movement to abolish capital punishment were deeply interconnected. The inclusion of murder in the second degree into the criminal code had resulted in many convicts ending up in the prison who would have heretofore gone to the gallows. Rogers, in the run-up to his trial, had requested two lawyers that were well known for their opposition to capital punishment. First, he requested that Rufus Choate, the most prominent criminal lawyer in Boston and a noted opponent of capital punishment, be his lawyer. His second choice, Bemis, attended the same Unitarian church as Chief Justice Shaw, even casually courting Shaw’s daughter. Bemis was also noted for his opposition to the death penalty. In the trial, Bemis made his distaste for capital punishment evident describing capital

59 Ibid., 346.
60 Report of the Trial of Abner Rogers, 150.
61 Ibid. 8.
punishment as an “invasion of divine prerogative.”

The trial of Abner Rogers occurred nine years after the Massachusetts legislature nearly abolished capital punishment. During the period from 1835 to 1849 twenty-one men were tried for murder and only two were hanged. Eight were convicted of the lesser charge of manslaughter and sent to prison, eight were acquitted, and three had their death sentences commuted by governors bowing to public pressure. Indeed, opposition to the death penalty was so intense in Massachusetts during this time period that the Rogers trial was at first only able to find ten jurors. The court could only complete a panel of twelve once Bemis had agreed to withdraw two of his challenges against potential jurors. Two years after the trial of Rogers, Albert Tirell, who murdered his mistress, would plead insanity. He was acquitted. Even staunch reformers such as Lydia Child recognized that the insanity plea in this case had functioned as a “convenient hook upon which to hang opposition to capital punishment.”

The radicality of movements to abolish capital punishment have been questioned. In some cases the concern was primarily for the barbarism of public punishments. Others were concerned about the effects that the sensation of viewing a

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62 Ibid., 58.


65 Rogers, *Murder and the Death Penalty in Massachusetts*.

66 Masur, *Rites of Execution*, 93-117.
public execution would have on the moral sense of the viewers. These concerns were assuaged when punishment was forced behind prison walls. There were many though that opposed capital punishment on theological grounds. They argued, as per Bemis, that life and death were solely God's prerogative.\footnote{Rogers, *Murder and the Death Penalty in Massachusetts*, 236.}

The death penalty abolition movement was, predictably, met by a powerful backlash. In 1836, the same year that abolitionists almost passed a law banning capital punishment, another Massachusetts law proscribed that the courts “challenge for cause a potential juror if he held an opinion that would preclude him from finding any defendant guilty of an offense punishable by death.”\footnote{Ibid.} It was in fact Justice Shaw who was responsible, through a series of judicial decisions, of giving this statute a particularly wide application. For the next twenty years, this law and its application would be charged by opponents with not only undermining the central genius of the jury trial, but also of being an unconstitutional establishment of religion.\footnote{Ibid., 299 ff.} The opponents would argue that by limiting those with conscientious scruples against the death penalty from serving on juries, the court was favouring one form of Christianity over others.

Many of those arguing against capital punishment employed medical rationales for their opposition. The broadening of the definition of insanity, beyond 'The Wild Beast' test of Tracey and Hale, to include homicidal monomania and moral insanity.
provided one of the strongest arguments against capital punishment.⁷⁰ Increasingly, moral insanity was employed by opponents of capital punishment as a method of questioning whether criminal guilt could ever be determined.⁷¹ If, as one of the medical witnesses in the Rogers trial, Samuel Woodward, claimed, one-quarter of all the criminals brought to trial were morally insane, the implications for punishment would be profound.⁷² Prominent opponents of capital punishment insisted that the existence of moral insanity buried the question of criminal guilt “in a depth of uncertainty far beyond the ken of judge or jury” and that many criminal cases could only be adjudicated by the Creator.⁷³

Moreover, for certain opponents of capital punishment, the asylum offered a potent example of the kind of moral rehabilitation and social control that was possible for the prisons. During the 1853 Constitutional Convention for the state of Massachusetts, Mr. Whitney of Boylston defended opponents of capital punishment against the charge that they were anarchists. He asserted that those who claim that death penalty abolitionists “are no government men—that they are anarchists—that

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⁷⁰Prominent anti-gallow's activist John O'Sullivan focussed especially on moral insanity arguing that much crime was due “the the influence of a thousand unseen impairing causes over which we can have no control, deranging, impairing, and often destroying. . . the healthy action of that self-regulating moral power. . .” Masur, *Rites of Execution*, 144.


they want to see this whole framework of government go to pieces” should look to the
insane asylums as an example of how discipline can be given without recourse to “life-
taking.” 74 If looking for an example, here in the insane asylum, Mr. Whitney insisted
that asylums were testimony to the fact that “love and kindness” can “overcome evil.” 75

Asylum medicine and the “moral cure” were often discussed as a method for
controlling prison inmates. The 1836 edition of the Prison Discipline Journal published a
short essay from Samuel Woodward that summarized which aspects of the moral cure
were most appropriate and applicable for the prison environment. 76 Luther Bell's
annual reports were cited extensively in the Journal of Prison Discipline. The 1836 report,
for instance, included a long quote from Bell attesting to the fact that, “ordinary means
of grace—such as family and public worship, reading the scripture, singing, prayer, and
preaching the Gospel of the blessed God, are most soothing and restorative to the
insane.” 77 Asylum medicine, furthermore, provided useful methods for proper prison
organization. Woodward’s reports from the early years of the asylum at Worcester,
Massachusetts, simultaneously, commented on the powerful way that kind, moral
treatment worked to quell inmates who had been furious and uncontrollable in the
more punitive atmosphere of the prison:

74 Official Report of the Debates and Proceedings, in the State Convention, Assembled May 4, 1853, to Revise and
Amend the Constitution of the Commonwealth of Massachusetts. (Boston: White & Potter Printers to the
Convention, 1853), 60.
75 Ibid.
76 Prison Discipline Society (Boston, Mass.), Eleventh Annual Report of the Board of Managers of the Prison
Discipline Society, Boston, May, 1836. (Boston: Perkins and Marvin; Stereotyped at the Boston Type and Stereotype
Foundery, 1836).
77 Ibid., 8.
Can we contemplate a more interesting spectacle than the assembly of the insane, a large proportion of whom had been incarcerated for years in Prisons and in Dungeons, or confined with chains and manacles, the objects of terror and dread to all around them, convened on the sabbath for public worship, all decently clad, and respectable in appearance, calm and self-possessed, listening with apparent attention to the message of truth, uniting in the devotion, and joining in songs or praise?[^78]

A strong advocate of moral insanity, Woodward believed that the style of moral cure used in the asylum could be just as effective in the prison.

However, negotiating the relationship between asylum and prison proved complicated. The Boston Prison Discipline Society (BPDS) had been active not only in advocating for the Auburn method of prison discipline and placing chaplains in prisons, but also in advocating for more insane asylums. Incarceration Auburn-style included prisoners employed in large congregant workshops like the one in which Rogers had stabbed Lincoln. It is the style of prison which gave us the classic black and white striped prison uniform of children’s book lore and, as noted previously, made use of harsh, physical treatments such as waterboarding. The “Philadelphia” style of prisons took up Quaker theology in its advocacy of more subtle forms of social control.[^79]

Moreover, the reports of BPDS presented the asylum as providing important insights into how to organize the prison. The Annual Reports from the early years of the BPDS offered glowing accounts of the effectiveness of labour and religious instruction in the treatment of the insane.


Rogers’ lawyer, George Bemis, along with Bell and Woodward, maintained membership with BPDS and was involved in attempts to reform the prison at Charlestown. However, like other members, he found himself with rapidly growing concerns about the organization. He actively worked to have Chaplain Curtis fired after Curtis advocated banning Unitarian and Roman Catholic literature from the prison. In his opening statement at the Rogers trial, Bemis argued that the prison was also on trial for, if it was proved that Rogers acted out of malice and not insanity, then “Prison-Discipline hereafter should be graduated for the treatment of fiends, and not of human beings.” A crime so cruelly irrational, so unprovoked would be evidence of evil so profound that it would refute the very foundation of the penitentiary philosophy. For Bemis, that foundation was trust in reason as holding the “keys to human control.” Without the belief in this glimmer of rationality in the prisoner, the prisons would be “receptacles of demons and not institutions of reformation and improvement.”

For these reasons and others, Bell, by 1845, had become increasingly disillusioned with the Society's one-sided advocacy of Auburn-style prisons. He wrote a letter to Dwight in favour of the separate (or Philadelphia) system. The letter, alas, was not published in the BPDS Journal nor read at the annual meeting. It was, in part,

80 George Bemis, “George Bemis to E. A. Eustus”, February 6, 1844, 3.
81 Report of the Trial of Abner Rogers, 45.
82 Ibid.
83 Ibid.
this slight that resulted in Ray’s old friend Charles Sumner, also a member of BPDS, advocating vehemently within the society against the ignorant and unjust treatment that the Philadelphia system received from Dwight. Dorothea Dix, steadfastly opposed to the Auburn method, wrote that “the contrast between this extreme severity and the merciful character of the Gospel must be pointed out.”

Many drew wide ranging implications from the work of asylum reformers, summarized nicely in the Fourierist William H. Channing’s praise of Dorothea Dix: “the power of Love is slowly gaining ascendancy over habitual reliance on the law of Force.” This vision of the asylum bound together multiple types of religious opposition to the law of force, whether it was found in capital punishment or a punitive spirit within the prison. To make this argument, of course, is well-nigh an incantation to bring the profound power of Foucault’s critique of the “birth of the asylum” upon one’s head. Yet, for our current purposes it is enough to affirm that asylum boosters sought a better alternative than physical punishment, not that they succeeded. Moreover, as Andrew Scull notes,

To reduce moral treatment, for example, to a species of imprisonment, a more thorough-going form of repression, is to mask an important truth behind a screen of rhetorical excess. For moral treatment (like the larger reform it spawned) is Janus-faced: pace Foucault, it cannot be reduced to "the irruption of a bureaucratic rationalism into a preceding Golden Age of permissiveness towards insanity," and, from my perspective at least, there are good grounds

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for preferring the tactful manipulation and ambiguous "kindness" of Tuke and Pinel to the more directly brutal coercion, fear, and constraint that marked the methods of their predecessors; yet one must also recognize that in the not-so-long run, it was the other, less benevolent.  

In this short run, asylum boosterism made strange bedfellows.

There was a profound degree of religious diversity in the early asylum movement—Quakers, Conservative Calvinists, Unitarians, Presbyterians and Episcopalians, Universalists, and Free-thinkers. Often services within asylums had to be inter-denominational in a way that went beyond mere cooperation between rival evangelicals. A kind of consensus Christianity was invented inside asylums intent on meeting the unique spiritual needs of the insane. The form of this consensus Christianity was forged, to some degree, in the mold of Quakerism, which provided the method of care—moral treatment.

Before 1825 half of the asylums in the United States had a strong Quaker element. After 1825, promoters for building asylums came from all ranks. Moreover, while these boosters—such as Jedidiah Morse, a conservative Congregationalist who was influential in starting the first mental hospital in Boston—may have exploited denominational rivalries to get institutions built, there was a great deal of religious

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90 Ibid.
cooperation within asylums.\textsuperscript{91} In the 1830s and 1840s, asylum construction exploded. Many of these asylums, such as the Hartford retreat, were public-private ventures and mixed an “imperative of religious benevolence” with “a republican call to civic commitment.”\textsuperscript{92}

In these cooperative ventures it is not surprising that a kind of consensus, mere Christianity, was the practical result. There were many components of this consensus Christianity. However, at the heart of the theology of the asylum was the imperative of gentleness. This was both a legacy of Quakerism and of a broader concern in psychiatric literature about the negative effects of fear on mental equilibrium. Fear, while considered a God-given instinct, was believed to have been overtaxed in the case of the insane. In their special case, sermons that sought to instill “evangelical fear” were strictly prohibited.\textsuperscript{93} Chaplains were instructed not to upset the curative atmosphere of the asylum by their denunciation of sins.\textsuperscript{94} The religion of the asylum can be summarized in Pliny Earle's exclusion of “all denunciations and weightless terrors of the law, all speculation on much controverted points, and all purely sectarian or denominational dogmas or doctrines.”\textsuperscript{95}

\textsuperscript{91}Ibid., 248.
\textsuperscript{93}Amariah Brigham, “Religious Services in Lunatic Asylums-Duties of the Chaplain,” \textit{American Journal of Insanity} 2, no. 2 (October 1845): 115–123.
\textsuperscript{94}Ibid.
\textsuperscript{95}Pliny Earle, \textit{10th Annual Report of the Trustees of the State Lunatic Hospital at Northampton} (Boston: Write & Potter Tate Printers, 1865).
Some asylum heads argued that religious services were essential because religion was so primordial that it could not be touched by even the most profound disorder. Others thought that it was precisely on account of this primordiality of the religious sense that fear-filled religion, especially defamatory preaching or excessive examination of religious questions could be so dangerous. 96

This rejection of fear and punishment would create tension between prison and asylum. Despite Samuel Woodward's membership in BPDS, his views on the relationship between insanity and criminality were quite radical. Woodward, as noted above, believed that nearly a quarter of all criminal cases that found themselves before the courts were instances of moral mania. Indeed, in his 15th Annual Report he went yet further, shocking Ray by arguing that the question of insanity "should arise in every case of criminal prosecution." 97

This vision was markedly different than that of the BPDS. Its founder, Louis Dwight was shaped by Calvinist New Divinity theology, which sought to "reconcile Calvinism with personal moral accountability." 98 Dwight, a Congregationalist minister, praised the Auburn system for bringing together labour, solitary confinement, and moral and religious instruction. The BPDS affirmed that prisons should be places where


“God inflicted the chastisements necessary before redemption.”

Historian Jennifer Graber identifies a shift in criminal jurisprudence from the Calvinist gallows sermon which prompted witnesses to ritually identify with the prisoners, to a new-found evangelical vision of the prison as a mission field: “Criminals no longer stood for humanity’s collective depravity but represented Christians’ opportunity to convert all sinful people.” The BPDS sought rationally operated prisons that were free from wanton cruelty. Violence and anarchy were believed to undermine the efficacy of the gospel. Correspondingly, the BPDS believed that pain was an important correlative of redemption. The shower bath was a form of discipline favoured by Louis Dwight.

In fact, Dwight and Luther Bell, who opposed the use of the shower bath, had a tremendous debate concerning the propriety of such a method. Bell had banned its use in his asylum at McLean. Dwight, meanwhile, had another reason for advocating for more asylums. He believed that the presence of the insane in the prison disrupted the order so necessary for such institutions to function as potential mission fields. As such, he had been influential in starting Massachusetts’ Worcester Lunatic Asylum (where Rogers eventually met his end). Many of Worcester's first inmates were either pauper

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99 Ibid., 75.
100 Ibid., 91.
102 Report of the Trial of Abner Rogers, 139.
lunatics or “dangerous lunatics” from the Charlestown Prison and county jails.\textsuperscript{103}

Many of these implicit tensions between the asylum and “reformed” prison would be on display in the trial of Abner Rogers. The morning after Rogers stabbed the warden, Louis Dwight acted quickly, summoning Luther Bell to examine Rogers. Dwight had reason for the alacrity. The violent death of the warden was seen by many as a condemnation of the prison in general and Auburn-style prisons in particular. Dwight admitted also that his interest in Rogers’ crime was piqued when he heard that Rogers had received a shower bath before the crime and that he desired to discuss this aspect of the case with Bell.\textsuperscript{104} He noted “I had rather a favorable opinion of it, myself, and this gave an interest to my inquiries about Rogers.”\textsuperscript{105}

Given the intensity of debates over prison styles, the close association of prison and asylum was troubling to many asylum reformers. In 1844 Amariah Brigham wrote an essay in the \textit{American Journal of Insanity} on the topic. He thanked the BPDS for its long advocacy on the behalf of the insane but warned that by continuing to publish accounts of asylums alongside accounts of prisons, the cause of both was injured. In response, Brigham received a letter from an eminent New York jurist who argued that prison discipline and asylum medicine were “kindred subjects, as all must acknowledge, who believe that the moral as well as the intellectual faculties can be

\begin{footnotes}
\item\textsuperscript{103} “Report of Commissioners Appointed Under the Legislature of Massachusetts to Superintend the Erection of a Lunatic Hospital at Worcester, and to Report a System of Discipline and Government for the Same, Made January 4, 1832” (Boston: Senate Document No. 2, January 4, 1832), 9.
\item\textsuperscript{104} \textit{Report of the Trial of Abner Rogers}, 196.
\item\textsuperscript{105} Ibid., 139.
\end{footnotes}
deranged by accidents or disease, and while the latter fill the asylums, the former crowd the prisons.”106 The letter went on to question whether it is not the case that while asylum inmates have “intellectual insanity,” convicts suffered from “moral insanity,” a use of the term that presages something like that of William Hammond, to be discussed in chapter five.107 On this view, moral insanity makes one culpable, rather than inculpable.

The response letter further argued that the success of the asylum presented the strongest argument for the potential implicit in a reformed prison.108 Brigham agreed, commenting on the success of Eliza Farnham at Sing Sing with phrenological reforms and admitted that “a spirit of kindness and sympathy such as seen, or ought to be seen in the Lunatic asylum should prevail in all.”109 He also affirmed the recent campaign of Charles Sumner to overcome the sectarianism that has shaped prison discipline, noting that the best form of prison discipline would likely combine the Auburn and Philadelphia system.110 Still, Brigham continued to clang the alarm that too close identification of the two institutions could be dangerous for both.

**Diverging Opinions: Popular and Medical**

Competing narratives regarding Rogers’ purported insanity quickly found their

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107 Ibid., 175. Hammond's view, as we shall see, is less dedicated to the idea that actual fault matters.

108 Ibid., 177.

109 Ibid., 178.

110 Ibid.
way into the press. One view, that the prison was simply filled with fiends, was contradicted by a story told by Chaplain Curtis that made the rounds of many newspapers, a story arising from a chapel service that occurred after the killing of the warden. In this story all the prisoners, including Rogers, attended chapel after the homicide. In the sermon, Curtis argued that he believed that most of the prisoners would never have done anything as reprehensible as killing the kindly warden. Indeed, Curtis commented that it was his belief that ninety-nine out of a hundred of them would have gladly died for the warden. He then asked all the prisoners who would have given their lives for the warden to stand up. The chaplain recounts that all stood up except Abner Rogers. Curtis' chapel service functioned as a kind of reverse revival service. Instead of the “sinner” coming to the altar, the “good prisoners” were asked to stand and to affirm their affection for the warden. The one prisoner who stayed seated was Rogers. However, as Curtis and Dwight testified during the trial, Rogers' actions were exceptional because he was insane. His crime should act as a cautionary tale, not about the wickedness of the hardened criminal nor of the naïveté of giving convicts knives and having them work together, but of the danger of having the insane mingled together with criminals.

Soon after the murder, a diversity of newspapers also published an editorial titled “Vicious Boy Now a Murderer.” The apparently purely speculative editorial

112 Report of The Trial of Abner Rogers, 90.
113 For a few instances, see “A Vicious Boy Now a Murderer,” *Daily National Intelligencer* (Washington D.C., July 11, 1843); “A Vicious Boy Now a Murderer,” *Alexandria Gazette* (Alexandria, VA, July 12, 1843); “A Vicious Boy
argued that Rogers had throughout his life “ascended the ladder of crime.” He is now “on the top most rung about to step off on the gallows.” His life should be a cautionary tale to all young people who ignore their lessons and drink rum with ruffians. Rogers’ road to vice began with his parents who neglected his education. His parents also insufficiently disciplined him, allowing him to roam with idle boys. Early on, he began to make wicked choices, leaving school at an early age because he “despised counsel.” He began to congregate with lazy boys who drank and smoked and chewed. He was first put behind bars for passing bad money. This whole sorry story showed the dangers of “commencing to do wrong.” A boy who spurns education and is lazy “steps into a rail car on the top of a steep hill.”

This editorial displays some similarity to the Puritan gallows sermon, with its warning that a life of crime can begin early, while insisting that the young stay away from vice and sinful acts. It did not follow traditional New England sermons in dealing with the state of the heart, murderous hatreds, petty jealousies, and a spirit of disobedience ever poised to overcome the self-satisfied moral equilibrium of the righteous. The serialized editorial dealt with sin as acts and not, as in so many contemporaneous sermons, sin as primarily an internal condition.

Rogers’ moral exceptionality was tied by another popular argument to the claim that as a prisoner, he was civilly dead and not deserving of a trial. Bemis countered that

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114 Ibid.
Rogers, as a prison inmate, should have a trial, rather than simply being summarily punished with death for his crime. What was at stake, according to Bemis, was the degree to which the prison itself was perceived by some to be “outside” of the law. He argued vehemently against arguments by some that Rogers' was beyond the boundaries of law. The prison was a juridical space, asserted Bemis, before rhetorically querying, “at the moment of the act, was he not embraced within the very folds of the law?”

Meanwhile, a prominent preacher, William Ives Budington, treated the case of Abner Rogers as an opportunity to expound his pro-capital punishment theology. Budington preached a sermon, later circulated fairly widely as a pro-death penalty tract, equal measures Calvin and Locke. Seemingly enraged by the broad public movement opposing capital punishment and the recent transformation in the criminal justice system that placed those convicted of manslaughter in prison instead of on the gallows, Budington preached a sermon insisting that Genesis 9:6 (“Whoso sheddeth man's blood, by man shall his blood be shed” --King James Version) was a perpetual obligation. The state is obligated, according to Budington, to punish capitally all murderers. This command, given to Noah, was meant for every human community and was reaffirmed both in the Mosaic civil code and recognized in the New Testament’s teaching in Romans 13:4, he insisted. Budington argued that if the people of Massachusetts failed to follow this command, they could expect divine retribution. Moreover, capital punishment by the state is a natural right for those citizens who have turned over our

115 Report of the Trial of Abner Rogers, 44.

“right” to vengeance to the state. While the pastor is quick to assert that government does not receive all of its power from the surrender of individual rights -- government is an ordinance of God -- on balance, the sermon’s rationale for government is Lockean. Yet, another large part of the New England theological tradition has fallen out, namely concern for all of humanity’s equal fallenness and concerns that everyone might be a murderer if the restraints of the law were lifted. The law was necessary only to restrain some: the poor, envious, and unprincipled.

For Budington, the murder of the warden was a sign of God’s providence for a people who had gone the wrong way. The people of Massachusetts were attempting to annul the covenant that God made through Noah with the “whole human family.” On one side, was the “universal sentiment of mankind” that murderers should be punished by death. On the other side was “mawkish sentimentality, that is alive to the sufferings of the murderer.” Budington went on to argue that the people of Massachusetts should be offended that the reformers, in seeking to abolish the death penalty, were appealing to their sympathy: “when they make appeals to your sympathies on behalf of the murderer, they regard you as being more likely to occupy the place of the criminal than that of his victims.” Unlike these reformers, Budington

117 Ibid.
118 Ibid.
119 Ibid.
120 Ibid.
121 Ibid.
assured his listeners, he did not look upon his audience “as murderers” or even as people who might possibly be murderers in the future, but that is precisely what the reformers do when they try to arouse “fellow-feeling with the criminal.” Budington went on to assert that he believed his listeners to be part of the “virtuous community,” and it is an “insult to your sense and feeling, to attempt to awaken your sympathies for the criminal and against the law and its penalties.” The sermon was preached to the “industrious, orderly, temperate who accumulates comforts and the accumulating fruits of his industry” and therefore needed to be protected from the “envy and cupidity of the needy and unprincipled.”

While intent on asserting the Calvinist orthodoxy and capitalist benefits of punishment, a call for the hearer to identify with the moral struggle of the criminal was wholly abandoned in Budington’s sermon. For Budington, Abner Rogers was not an example of the paradigmatic sinner, a dark reflection of the cupidity and cruelty alive in every human heart, but he was, instead, a moral exception undeserving of ‘mawkish sentimentality.’ Where popular editorials told tales of a gradual descent into viciousness that echoed Puritan gallows sermons, the critical difference lay in the fact that the editorialists’ sensational accounts did not attempt to spur readers to consider

122 Ibid.
123 Ibid., 24.
124 Ibid., 25.
their own moral depravity. Such “secular” accounts lacked the venom of Budington's actual hardline Calvinist sermons on the murder. His sermon blatantly stated that most citizens were nothing like Rogers and impugned the work of Dwight, Bell, Ray and others as the work of sentimentalists seeking to create fellow feeling for the criminal when most Bostonians could safely assume a qualitative difference between themselves and the criminal class and that, for this reason, they would never find themselves in Rogers' shoes.

In the fury of these debates, many proponents of capital punishment worried that if the mawkish sentimentalists took their vision of love of enemies to its logical extent it might lead to the abolition of all penalties.126 Meanwhile, the opponents of the gallows happily united “sentimentality” and “sympathy” to Christian grace.127 Prominent Universalists, such as William Barber, insisted that this grace must be proffered because “the murderer is a man who is morally diseased” and that society has no less of a duty to care for such people than for the “sick and aged.” 128 Moreover, Universalists such as Edwin Chapin, connected this sympathy towards the criminal with the spirit of Christianity that it should continue until humans learn that “the true policy of society is not severity but reformation.” 129 Others argued that what seemed

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126 Masur, *Rites of Execution*, 146.
like “mawkish sentimentality” was really “Christ within.”\textsuperscript{130} The choice was clear: the grace of the Christian or the “pagan law of blood,” the “gallows or the gospel.”\textsuperscript{131}

The BPDS attempted to find a middle-way, arguing that Rogers' was an insane exception and that, in general, prisoners could be shaped by religious appeals to their reason and self-interest. For this reason, the Society should work to segregate common criminals from the insane, who are by their very nature not rational agents. Meanwhile, BPDS advocated working hard to make sure that no malingerers made their way from the prison into the asylum, even if the mysterious line between sin and insanity could only be discovered through threats of punishment.

\textit{Medical Witnesses}

While in pulpits formerly Puritan the abnormality of the criminal was being preached, the medical witnesses had a very different message. The defence argued that Rogers suffered from homicidal monomania. The theory of monomania had its origin in the works of Pinel and Esquirol. Esquirol suggested that in the uncivilized world, monomania often appears in the form of religious superstition. Its essential character is a reflection of self-love and pride. In the modern world this self-love appears in the forms of pride, despair, and religious skepticism.\textsuperscript{132} Prichard, following Pinel and Esquirol, agreed, suggesting that an “excess of self-love is an ingredient in every

\begin{footnotes}
\item[130] Ibid.
\item[131] Hartnett, \textit{Executing Democracy}, 1831; Masur, \textit{Rites of Execution}, 152.
\item[132] See generally, Étienne Esquirol, \textit{Mental Maladies; A Treatise on Insanity} (Lea and Blanchard, 1845).
\end{footnotes}
modification of monomania.”

Moreover, as a disease, monomania was marked by the society that produced it. As Esquirol put it, “Every observation conforms to the fact that the state of society exercises a great influence upon the character and production of monomania.” As an example, Esquirol noted that, while in former times a monomaniac may have felt themselves to be possessed or a witch, in the present time it is often the case that the insane fear that the police are after them.

Monomania in America often was also deeply connected, by those who studied it, to selfishness. Melville portrays Ahab’s monomania as flowing out of a Promethean desire of the self to overcome nature. This vision was also anticipated by Hawthorne's literary use of monomania in the case of an obsessive scientist who goes mad in his attempts to rid his wife of her one sign of imperfection—a small birth mark. Ray traces the aetiology of monomania in his Mental Hygiene to radicalizing tendencies, or what Whitney Cross called the “ultraism,” of the age.

All three of the psychiatric experts at Abner Rogers' trial connected the

135 Ibid.
possibility of monomania with masturbation, though none of them specifically suggested that Rogers’ monomania was so caused. Samuel Woodward devised a mechanism to prevent it while he worked as a physician at the Connecticut State Prison. He suggested that the problem with masturbation is the degree to which it creates “self-directedness.” From a very early age, according to Woodward, the onanist’s love is directed away from others and towards the self. Masturbation results in a stunting of one’s feelings of benevolence. It also stunts one’s self-control and makes a person highly susceptible to impressions. Even after the voluntary habit is expunged, the dangers of involuntary excitement persist. Woodward seemed to believe that continual masturbation amplified the problem—fodder for theological reflection since at least Augustine—of the unwilled erection. In so doing, it created the possibility for other automatic actions of the body that were uncontrolled by the mind. Self-pollution was believed to arouse “causeless suspicion against individuals, hearing false voices, and violent outbreaks.”

Insanity as described by Ray, Bell, and Woodward bore striking similarities to Puritan notions of sin. Monomania was the result of individual vice and lack of moral accountability and reflected the broader state of society. Its source was not merely

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139 Ibid.
141 Report on *The Trial of Abner Rogers*, 155.
individual bad choice, but also the common human tendency to make an idol of the self. Moreover, irresistible impulses found their seat in a will that was in a state of anarchy. Bemis, in his defence of Rogers, clearly opposed the attitude that only the bad go violently insane. Indeed, insane malefactors include clergymen, physicians, judges, jurists, and magazine writers; none have a “safeguard against the act which he wishes to correct and chastize by punishment.”\textsuperscript{142}

It was the asylum doctors' insistence on the common humanity of the insane offender that caused the most trouble with the acceptance of the homicidal monomania. When the jury was given a chance to question Luther Bell, they asked after the “essential distinction between an insane and sane person” and “whether he does not consider all persons more or less insane.”\textsuperscript{143} Bell argued that although he believed the case of Rogers was one of “positive and decided insanity,” he admitted to no “palpable line” between insanity and sanity.\textsuperscript{144}

The Rogers' trial and public reaction to it represented the difficulties of overcoming the tensions inherent in this position. The prosecution emphasized Tracey and Hale's concern about partial insanity by trying to press a reading of McNaughton and subsequent case law affirming, in the case of partial insanity, that homicidal impulse might be uncontrolled and yet technically controllable, at least to some extent.

“What, then, is the character of a homicide, committed by a person partially insane?,”

\textsuperscript{142}Ibid., 56.
\textsuperscript{143}Ibid., 159.
\textsuperscript{144}Ibid., 162.
wondered the prosecution aloud before answering his own question: “If, upon a sudden impulse, controllable, but not controlled, and, if unattended with express malice, the crime is manslaughter.”

In his defence of Rogers, Bemis had to contend further against the claim that for the sake of public expediency “an example should be made of the partially insane.” Bemis queried, if fear of punishment could control the insane, why do we not hear of the use of punishment in the asylum? Why do we not hear of “gallows within the hospital precincts”? Bemis argued further that punishing maniacs for public expediency “can only be likened to the blind cruelty which we see certain animals practise upon those of their species who have fallen into helplessness, or have suffered a disabling injury.” He goes on to implore judge and jury to “to be open to the dictates of mercy and humanity.”

Bemis and the alienists were able to convince Chief Justice Shaw. Shaw summarized the case in a way that favoured the inclusion of irresistible impulse in the adjudication of insanity. In his charge to the jury, Shaw affirmed both McNaughton and the possibility of an “irresistible impulse.” He advised the jury that they should render a Not Guilty by Reason of Insanity verdict if the defence had either shown that

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145 Ibid., 23.

146 Report on The Trial of Abner Rogers, 55.

147 Ibid., 57.

148 Ibid., 58.

149 Ibid., 105. Counting this quote, Bemis appeals for “mercy” no fewer than five times in his opening remarks. Ibid. 55, 99, 106, 109.
the defendant laboured under a disease that affected his ability to “know right from wrong” or if the killing was “the result of uncontrollable impulse, and not of a person acted upon by motives, and governed by the will.”

Abner Rogers was acquitted and sent to Woodward’s asylum. During one of the chapel services that Woodward had praised for its soothing effects on the furiously insane, Rogers jumped head first out of the second story window of the chapel. He died instantly. For Ray, Woodward, and Bell this was further confirmation that Roger suffered from irresistible impulses. For certain opponents of Rogers’ insanity, however, his suicide was instead proof of a failed attempt at escape.

Conclusion
Where Bell understood the asylum to offer “ordinary means of grace,” one might reasonably consider the grace on offer as approximating pacified rather than politicalized religion. However, where Bemis encouraged Judge Shaw and the jury to “be open to the dictates of mercy,” one sees displayed a more radicalizing understanding of grace. Judge Shaw acceded to Bemis’ request, establishing for the jury, and future juries, the possibility of a legal excuse arising from irresistible impulse, a corruption of the will. While the defence is rarely used in the few jurisdictions in the U.S. that still maintain it or something similar, at the time it was first ensconced, it seemed seriously to threaten, in the words of Budington, the entire system of “the law

151 “Abner Rogers Jr.,” Daily Evening Transcript (Boston, May 24, 1844).
and its penalties.”  

While nothing approaching the suggestion of Woodward that the question of insanity should arise 'in every case of criminal prosecution' has ever seen the light of day, there were those who hoped, or more often feared, that such a widespread application of mercy and grace was potentially on offer. Anarchy! came the accusation; they will see this whole framework of government go to pieces.

A rare few of those arguing for the abolition of capital punishment did actually swing perilously close to insisting that madmen and criminals are equally irresponsible. Those advocating for mercy and alternatives to capital punishment increasingly looked to the asylum for new ways of dealing with human irascibility. Many opponents of capital punishment saw well-run asylums as providing a model for the ideal prison, arguing for a need for more mild, moral government. Reformers such as Dorothea Dix became increasingly frustrated with the Auburn style of prison and the BPDS's insistence on the continued role of punishment in properly run prisons. For many, insanity was 'a convenient hook upon which to hang one's opposition to capital punishment.' In opposition to this view was Samuel Woodward's insistence that moral insanity could be seen potentially in all crime. Woodward's view came too close, even for Ray, in insisting that a certain amount of mental illness is endemic to the human condition and that mental illness excuses one from criminal responsibility.

As of 1855, the time of the séance attended by Bell and Ray, all of the key figures

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in AMSAII, Ray, Bell and Woodward, along with Amariah Brigham, continued to laud a vision of partial insanity that simultaneously indicted a broken social scene, advocated mercy at the hands of the law as a result, and suggested healing was possible in new communities set apart as refuges from societal inadequacies. The following two chapters will further discuss the ways in which such alienists continued to wed moral and medical accounts of human fallibility. The first (chapter three), examines how the diagnostic category of moral insanity was used by certain innovators to put forward a politicized grace; in the second (chapter five), closer attention will be given to the role of religion in the early American cure of the mind and the theo-political overtones of the term 'asylum.'
Chapter 2  A Place of Grace

Introduction
In the early 1980s Cornell Medical School discarded William Freeman's brain. Apparently it had lost the cultural poignancy it held in 1847, when it had been carefully preserved by Dr. Charles Coventry and placed in Geneva Medical College's collections, and that it must have still possessed in 1899 when Cornell acquired it.¹ Perhaps in 1899 it still held some of the mystique given to it by the lawyers and medical witnesses who, in the sensational 1846 trial of Freeman for the murder of the Van Nest family, debated whether the Van Nest's had been victims of insanity or a freely chosen sin.² Its reputation was further burnished in August of 1847, upon autopsy, when the head of the Utica Asylum, Amariah Brigham, noted that Freeman's brain had a large tumor and a “parboiled” appearance.³ For most, this visible evidence of insanity ruled out the alternative that “depravity unparalleled” was the cause of Freeman's gruesome act.⁴

Debates over former Governor William Seward's use of the insanity defence in the trials of two Auburn prisoners, Henry Wyatt and William Freeman, revealed considerable uncertainty about the efficacy of prison discipline and moral formation.

¹As learned in personal conversation with Sheila Shaft Tucker, Cayuga County historian, 24 October 2007.
²The Trial of William Freeman for the Murder of John G. Van Nest: Including the Evidence and Arguments of Counsel with the Decision of the Supreme Court Granting a New Trial and an Account of the Death of the Prisoner, on of the Post-mortem Examination of His Body by Amariah Brigham and Others Intro. Benjamin Hall (Auburn: Derby Miller and Co., 1848) 17, 32, 57, 127.
³David Dimon, The Freeman Trial: Presenting the Testimony Given in This Remarkable Case, with Comments (Auburn: Dennis Bros. & Thorne, 1871), 76.
⁴As spoken by Blanchard Fosgate, Ibid., 505.
The defenders of Freeman employed the concept of moral insanity to sacralize the law. They refused a strict division between religion and secular. Politics bled into religion, and medicine bled into both. The prosecution sought to connect the asylum with religion—religious control, religion that did not know its proper place, dangerous religion. The defence attempted to synthesize an understanding of collective sin; with asylum medicine's language of moral causes of insanity. The result was Seward's insistence that the guilt for Freeman's crimes rested squarely on the shoulders of the Auburn populace who had transformed Freeman from a man into a brute.\(^5\) Law, religion, and medicine all sought to articulate the boundaries between sin and disease. Some believed that society could only be preserved by communal love, the creation of a just collective will, a creative deployment of asylum, a politicized grace; others claimed that society must be bound together by fear or risk anarchic dissolution.

Andrew Arpey has given the most thoroughgoing account of the trial to date. In his introductory chapter, he paints a brilliant picture of the phantasmagoric appeal of the story of a black man who murders a white family in abolitionist country and then pleads lunacy.\(^6\) Arpey further argues that the theological debates that raged around the trial and the plea of moral insanity were waged between Reformed religionists who believed in innate depravity and Quakers, Unitarians, and Universalists who believed in environmental explanations for crime. It may be true that members of the Van Nests’

\(^5\)Ibid., 421.

Sand Beech Reformed Church believed that Freeman was innately depraved – and none of them more so than its pastor, Aaron Burr “A.B.” Winfield – and that local Universalists, particularly Pastor John Mather Austin, believed that Freeman was a victim of society. However, the majority of jurors, witnesses, and legal counsel in the trial were neither hard-line Calvinists nor Universalists. The defenders and detractors of Freeman were an odd assembly of Methodists and Thomasonian phrenologists, Congregationalists and alienists, free-thinkers and Presbyterians, and African Methodist Episcopalians.

Most of the religious participants arrayed on either side of the debate, including many of the Presbyterians, had long since abandoned commitment to innate depravity and an Adamic inheritance of sin. For these Reformed religionists, the most important aspect of the debate was not whether Freeman’s depravity was innate, but to what degree Freeman was responsible for acquiring it. The star medical witness for the prosecution was as thoroughly committed to environmentalism and self-construction as the defence. Instead of innate depravity, Thomas Spencer provided a narrative of how Freeman systematically destroyed his own compunction.

This does not mean that William Seward did not pursue a radical defence. Guided by Brigham, Seward drew from the works of Ray, Esquirol, and Prichard. He argued for insanity not on the basis of a diseased intellect, but rather on the basis of an infirmed will, a will corrupted not by Freeman’s own malfeasance but by the sin of society as a whole. What follows draws on Arpey’s work and the direction of his
thinking, but with a critical difference. He recognizes that Universalism was the fearful bogey in popular discourse, but tends to describe the hatred of Universalism according to a historiographical arc in which it liberalized or secularized popular religion. While this story structure might be useful for introducing more general fundamentalist-liberal divides, it is not as helpful in this case. In fact, such an account lends itself to criticisms that would suggest that in its love of humanity, liberalism dehumanizes individuals by eliding their capability for autonomous moral action. In fact, Seward’s defence tapped into an extraordinary spring of acrimony, not because it rejected the reigning Calvinist orthodoxy, nor even because it gave a naturalized description of sin as insanity in arguing for its social causation. Instead, for many, the defence threatened to dissolve the social contract in an apocalyptic advent of mercy that might empty out the prisons and, as one editorial put it, “enthrone Judge Lynch.”

What follows begins by describing the setting of the murders in more depth. I then argue for the importance of William Seward's prison reform campaign as critical to his take on moral insanity. John Van Buren, the prosecuting attorney, and his setting forth of a contest between law, on the one hand, and medicine and religion on the other, form the subject matter for the following sections. Here, I give substantial treatment to the question of sociopathology and the political place of the asylum according to Van Buren. In particular, I also profile and give careful attention to the trial testimony of the

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star medical witnesses for each side, Amariah Brigham for the defence, Thomas Spencer for the prosecution. Before the concluding section's attention to the “Final Outcome” and its meaning, I have included an important section on “The Question of Negro Personhood” as contested at trial.

In Auburn, moral insanity came to be equated with Universalism and other forms of sentimental theology, over-zealous Christianity, and religion that refused to stay in its place. At a time when religious enthusiasts were still a concern of many asylum doctors, tentative alliances held in Auburn between some vocal advocates of revival and the theories of alienists such as Brigham. Where Universalism later allied itself with Unitarianism, in the Freeman trial, the danger to orthodoxy came not from those who would replace it with a staid secularism, but from those who would radicalize Orthodoxy’s most basic tenets. Indeed, as the story unfolds, the prosecution, rather than the defence, will show itself far more amenable to a secular domain free from the meddling of Christian zealots. In Prosecutor John Van Buren’s formulation, moral philosophy, religion, and the subtleties of the asylum threatened to overwhelm the law. Far more dangerous than attempting to secularize the law were attempts to sacralize it. Grace was dangerous and needed to know its place.

Murder in Cayuga County
In 1846, Auburn, New York was a peaceful town that loved discord. At the heart of Cayuga County, it was a terminus of the Underground Railroad, with Harriet Tubman's home nearby; the location of Auburn prison (founded in 1816) and of Auburn
Seminary (1818); the hometown to the former governor of New York and future Secretary of State William Seward; and a particularly verdant patch of the burned-over district.\(^9\) All of these peculiarities found themselves on full display in March, when Auburn found itself rocked by murders in the neighboring village of Fleming. The Van Nest family, one of Cayuga County’s most prominent, had been slaughtered.

The press soon declared the murders the most heinous in the annals of crime, and not without reason. The fallen: a pregnant mother, a young father, a suckling babe, and a white-haired grandmother from one of the founding families of the county. The deaths of grandmother Mrs. Phoebe Wyckoff, Mr. John Van Nest, Mrs. Sarah Van Nest, and the child George Washington Van Nest appeared pointless and motiveless. In the immediate aftermath of the crime the press sought a motive – robbery, grudge, slight. However, the investigation proved bootless. It seemed the discovery of a motive would require a tribunal higher than the county court. This did not staunch the cry for revenge. It lent to the murders an aura of mindless evil and brutality that many believed could only be checked by a summary lynching.\(^10\)

The assailant, William Freeman, had been released from the Auburn prison recently. He had grown up in the southeast corner of Auburn, in a section of town by the river called “New Guinea” where the town's black population resided. Freeman was born in 1824, the son of a former slave and a Native American woman. In 1840, at the


\(^10\)Benjamin Hall, in the introduction, recounted “whole families from the prattling child to the tottering grandshire spontaneously joined in the popular indignation,” The Trial of William Freeman, 23.
age of 16, Freeman was arrested and put in Auburn prison, accused of stealing a horse. He was sentenced to hard labor and continued to vehemently profess his innocence. While in prison his protestations of innocence gave him a reputation as a trouble maker, and he was brutally beaten about the head with a large board. He would tell the doctors who examined him after the murders that the beating knocked his hearing into his throat and that he was deaf from that day onward.\textsuperscript{11}

Freeman gave meager motivation for his crime to those who first questioned him. There were considerable attempts to paint the murder as a simple matter of revenge or burglary, but the facts of the case resisted easy explanation. Freeman cryptically suggested that he had no particular animus against the Van Nests but that he had killed them to “get his pay.”\textsuperscript{12} This absurd statement seemed to be made all the more ludicrous by the fact that Freeman had, earlier in the day, actually sat eating cake with the woman, not a Van Nest, whose horse had been stolen five years previously and whose accusations had landed him behind torturous prison bars.\textsuperscript{13}

\textbf{William Seward: Moral Insanity, A Whig’s Prison Reform Campaign}

To some citizens of Auburn, Freeman's crime appeared without doubt to be the direct result of William H. Seward’s use of the defence of moral insanity in the trial of Henry Wyatt. Seward, the former governor of New York, received a letter from Wyatt, a prisoner of the Auburn penitentiary, asking to be represented. Wyatt was charged in

\textsuperscript{11}Ibid., 397.

\textsuperscript{12}Ibid., 249.

\textsuperscript{13}Benjamin Hall (despite the fact that he testified against Freeman’s insanity in the trial) wrote that there was prodigious evidence of “wrongful imprisonment” regarding the stolen horse. Ibid., 19.
1845 with the murder of a fellow inmate, James Gordon. To that point, Seward had been a reluctant proponent of the “Auburn System,” believing that, without a prison, more criminals would go to the scaffold.\textsuperscript{14} However, he was a critic of the whipping post in the prison. In the trial, Seward publicized the cruelty of prison punishments. Seward claimed that Wyatt's insanity had been caused by injury to his nervous system during repeated beatings up and down his spinal cord. The beatings seemed to be an attempt to gain a confession from Wyatt after Gordon had accused him of committing a murder in Ohio. Auburn prison officials gave him the “shower bath,” beat him severely, and threw him into solitary confinement.\textsuperscript{15} In an elaborate courtroom spectacle, Seward subpoenaed the warden of the Auburn prison, Hiram Rathburn, and asked him to hand over the punishment log of the Auburn prison.\textsuperscript{16} Rathburn at first attempted to physically stop Seward from reading the log, saying “this book was not designed for you.”\textsuperscript{17} The judge is said to have actually called the bailiff to arrest the warden, after which Seward obtained possession of the log and read before the court a record of one of Wyatt's many beatings. Wyatt had been sentenced to fifty lashes with the cat of nine tails, but upon taking off his shirt his back was so flayed and scarred that the officers deemed he would be insensible to pain. The man administering the punishment was


\textsuperscript{17} Ibid.
then directed to beat him on the legs instead. Seward sought to show in the trial that such retributive treatment was bound to bend human character towards monomaniacal revenge.

Seward’s defence of Wyatt initially led to a hung jury. Yet he had been successful in publicizing the brutality of prison discipline. The trial also displayed the profound degree of anti-capital punishment spirit present in the county of Cayuga. Over one hundred and sixty jurors had been summoned initially, and many were rejected because of their opposition to capital punishment. In the psychological thinking of the day, the mental culture in the prison, in which the mind is constantly vigilant and fearful, was an obvious precipitating cause of madness. If the asylum offered itself idealistically as a purified republic, Seward had unmasked it in the Wyatt case to be the antithesis. It would not make reformed men, or citizens, but brutes and mad people.

In March, when Seward heard news of the slaughter in Fleming, he was preparing for a second trial in the Wyatt case. In the following months numerous articles in New York’s highly partisan press claimed that the Van Nest massacre was a result of Seward’s defence of Wyatt. Many insisted that Freeman had attended the Wyatt trial and had hatched a fiendish plot to murder the Van Nests and claim insanity. Even many moderate Whigs seemed to think that the blame for the murder rested on the back of the former Whig governor. The then current governor Silas Wright, a

18 Ibid.

19 *Rochester Daily Advertiser*, June 20, 1846.

member of prosecuting attorney John Van Buren’s Albany Regency, and a staunch Old
School Presbyterian, proposed a special term of the circuit court and a special joint
session where Freeman could be tried and Wyatt retried simultaneously. On the first
day of Freeman’s trial, Seward was burned in effigy. Seward wrote a letter to his closest
political associate, Thurlow Weed, on May 29, 1846 suggesting that what he was about
to do “will try the fortitude of my friends. But I shall do my duty. I care not whether I
am to be ever forgiven for it or not,” then took both cases forward.

Seward assembled a dazzling defence team for Freeman, including Christopher
Morgan, a future New York secretary of state, and Samuel Blatchford, later an associate
justice of the Supreme Court of the United States. Having the former Whig governor
for the defence and the son of former Democratic U.S. President Martin Van Buren for
the prosecution made it certain that the community would divide along political lines,
and, as the trial progressed, larger issues of the role of law, the purpose of government,
and diatribes against imperialism and anarchism would shape the rhetoric of the trial.

Taking Sides in Auburn
The trial brought together everyone – the powerful, the ordinary and the
unfortunate. Amongst the citizens vocally committed to Freeman’s insanity plea were
the president of the village of Auburn, the head of the New York Medical Association,
and a professor of medical jurisprudence at Geneva Medical College. There were also

21 Ibid., 15.
22 William Seward, The Autobiography of William H. Seward, from 1801 to 1834: With a Memoir of His Life, and
Selections from His Letters from 1831 to 1846 (New York: D. Appleton and Co., 1877), 810. Seward was noted for
taking other prominent cases including defending John Van Zandt for violating the fugitive slave law act and Abel F.
Fitch for his conspiracy to destroy Michigan Railroads.
people of less prestige in the eyes of white, burgeoning middle-class culture – a lay Universalist openly ridiculed during the trial as one of the most gullible men in the area, a local patent doctor famed for his cordial vermifuge and opledoc, and several founding members of Auburn’s African Methodist Episcopal church.

The prosecution also boasted its share of free blacks, as well as Thomas Spencer, the founder of Geneva College, also formerly head of the New York Medical Association and a past member of the New York legislature. When Spencer had taken part in the legislature's place in the quadrennial election of the U.S. President, he had cast his vote for Andrew Jackson. Many local doctors testified that Freeman was not insane, including Dr. Sylvester Willard, one of the wealthiest men in Auburn. Willard was a great philanthropist and his largesse towards Auburn Seminary led to the chapel there being named in his honour. He was, furthermore, the first physician at the Cayuga County Asylum for the Poor. Also testifying against Freeman was Dr. David Dimon, another member of First Presbyterian. Dimon would publish an alternative and somewhat bitter transcript of the trial as late as 1871.

While there was a massive mob that called for Freeman’s immediate lynching, this did not mean that his defenders were few or even necessarily outnumbered. Arpey

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23 See, Sylvester D. Willard, M.D., Biographical Memoir of Thomas Spencer, M.D., Professor of The Theory and Practice of Medicine, &c. Read Before the Medical Society of the State of New York, February 2d., 1858 (Albany: Charles Van Benthuysen, Printer, 1858).

24 Ibid., 5.


26 Dimon, The Freeman Trial.
focuses on Universalists who came to the defence of Freeman, and, indeed, there were at least three Universalists who testified that William Freeman was insane. Yet the defence included at least three members of Auburn’s First Presbyterian as well as at least three from the local Methodist fellowship. Of particular interest, it was Cyrus Davis, a founding member of the Methodist fellowship, who briefly derailed the preliminary trial by claiming that Freeman was not capable of making “an induction of reason.”

The trial caused rancour among co-religionists. The pastor of the local Universalist fellowship mentioned in his journal that some of the “less morally worthy” members of his congregation were angered over his defence of Freeman. There were elders of the First Presbyterian Church of Auburn on both sides of the issue. The aforementioned Willard testified that Freeman was not insane. Contrarily, Horace Hotchkiss, elder and head of the Sabbath school at First Presbyterian, testified that he was insane. Members of Episcopal churches likewise lined up on both sides of the trial.

The major question of the preliminary trial had been to discern whether Freeman

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27 Local church records indicate that John R. Hopkins, Adam Gray, and Horace Hotchkiss were members of the First Presbyterian of Auburn. Theron Green, James H. Bostwick, and Dr. Lansingh Briggs belonged to the Methodist Church of Canandaigua. Besides Austin, Universalists who testified for Freeman included Ethan A. Worden, Ira Curtis, and Lyman Payne.


30 Daniel Andrus testified for the prosecution while Blanchard Fosgate testified for the defence.
was sane enough to stand trial. It nearly ended with a hung jury. Seward had been responsible for a law while he was governor of the state of New York mandating that “No insane person can be tried, sentenced to any punishment, or punished for any crime or offence whilst he continues in that state.” Of course, such a law begged the larger question that vexed American medical jurisprudence: Would the same standard used to civilly commit an individual to an insane asylum be used to avoid criminal prosecution? Davis, a vocal abolitionist known for his complete personal boycott of cotton and sugar, argued strenuously that no one had proved that Freeman was a rational agent. He could not, however, withstand what proved to be concerted abuse from other members of the jury. Davis only agreed to declare Freeman “sufficiently sane” to stand trial after suffering the systematic abuse of fellow jurors who reportedly took turns keeping him awake the entire time they were sequestered.

The most prominent and vocal supporter of Freeman was the Reverend John Mather Austin, a descendent of the well-known Massachusetts Puritan Increase Mather (1639-1723) on his mother’s side. Austin advocated for both Freeman and Wyatt and was a prominent apologist for Universalism, debating local orthodox ministers on various theological questions. Austin was born in 1805 and became a Universalist


\[32\] Kunstler, The Case for Courage, 100.

\[33\] John Mather Austin, A Critical Review of a Work by Rev. J.S. Backus Entitled Universalism, Another Gospel, or J.M. Austin vs. the Bible (Auburn, N.Y.: Alden & Parsons, 1849); A.B. Winfield, Antidote to the Errors of Universalism, or, A Scriptural and Common Sense Review of Modern Universalism Together with Strictures on
when he was a teenager after his father converted to the same. At the time of the Freeman trial, Austin had only been in Auburn two years. Under his leadership, the Universalist church became the second largest church in Auburn, boasting over 800 members, out of a population of 9,548 (according to the 1850 census). Austin was a vehement opponent of capital punishment, hosting lectures by noted death penalty opponent Charles Spear, and refusing to attend the eventual execution of Wyatt, even though he had provided hours of pastoral care. He claimed that he did not want to give any official religious sanction to the judicial homicide. As noted, his defence of Freeman caused rancour even in his own Universalist congregation.

Austin's participation in these two trials would forge a life-long friendship with William Seward. Austin, for instance, was accordingly appointed by President Lincoln to the post of paymaster of the Union army. Austin had been particularly involved in advocating for Wyatt largely due to his antipathy towards capital punishment. In his private journal, Austin blurred the line between sin and insanity in his assessment of Wyatt. He insisted that Wyatt was a Deist and connected his belief in a disinterested deity unconcerned with moral accountability quite explicitly to his charge that Wyatt was morally insane. Moreover, Wyatt showed “no indication of contrition or sorrow for


36Karen Dau, “John Mather Austin.”
his crime” and Austin suggested this was further evidence of his insanity. Austin demonstrated a tendency to connect immorality and irreligion with insanity – a point later used against him by the prosecution.

Austin, in his diary, challenged the claim that Wyatt was a Universalist. He noted that Wyatt relayed to him an enjoyment of citing Universalist themed biblical texts to evangelical ministers “to plague and confuse them.” Nonetheless, Austin noted that Wyatt affirmed that he had never been a Universalist. His need to make this remonstrance in his private journal gives evidence to the force of the rhetorical commonplace that universalism caused lawlessness.

Austin, like Seward, noted the role that the prison played in Wyatt's murderous insanity. In the diary he wrote that Wyatt held tremendous bitterness against the officers of the prison who injured and persecuted him, that he stated quite boldly that he would rather “be hung than go back to the state prison for five years,” and that he would rather die all at once rather than one piece at a time.

Despite Austin's deep opposition to Wyatt's execution, the religious lesson that he thought could be learned from Wyatt's death proved to be quite standard. The following Sunday, Austin preached on Proverbs 13:1, “A wise son heeds his father's

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38 Ibid.
39 Ibid.
40 Ibid.
instructions, but a mocker does not respond to rebukes.” Austin remarked that the sermon seemed “to do much good especially among the younger portion of the congregation.” Austin's insistence on the dangers of beginning a life of bad habits mirrored the more evangelical tract entitled The Life and Confession of Henry Wyatt and Austin's theological rival Winfield's sermon upon the interment of the Van Nest family. In the Wyatt case, Austin's record seems to equate moral insanity with sin, representing little more than Wyatt's revengeful, remorseless nature and a lack of religious sentiment. Austin, in the case of Freeman, never wavered privately from his belief that Freeman was an “idio-maniac” a “monomaniac” and “a poor demented, idiotic creature” who had no idea what the trial meant “or what effect it would have upon him.” He noted that the judge spoke to Freeman in the slow and methodical manner that one would use naturally if they were talking to someone known to be insane. In short, Austin seemed convinced that Freeman could have passed Tracey and Hale's “Wild Beast” test.

A.B. Winfield, the pastor of the Van Nests' church, meanwhile, believed that religious error and broader societal sentimentalism was the root cause of the murders. He began his sermon at the Van Nest burial by suggesting that he had been planning to

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41 Ibid., Aug. 20, 1846.


preach an anti-Universalist sermon that morning before he knew about the death of the Van Nest family. The text was going to be: “Not every one that saith unto me, Lord, Lord, shall enter into the kingdom of heaven.” Winfield insisted that he had “been forestalled,” that God has intervened and chosen to preach instead.\textsuperscript{44} According to Winfield the text for the morning was, in fact, the bodies of the Van Nest family laid out in their winding clothes. Winfield insisted that “The Lord had preached a more solemn, a louder, more pungent, eloquent, and impressive sermon, than any man or angel from heaven could preach.”\textsuperscript{45}

He intoned that this fleshly word, this divine sermon, ought to be a check upon the “falsely so-called sympathy of the day.”\textsuperscript{46} He opposed both the “anti-capital punishment spirit” that emboldens murderers and “the school of the state prison.” The prison was not an adequate replacement for capital and corporal punishment; in fact, this “wretch who committed this horrid deed has been in the school of a State prison for five years and yet comes out a murderer!”\textsuperscript{47} Winfield's sermon had extraordinarily wide appeal, and thousands of copies were printed.\textsuperscript{48}

Universalists, often considered Unitarians, rustic, frontier cousins along with

\textsuperscript{44}Winfield, \textit{Sermon at the Internment of the Bodies of John G. Van Nest}, 4.

\textsuperscript{45}Ibid.

\textsuperscript{46}Ibid., 15.

\textsuperscript{47}Ibid.

some staunch defenders of revival supported Freeman.\textsuperscript{49} Still, in spite of the theological diversity of Freeman's defenders, 'universalism' became a code for all types of theological and political opposition to his capital punishment, much as 'liberal' might be code for opposition of various types in this day and age. In the context of the trial, the charge of Universalism represented not only the fact that Universalists such as John Mather Austin were prominent in Freeman’s defence, it was a way of critiquing any theology that attempted to apply a grace too readily to the political realm.

Universalism, then, represented not so much a turning away from orthodox theology but rather a revolutionary disruption caused by the application of a strong notion of God’s grace and God’s benevolence to the political realm. The movement to reform the insanity defence cannot be understood without understanding the interplay of religious ideas in nineteenth-century America. Certain beliefs rise readily to the forefront, including notions about the bondage of the will and vitiation of reason post lapsum, the limits of freedom and responsibility, the relationship between sin and illness, the morality of capital punishment, the ultimate source of human evil, and whether humans have the ability to obtain virtue.

For any number of opinion makers it was stock and trade in the burned over district to allege that prominent criminals were Universalists.\textsuperscript{50} Opponents of Universalism insisted that rejecting the doctrine of hell, and the fear of hell, would

\textsuperscript{49} Ann Lee Bressler, \textit{The Universalist Movement in American, 1770-1880} (Oxford: Oxford University Press), 7.

\textsuperscript{50} Cross, \textit{The Burned-over District}, 44.
lead one headlong into a life of sin. The charge that Universalism caused crime was a common accusation levied in the era’s pamphlet wars. In a tract written against Austin, Winfield included a condemnation of the Universalist doctrine of probation.\textsuperscript{51} Winfield readily connected Universalism with theories of punishment that focus on the reformation of criminals and made allusion to many Universalists’ prominent role in the anti-gallows movement. Winfield’s particular condemnation of Universalism appears to spring from lasting bitterness over Austin’s role in the Freeman trial. Austin had convinced Seward to take the case and Van Buren had all but charged him with witness tampering.\textsuperscript{52} Years later, Winfield argued that Austin and Universalism encouraged wickedness with their views on the present rehabilitation and future justification of criminals. Winfield opened with disdain for the prospect that someday “in heaven there would be gathered together Judas and John, Lot and the Sodomites, and the murderer Freeman with Van Nest and his murdered but saintly family.”\textsuperscript{53}

The people of Auburn and much of the wider populace of New York saw in the doctrine of moral insanity a revelatory harbinger of Universalism and antinomianism.\textsuperscript{54} In an article in the \textit{Syracuse Religious Recorder}, the author contends that the doctrine of moral insanity would result in the ensoncement of an anarchic Christian politics.\textsuperscript{55}

\textsuperscript{51} Doctrines of probation deal with individual eschatology and in particular the nature, degree, and form of eternal rewards and punishments.

\textsuperscript{52} \textit{The Trial of William Freeman}, 451, 453.


\textsuperscript{54} Cross, \textit{The Burned Over District}, 44.

\textsuperscript{55} \textit{Syracuse Religious Recorder} III, no. 1.111 (June 18, 1846).
writer worried that a transformation away from what she or he called traditional views of punishment would lead to the prison being replaced altogether by the asylum. These asylums would run the risk of becoming a kind of house of refuge. Moral insanity could result in the “entire abolition of penalties and the means of executing them. Asylums, or at the worst, houses of Refuge, Industry, or Reformation must take the place of Prison and Penitentiary.” In this scenario, the writer warned sternly, courts would be replaced by “medical commissions or perhaps a phrenological commission.” The writer suggested that if society attended too closely to the logic of moral insanity, it would lose the “proper, the scriptural, evangelical idea of punishment.” To follow the philosophy of the asylum would result in society becoming “Universalist outright.”

This was not all empty allegation. Debates about place of the prison and the asylum were deeply connected to broader debates about the role of government and whether fear or filial love held society together. One of the defenders of Freeman's insanity, the phrenologist, Orson Fowler, who aided in the examination of Freeman's brain, would later write, “Let government cease to punish all offences, and spend a tithe of the money now paid to criminal lawyers, judges, jailors, etc., in indoctrinating the people” in true republicanism, which he defined earlier in the same issue as “the

56 Ibid.
57 Ibid.
58 Ibid.
59 Ibid.
universal love of man for man.” He argued that the government was not truly republican as long as light punishment replaced “capital punishment and a severe penal code”; instead punishments were vestiges of monarchy while true republicanism did not seek to reform power but was instead “against all power.”

To this vision of brotherly love, prosecuting attorney John Van Buren offered law and order:

The danger to peace of this community only affects me, as a lover of good order. If crimes of this magnitude are to go unpunished, and thus to invite imitation, it is your hearth-stones, not mine, that may be drenched in blood. But I confess to a feeling of pride at the administration of justice in our State. Elsewhere, the murderer may go at large as a Somnambulist, an Insane Man, or a Justifiable Homicide. But in New York, thus far, the good sense and integrity of our Juries, and the enlightened wisdom of Judges, have saved our Jurisprudence from ridicule, and firmly upheld Law and Order. Thus may it ever be.

John Van Buren: Law Versus Religion

There was a strong suggestion running throughout Van Buren’s execution of the trial that misguided theology was at the root of what was happening in Auburn. Freeman’s crime was linked in the popular press, as gleaned by Arpey, to an “infidel theology or atheology’ which regarded punishment as merely the ‘curative process of a hospital’” to be carried on under the pretence of social reform, a confusion of insanity.

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62 Ibid.

63 The Trial of William Freeman, 467.
with the "'hard to be checked depravity of men'." 64 Van Buren, unlike newspaper editorialists in New York and beyond who went after liberal theology, seemed intent on disparaging not only sentimental theology but theology in general as a category for understanding legal culpability. Van Buren suggested that the defence had glibly glided over the actual day of the murder and based its case on "theological and scientific conversation in the jail after the arrest." 65 For example, William P. Smith testified that it spoke to Freeman’s lack of moral accountability that he didn’t believe in Hell. 66 Horace Hotchkiss testified that Freeman’s knowledge was so deficient that when he asked him about his knowledge of Jesus, Freeman replied that he thought he had seen him come to Sunday School. Van Buren pounced on this, asking Hotchkiss if he thought that theology was a “proper subject upon which to test [Freeman’s] knowledge.” 67

Later, Van Buren made Freeman’s answers under psychiatric scrutiny seem less bizarre by comparing his beliefs to that of theological radicals. While questioning Dr. John McCall, president of the State Medical Society, Van Buren queried, “Have you ever heard of a particular sect who believes in the humanity of Christ? Have you ever read of any eminently distinguished man who regarded Jesus Christ as a man?” McCall, in response, referred Van Buren to the British Unitarian Joseph Priestley and the American

64Arpey, The William Freeman Murder Trial, 26 (quoting from the Morning Courier and New York Enquirer, March 24, 1846).

65The Trial of William Freeman, 426.

66Ibid., 283.

67Ibid., 246.
Transcendentalist Theodore Parker.\textsuperscript{68}

Van Buren countered such witnesses with a continual refrain that they were stupidly trying to have theological debates with a brute. Van Buren insisted that Freeman was not an “imbecile” and that his sluggish speech and lack of emotion were the result of his Negro and Native American parentage.\textsuperscript{69} Immaterial, according to Van Buren, were Freeman’s views of religion, morality, and the law. One needed only be able to discuss the mundane affairs of the “cabin” to be considered legally sane.\textsuperscript{70} There was no need to question Freeman on his knowledge of divinity and philosophy. Those arguing that Freeman should know about basics of the Christian faith argued that there was a basic content to the kind of religious knowledge that a regular citizen of the U.S. should have. To not possess it was indicative of mental and moral incapacity. There was a sensible secularity to Van Buren’s approach insofar as, in the context of growing differences over theological knowledge, meaning, and orthodoxy, theological conformity was not an adequate test of sanity.

Again and again, Van Buren challenged religiously minded participants for their involvement. When it came time for Van Buren to question Austin, he asked whether those advocating for Freeman might be stepping outside of their legitimate religious sphere. He queried whether Austin was acting in his “clerical capacity” when he wrote

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\textsuperscript{68}Dimon, The Freeman Trial, 27. \\
\textsuperscript{69}The Trial of William Freeman, 79, 116. \\
\textsuperscript{70}\textit{Ibid.}, 183.
\end{flushright}
an article in *Evangelical Magazine and Gospel Advocate*. Likewise, when R. Hopkins claimed that, “I talked with him about the supreme being; as I wanted to learn whether he was accountable and reliable for his crime, in the eyes of abstract justice and right,” Van Buren’s predictable parry elicited Hopkins’ reply that “the extent of knowledge was the measure of his accountability, legally, as well as morally.” By the time Van Buren cross-examined the president of the Village, Ethan Worden, his tact had become something of a mocking refrain: “Did you examine him in Theology, there in the jail?”

Is it the proper role of a cleric to write a letter to an editor? Should a preacher disgrace the office of prayer by praying with an insane person? If the leader of the Presbyterian Sunday School heard someone report that Jesus had been to their Sunday School was it his job to have him repeat such nonsense to other people? Or was it not incumbent upon him, a religious duty in fact, to convince him of his theological heterodoxy right away? Above all, Van Buren insisted that Hopkins' response to Freeman, asking whether “Jesus was a student in the Sunday School class,” was shameful. He tauntingly questioned whether it was the proper role of a pastor or a church elder to listen to such heresy and then glibly report it back to the court. In his lengthy closing statement, Van Buren returned to the theme, scornfully recalling that “[w]hen Hopkins understood him to say he had seen Jesus Christ in Sunday School, instead of correcting or reproofing this unhappy creature on the brink of destruction Hopkins asked him

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71 Ibid., 253.
72 Ibid., 215.
73 Ibid., 272.
74 Ibid., 453.
whether Jesus Christ took a class.”  

The fear of over-zealous religion also became part of Van Buren's fascinating argument about the potential social control of the asylum. In the trial of Freeman, John Van Buren, the second son of the eight president of the U.S., painted the asylum as just such a space of both social control and potential destabilization. The social control side of Van Buren’s argument will not be surprising for those who have read Foucault and Rothman or who have followed Daniel Walker Howe and who understand what was at stake between Whigs and Democrats. But that a Democratic politician was calling the Whiggish politics of the asylum socially disruptive is more than a little intriguing. For Rothman, the asylum came into being as a backlash against overly boisterous Jacksonian democracy. The asylum was reactionary. The movement to lock away madmen? Inveterately conservative. Yet in 1846, it was the Democratic politician who was arguing that the asylum doctor held in his hands doctrines that were akin to “lightning,” putting society in “frightful jeopardy” and risking a return to the state of nature.  

Again and again, Van Buren suggested that those who defended Freeman did so because they held a dangerous political theology, one that would lead to chaos and antinomianism and perhaps even a Jacobin reign of terror.  

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75 Ibid., 453.

76 Van Buren is worth quoting in full here: “Doctor Brigham does not seem to have the remotest idea of the frightful jeopardy in which his notions and evidence place the Property and the Life of the Citizen. And when I look at his artless countenance, and hear the mild, amiable and gentle tones of his voice, while he is innocently dealing with doctrines that may convulse Society to its centre, he reminds me more of a child playing with Lightning, than a Scholar and a Philanthropist bringing the lights of Science to aid the investigation and establishment of truth.” The Trial of William Freeman, 442-443.

77 Ibid., 126, 436, 437.
Both defence and prosecution needed to be able to navigate a complicated religious context—a context in which various theological groups were often vigorously arguing over the nature, scope, and origin of human sin. From Van Buren’s words in his closing statement we learn that, from the original pool of eight score, there were at least three abolitionists who eventually made it onto the jury. Van Buren had raised the possibility of a preemptory challenge with these abolitionists, which would have removed them from the jury pool immediately. He backed away from his objections when he discovered that they did not hold any “peculiar views in regard to the general neglect of the colored race, which would induce them to hold society, and not the individual responsible for the crimes which this race commits.”  

Van Buren argued that he was content that these jurors were willing to “try this case precisely like that of a white man.” For such an audience, he would have to make a forceful argument that Freeman “possessed memory, sagacity, and judgment,” in a context in which some of his very own witnesses seemed to undermine this cause. Leander Bigelow, for instance, was satisfied that he was sane because he knew all the days of the week except Sunday. Dr. David Dimon gave testimony that Freeman had the knowledge of a two-or three-year-old, nevertheless arguing that such knowledge was enough to count him fit to stand trial and to be convicted of murder.

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78 Ibid., 466.
79 Ibid.
80 Ibid., 173.
81 Ibid., 212.
82 Ibid., 383.
Asylum Medicine and the Politics of Law

Seward, standing at the opposite side of the bar, was forced to walk a tentative balance arguing that Freeman was born a free agent and that it required treatment of the most exquisite cruelty to numb his freedom and his moral sense. Seward, in short, required a vision of moral insanity that could be embraced by an audience that, in a variety of ways, was immersed in a culture enchanted with native ability and the self-made man. The moral insanity of Amariah Brigham was ideal. Seward’s defence was pitched to citizens of the burned over district accustomed to hearing revival preaching, theological barn burners passionate in their defence of the human will, and to members of what Milton Sernett has described as North Star Country – a region in upstate New York strongly convinced of the virtue of human liberty. In his closing statement, Seward argued that the general strategy of the prosecution had been to argue that this man who was half “Negro” and half “Aborigine” was the source of his own “manifest derangement or at least his imbecility.” In this context all the evidence of Freeman’s mental condition was to be set aside as springing from “the legitimate but degraded characteristics of the races from which he descended.” Seward argued that, under such circumstances, the jury should “hold him then a man” with the further implication that, as a man, just as any member of the jury, Freeman could have become a victim of insanity.

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84 The Trial of William Freeman, 374.
85 Ibid.
86 Ibid.
In a recent book, *The Criminal Brain: Understanding Biological Theories of Crime*, Nicole Hahn Rafter argues that the defence in Freeman offered a theory of hereditary abnormality as an explanation for Freeman’s particular crimes. In short, Rafter puts the defence of Freeman into an overall narrative of insanity as stemming from genetic defect. Others have gone further arguing that moral insanity and psychopathology clearly “occupied a similar social and psychiatric space, albeit in a different era.”

Nothing could be further from the truth, however. Seward would not have wanted to designate Freeman as a “born criminal” who, from the outset of life, possessed hopelessly vitiated and maladjusted faculties. Such an argument would have played dreadfully into the hands of the attorney for the prosecution.

Van Buren, in fact, played two hands, arguing convincingly and most frequently that society had not failed William Freeman, because he “could not have been otherwise.” When things didn’t go well with this strategy, however, the prosecution suggested that if Freeman had been malformed by his environment it was his own fault. In fact the moral insanity of Seward was profoundly different from modern notions of sociopathology. To have argued that as a child Freeman had hurt puppies and tortured butterflies because he had been born without a moral sense would have played into the primary strategy of the prosecution. Alternatively, central to the defence of moral

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89 *The Trial of William Freeman*, 171.
insanity was evidence of a profound change in normal habits. Although, by the last quarter of the nineteenth-century, moral insanity was sociopathology *in nuncio*, it is impossible to equate the moral insanity of Seward with anything like contemporary notions of sociopathology.

The defence throughout depended on the claim that Freeman was born with reason, will, and a moral sense befitting someone made in the image of a benevolent creator. However, Freeman had been systematically brutalized. The citizens of a county in the centre of abolition country had transformed a man into a brute by failing to educate him properly and then subjecting him to the harsh conditions of Auburn prison for a crime he did not commit.\textsuperscript{90} As a result, Freeman scarcely possessed the moral sense of a toddler or, in the words of one witness, “he knows no more of the moral character of an act, than a dog or a cat.”\textsuperscript{91} Seward was, in fact, in the midst of making a name for himself as the strongest opponent of the brutality of modern prisons, and the prison at Auburn was iconically heinous.

*The Democracy of Law or Imperial Asylums?*
Van Buren’s most high-flown rhetoric in closing, however, was reserved for a populist attack on the role of medical experts in such a trial and of the asylum movement more generally. He suggested that the asylum represents government overstepping its rightful boundaries.\textsuperscript{92} Here, Van Buren seemed to be channeling

\textsuperscript{90}Ibid., 222.
\textsuperscript{91}Ibid., 261.
\textsuperscript{92}Ibid., 427-429.
Jeffersonian and Jacksonian polemics against the national bank as he railed against the dangers of the asylum. Van Buren’s assistant prosecutor, Sherwood, also argued that the determination of whether or not someone was insane should be a matter of common sense. Records of the period suggest that what Sherwood was lobbying for was, in fact, most often the case. 93 Most of the insane in the asylums were not diagnosed by a doctor, but by a friend or a family member. In the antebellum period the test of insanity in many of these cases was whether a person was capable of taking care of their property or conducting themselves peaceably through life. 94

Still, Van Buren argued vehemently that the theory that a normal man of common sense cannot detect insanity puts the “Property, Liberty and Life of any citizen into the hands of the Trustees and Superintendents of the Mental hospital.” 95 In such a scenario, he suggested, family members will not be able to walk the street in safety until they “have been swept by a squadron of Doctors.” 96 Moral insanity is dangerous because it suggests that that which induces many to crimes can only be detected “by the tongue and the pulse.” If such a version of insanity is allowed into the courts then the “police should be composed of Physicians and Nurses.” 97

93 Ibid., 181.
95 Ibid., 427.
96 Ibid., 428.
97 Ibid.
Asylums are presented by Van Buren as unpleasant alternatives to democratic social institutions. One can either turn to law that buttresses our society or one can “reject the tried experience and security of the law, and cleave to the subtleties of the Asylum.” Van Buren’s fear in part was that the incursion of experts on mental soundness would unsettle the sanctity of trial by jury. Insanity that alleviates criminal responsibility must be within the comprehension of the ordinary “man of fair capacity” upon which the entire system of trial by jury stands. Indeed, democracy itself depends on the jury being able to adequately answer any question that is posed to them. And, trial by jury, Van Buren waxed eloquent, is “a guard against empires.” Many argued that this Whig conspiracy against law and order meant that the only way to preserve the law was by lynching.

Yet when he talked about the head of Utica asylum, Amariah Brigham, Van Buren abandoned the rhetoric of social control in stunning fashion. Brigham is painted in the eyes of the jury as especially dangerous, as innocently and artlessly citing doctrines that will “convulse society to its centre.” In this, he is likened to a “child playing with Lightning” who doesn’t seem to have the “remotest idea the frightful jeopardy” into which his notions put the life of citizens. While Van Buren had earlier

98 Ibid., 429.
99 Ibid., 427.
100 Ibid., 181.
101 See note 8 above.
102 The Trial of William Freeman, 443.
103 Ibid.
invoked Democratic suspicion of Whig power by suggesting the policing of the streets with tongue depressors, he closed with an opposing nightmare. Brigham and Seward would decimate the Law, unleashing a torrent of blood thirsty free men.\(^\text{104}\)

\begin{quote}
Amariah Brigham’s Want of Moral Culture
There was a great deal of suspicion against Brigham, who had stayed at Seward’s home during the trials of Wyatt and Freeman. Brigham was born on a farm in New Marlborough, Massachusetts, in 1798. His father died when he was young. His uncle, a physician practicing thirty-five miles outside of Albany, began to apprentice him but died suddenly. Brigham subsequently did much to teach himself medicine after procuring a job as a clerk in a bookstore. He began a practice in the early 1820s and soon became a widely regarded surgeon in Massachusetts. He spent ten years practicing in the Connecticut Valley in many of the same towns transformed during Jonathan Edwards’ revivals in the previous century. Between 1832 and 1836 he published four books, which, besides his primary interests in mental and brain maladies, included A Treatise on Epidemic Cholera.\(^\text{105}\)

Brigham was the founder and editor of the American Journal of Insanity, superintendent at Utica asylum, and one of the orginal thirteen medical
\end{quote}

\(^{104}\) Ibid., 450.


Brigham was one of the most important asylum superintendents in America having spent two years directing the Hartford Retreat for the Insane before being asked to take on the job as the initial superintendent at Utica when it opened in 1843. As Isaac Ray served to found the field of medical jurisprudence, Brigham’s published works virtually founded the field of social psychiatry. Brigham, like Ray, possessed an early interest in phrenology and a curiosity about animal magnetism. He believed that phrenology supported the notion that the religious sense is innate in humans. Brigham was also a profound opponent of revivalism. Like Ray, Brigham impugned revivalism not only for its emotionalism but also for its self-centeredness: “enthusiasm is a vain, self-righteous spirit swelled with self-sufficiency, and disposed to glory in its religious obtainments.”

Brigham had already gained somewhat of a reputation for his unorthodox views after the publication of his *Observations on the Influence of Religion Upon the Health and Physical Welfare of Mankind* (1835).

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107 Amariah Brigham, *A Letter from Dr. Brigham to David M. Reese, Author of Phrenology Known by Its Fruits, Etc.* (Hartford, 1836), 5.

Physical Welfare of Mankind. Dr. David Reese wrote a scathing review of the book titled “Phrenology, Known by its Fruits,” claiming it was “atheistical creed.” Moreover, he had already created controversy in the religious press during the first trial he was involved with in Western New York. It was an ecclesiastical trial within the Episcopal church over charges that had been leveled against Bishop Benjamin Onderdonk. After Onderdonk had been accused of drunkenness and lasciviousness, Brigham had testified:

There is a kind of insanity called moral insanity, in which the intellect is not particularly affected, but in which the feeling, the affections, the moral character of the man is changed. … A blow on the head, or a slight disease of the brain may change a person into a liar or a drunkard, or a pious person into a depraved and abandoned villain, at the same time the intellect may not be affected.  

Brigham’s defence of Onderdonk was questioned by the editor of the New York Evangelist who argued that, while he concurred “[t]hat the moral affections of mankind are sadly deranged,” the root cause of this derangement is sin. 

Brigham, more than any other American proponent of the moral cure, connected moral insanity with broader societal problems endemic to the American republic. He believed that society was being confronted with a monumental increase in insanity. Brigham wrote that there were “more cases of insanity in England than Europe, more in

109 Brigham, A Letter from Dr. Brigham to David M. Reese, 3.
111 Ibid.
the U.S. than either.” The reason, Brigham argued, was that there was something downright insalubrious about nineteenth-century American society. Yellow journalism, late-night revivalism, and party politics incited the passions and fomented insanity. The only way to avoid succumbing was a proper regimen of habits, nurture, nutrition, and moral training. For those who had already fallen victim to the incitements of modern life, the asylum offered a purified atmosphere away from society’s pride, vainglory, and titillation. Moreover, in his treatise Remarks on the Influence of Mental Cultivation and Mental Excitement upon Health, Brigham questioned a growing rationalism in society. He argued that many cases of insanity were the result of an emphasis on educating the reason and neglecting to cultivate the moral nature and the will.

A focus on the unhealthy state of contemporary society and its impact on the psyche when used to justify the social exclusion and forcible moral habituation of the asylum was, as Van Buren insisted, profoundly geared toward social control; however, the same view when used to explain crime or as a prescription for the reordering of society proved comparably revolutionary. Brigham, in the trial of Freeman, testified in a way that called into question the possibility of human responsibility in a society that produced insanity. Brigham provided a description of how poor nurture, bad nutrition, and stress become inscribed on the brain in the forms of lesions. Brigham outlined how a maddening society might destroy the minds of those who were constitutionally weak,


causing them to sin heinously the first chance they had.\textsuperscript{114}

Moreover, to the extent the asylum aimed to become a purified and idealized society, it bore striking resemblances to more antinomian forms of Christianity. The language of asylum initially provided an unmistakable avenue for delegitimating the world outside of the asylum, even if already by 1847 a remarkably plainspoken account by an inmate at Utica fairly painted the reality of its mission as a house of horrors.\textsuperscript{115} Brigham's vision of moral insanity was attractive to Seward because of the way it fit into a broader social and political vision. The way Seward crafted the defence of moral insanity in Auburn represented not just a cynical use of a designer criminal defence. Nor was it a scientific concept ripped from the pages of Prichard, Ray, and Esquirol that floated in the ether of an overly-heady juridical and medical world that never had a chance to touch ground in Auburn. Seward worked to make moral insanity his own. In the hands of Seward, the term invoked a revolutionary synthesis of newly minted abolitionist understandings of profound corporate sin with proto-psychiatric understandings of the effects of disordered society on the human will. Abolitionism provided a vivid picture of societal malaise; the psychiatric thought of Brigham provided a lucid description of how such social evils might corrupt the minds of individuals. The people of Auburn were collectively responsible for transforming Freeman into a brute. The responsibility of a political creature such as Seward was to

\textsuperscript{114}The Trial of William Freeman, 308.

right such wrongs by standing up in courtrooms, loudly inveighing against the abuses of prisons, and championing an alternative place of sanctuary.

Brigham was one of the best advocates that those finding themselves in court could have. Brigham was a consummate showman. By the time of Freeman's trial, Brigham had gained a reputation for being able to discern whether someone was insane by sight and was asked on the stand by John Van Buren to verify the rumor. Brigham asserted that one could often tell the insane by the peculiar pallor of their skin. Van Buren then skeptically asked Brigham if there was anyone in the courthouse at that moment who was insane. Brigham scanned the audience methodically and at length, then pointed to a man in the seats and said “there is an insane man.” As Stephen Smith recalled the story some seventy years later, “At that instant a man, as struck by a bullet, sprang from his seat and wildly gesticulating and shouting a volley of oaths against any one who would call him insane, rushed down the aisle towards the bar.” The people of Auburn were in awe. The man was widely known in the community to be insane. Later, Van Buren spread a story suggesting Brigham knew about the man in advance in order to mitigate the force of this spectacle.

Brigham testified that he was quite sure that Freeman, although he started out a monomaniac, was currently close to possessing the total obviation of reason that often


\footnote{117}Ibid.

\footnote{118}Ibid. How Brigham could have known that Van Buren would have taken this particular line of questioning is never addressed.
occurs in cases of incurable insanity.\textsuperscript{119} He argued that there was sufficient evidence before the bar that, when Freeman came out of Auburn prison, his mental capacity and state had undergone important changes. Witnesses had described him as “lively, active, sociable” as a child, and now he was observable as “taciturn, dull, and stupid.”\textsuperscript{120} Brigham forthrightly took it that the brutality of the crime and its apparent lack of motive were further strong evidence of Freeman’s insanity. Van Buren challenged him on this point, inquiring whether, if he were to suddenly shoot one of the jurors, it would indicate insanity. He also wondered whether if he went to rob a hen house, Brigham would diagnose him as insane. These were low balls for Brigham who was able to laughingly quip that, “If you (Mr V.B.) should rob a hen roost to-night, I should think you were crazy.”\textsuperscript{121}

Brigham argued that one of the predisposing causes of Freeman’s insanity was that he had been left as a youth to the indulgence of his passions without mental, moral, or religious culture. Brigham continued that “the indulgence of the passions forms a character that cannot brook control, subject them to violent emotions, and thus lays the foundations of insanity in the passions and affections.”\textsuperscript{122} During cross examination Van Buren jumped on this piece of testimony:

Q. Is a want of moral culture a common cause of depravity as well as insanity?

\textsuperscript{119} The Trial of William Freeman, 417.

\textsuperscript{120} Ibid., 98.

\textsuperscript{121} Ibid., 118.

\textsuperscript{122} Ibid., 295.
A. It is.

Q. Where in the distinction?

A. It is often difficult to tell where depravity ends and insanity begins.¹²³

For Brigham once the mind had been overthrown, the question of whether or not an insane person is responsible for their original habituation seemed to be of little importance. Indeed, it was a question that didn’t seem to concern Brigham at all. It was at the centre of the testimony for the prosecution.

_Thomas Spencer and the Insanity of Crime_

To prove that Freeman was responsible for his own bad habituation despite his profound lack of mental capacity, the prosecution invited Thomas Spencer, a professor (1835-50) and founder of Geneva Medical College, to take the stand. Spencer served as a surgeon in the U.S. Army during the war with Mexico and was president of the New York Medical Association.¹²⁴ The year prior to trial, he had published a book titled _The Chemistry of Animal Life_.¹²⁵ Spencer was a member of the Presbyterian church in Geneva, New York.¹²⁶

As the major psychiatric expert for the prosecution he was much more thoroughly wedded to phrenology for his mental philosophy than Brigham. For his testimony he brought a large chart on which were located twenty-six distinct faculties of

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¹²³ Ibid., 305.

¹²⁴ Willard, _Biographical Memoir of Thomas Spencer_, 1.


¹²⁶ Ibid., 10.
the mind and described how they operated in the case of mental aberration. Discussion of the chart prompted Seward’s assertion that “the doctor overwhelsms with learning universal and incomprehensible.”\textsuperscript{127} The visual aid was dependent on Gall’s phrenological cranial anatomy. Spencer tried to distinguish his phrenology from the popular variation of reading a human being’s temperaments through the bumps on their heads. Still, in a moment under furious questioning by Seward, he suggested that a woman might mistakenly think that she was the queen of England if her bump of ambition was suitably large.\textsuperscript{128}

Spencer gave an artfully crafted discussion of the various faculties and how Freeman possessed each in a crucial, albeit limited, way. Spencer insisted that Freeman possessed “a low order of rational, uneducated mind, but is not insane.”\textsuperscript{129} In truth, his vision of Freeman’s sanity would have barely satisfied Tracey and Hale’s ’Wild Beast' test. As the defence would note, “he demands an entire obliteration of conception, attention, imagination, association, memory, understanding, and reason” in order to verify insanity.\textsuperscript{130} Spencer argued that in the case of Freeman, his sanity was verifiable because he could “to some extent ... combine numbers and can tell a one, three and five dollar bill.”\textsuperscript{131} In order to make the argument that he possessed a conscience, Spencer

\textsuperscript{127}The Trial of William Freeman, 416.
\textsuperscript{128}Ibid., 254.
\textsuperscript{129}Dimon, The Freeman Trial, 59.
\textsuperscript{130}The Trial of William Freeman, 379.
\textsuperscript{131}Ibid., 359.
noted that upon his capture he displayed recognition of the evil of his action by commenting that “if they would let him go this time he would do better.” This was clear evidence, Spencer claimed, that conscience, though small, still existed, and that its dim light still whispered right and wrong to the prisoner. In such a manner Spencer went through Freeman's mind, faculty by faculty, contending that Freeman's possessed all the mental capacity necessary to convict.

Spencer conceded that many of Freeman's acts were perfect exemplifications of insanity, but not the kind of insanity that makes one morally unpunishable. Instead, the kind of insanity Freeman suffered from should be termed the “insanity of crime.”

This category of “the insanity of crime,” as presented, echoed the conviction of the Puritan jurist Matthew Hale that all crime displays, in a sense, “partial insanity.”

For Spencer, Freeman was not insane per se; he was criminally insane. Spencer’s understanding of criminal insanity, though not entirely peculiar for his day, was a far cry from contemporary notions. Criminal insanity as described by Spencer is the deadening of the moral sense that occurs simultaneously with a gradual weakening of habits. In an account that tracked well with gallows sermons, Spencer described criminal insanity coming on slowly and developing over time. A person starts out simply as mischievous – she or he may cheat, start traveling on Sunday, swear, lie, then steal – and then begins to have dreams, can’t sleep, loiters, moves on to bad dreams and

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132 Ibid., 452.
133 Ibid., 121.
134 See, for discussion of Hale and the Wild Beast test, Chapter 3.
then walking at night, drinking, and committing petty crimes. (Walking at night, or somnambulism, was often seen as a quintessential sign of madness in this time period.\textsuperscript{135}) If this route is not checked, it may well end in the crime of murder.\textsuperscript{136}

For Spencer, hallucinations, or what he called “illusions,” are central to his understanding of true insanity. Illusions, according to Spencer, are “false impressions produced upon the mind, resembling precisely impressions made on the external sense.”\textsuperscript{137} These differ dramatically from delusions, Spencer claimed, while defining delusions as errors in the rational process. The truly insane have illusions, and their delusions are based in these illusions. Meanwhile the “sane and the criminally insane have like delusions.”\textsuperscript{138} Spencer went on to argue that there are a whole class of “delusions and defects of rationality under which bad men operate.”\textsuperscript{139}

Spencer was thus able to provide a persuasive general narrative for the jury of how someone gradually deadens the conscience, with an end result that ultimately replicates or mirrors a type of insanity. This narrative matched the one offered by Winfield in his sermon at the funeral of the Van Nest family. Winfield notes, “this monster did not become a murderer at once—it has been by committing smaller

\textsuperscript{135} Ibid., 125.
\textsuperscript{136} Ibid.
\textsuperscript{137} The Trial of William Freeman, 121.
\textsuperscript{138} Ibid.
\textsuperscript{139} Ibid.
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Spencer medicalizes this common narrative of evil self-habituation, making an authoritatively medicalized claim that the individual is responsible for such insanity and the crimes that follow. He calls this state criminal insanity or “the insanity of crime.” Conceptually, this insanity of crime represented a rival medicalization of sin to the one offered by moral insanity. However, this medicalization bore a crucial difference in that it intensified rather than weakening or eliminating moral culpability.

For Brigham, the person who is partially responsible for her or his insanity is still to be pitied and should not be the object of criminal prosecution. For Spencer, the answer to the question of the difference between depravity and insanity is simply a question of the genesis of the insanity. One is culpable if insanity is self-caused. Sylvester Willard, another witness for the prosecution and a member of First Presbyterian, argued that conscience requires proper cultivation and exercise. If the conscience is not properly formed “the individual is responsible for it.” Van Buren followed Spencer and Willard in his closing statement, dictating that “neglected opportunities, willful ignorance, deadened moral sense, and inveterate depravity, will avail as little hereafter as here.”

Interestingly, neither Spencer nor the other major witness for the prosecution was opposed to moral insanity as a diagnostic category. They held to a view of insanity that

140 Ibid.
141 Ibid.
142 The Trial of William Freeman, 121.
143 Ibid., 437.
took it as quite natural that insanity would have to involve the passions and other affective parts of the human being. Still, in Spencer’s view of insanity, the will and the highest part of the brain are effectively bypassed.

Spencer's division of true and false insanity mirrored the theological vision of the Second Great Awakening's prime mover, Charles Finney. Finney's sermon “Moral Insanity,” discussed in chapter one here, characterized 'will madness' as the natural state of all sinners. Freeman, like Finney's common sinner, did not possess the intellectual impairments of the 'true' madman. Freeman, like Finney's sinner, was ultimately responsible for his own bad habituation. He had transformed himself into a brute.

Such a narration of true insanity being an impairment of the “mind” and sin being a kind of chosen obviation of the reason by a malformed will was the strongest theological way used by later detractors to discount the doctrine of moral insanity. It was the view ultimately held in the final chapter by John P. Gray, though it must be noted that Finney overtly recognized little tension between himself and a figure such as Seward, whether on this matter or others. Charles Finney’s career may have been a "dramatic expression of the religious side of the Era of the Common Man," but Finney voted Whig. Finney seems to have borrowed substantially from an article by George B. Ide, Pastor of The First Baptist Church, Philadelphia that appeared in the The American National Preacher in 1841 titled the “Moral Insanity of Irreligious Man,” XV, no. 12 (Dec.): 269-289.

Seward's. Finney had voted in the past for Seward on the Anti-Mason ticket, followed him into the Whig party, and was a firm opponent of the Albany Regency of Van Buren. ¹⁴⁶

A Dogged Commitment to Law

A third way of medicalizing theological notions of sin was offered by Blanchard Fosgate, the doctor of the Auburn prison. Fosgate, a patent doctor and phrenologist, thought that it was sentimental cant to suggest that education would curb crime, but he firmly believed that a “moral government” that went beyond the fear of corporal punishment was necessary for the proper application of prison discipline. Fosgate took the position that Freeman was born a moral imbecile, without moral capabilities, and that he never had a chance of developing into a moral individual. He argued that Freeman should be exempt from the law and that “the law could not impose any rules or regulations upon the human constitution as it is given by the Almighty.” ¹⁴⁷

Van Buren reacted strongly to Fosgate’s line of reasoning and to this last remark in particular. According to Van Buren, Fosgate’s appeal “happens to overturn the precise office of the government, human and divine . . . even a dog in a sound state of mind ought not so entirely overlook the very end for which governments were instituted.” ¹⁴⁸ Van Buren’s retort indicated that he believed there to be no outside of the

¹⁴⁶ Finney’s oldest grandson would devote sections of his memoirs to comparing the two men, suggesting that Finney and Seward’s careers were startlingly parallel. William Cochrane argued that Finney shared basically all of Seward’s political views and would have perhaps gone farther than Seward on account of the former possessing a more commanding presence and speaking voice. William C. Cochran, Charles Grandison Finney: Memorial Address Delivered at the Dedication of Finney Memorial Chapel (Philadelphia: J.P Lippincott, 1908).

¹⁴⁷ The Trial of William Freeman, 233.

¹⁴⁸ Ibid., 436.
law. Presumably, an animal could know enough about punishment and rewards to be subject to New York law. Indeed, one of the more interesting aspects of the trial is how open the prosecution seemed to be to accepting the profundity of Freeman’s diminished capacity (recall that one prosecuting witness pegged him as having the mental capacity of a three-to four-year-old). Freeman may have been a brute, but from Van Buren’s Democratic perspective this should not have placed him outside the law.

**The Question of Negro Personhood**

For Karen Halttunen, humanitarianism had the ironic effect of de-humanizing the same type of criminal that Calvinists had evocatively proclaimed as typically human. It is tempting to see such a possibility in the Freeman case. The prosecution, it would seem, was the one arguing most strenuously for Freeman’s place as an “autonomous subject of the law” while Seward’s approach was to render Freeman as not only “sick and defective” but also as a “ward” whose personality must be forcibly re-shaped by emerging institutions of “medical, paramedical, welfare, and technological enterprise.”¹⁴⁹ However, Seward – and this fits in general with his Whig sensibilities and a therapeutic vision of the moral cure – was much more committed to a social definition of human personhood. That we now see as damnable any mitigation of someone’s status as an “independent, rational, agent” is a proof that, in important ways, classical liberalism and Democratic views of the person were the winner in the philosophical understanding of personhood that divided a Van Buren from a Seward.

Indeed, by using the plea of moral insanity, Seward was accepting Freeman’s

personhood. From a perspective such as Seward’s, being a person is relational. It is premised on a shared relationship with the divine and a shared context of human community. In the course of the defence this was stated explicitly when Seward insisted that Freeman bears the marks of “his maker.”\textsuperscript{150} It also is seen in the context of Freeman’s relationship with the community of Auburn. Specifically, Freeman’s personhood is demonstrated by the very fact that, according to Seward, he makes certain demands on the people of Auburn. They had a responsibility to him as a fellow bearer of the image of God to provide education.\textsuperscript{151} They owed him a fair trial and a chance to function without the onus of prejudice. The people of Auburn, according to the defence, failed manifestly in their responsibilities to him. Rev. Austin made a similar point in his article in the \textit{Evangelical Magazine and Gospel Advocate} when he noted that the community is, “to a certain extent, responsible for the crimes committed in their midst.”\textsuperscript{152}

Moreover, it is precisely Freeman’s ability to be insane and explicitly \textit{morally insane} that speaks most evocatively to his true personhood. Freeman was made to be sympathetically formed in society. He was born a social creature. It was precisely this social nature that made him vulnerable to insanity. In life, Freeman was brutalized systematically. His social, or in the parlance of the nineteenth century, his “moral life”

\textsuperscript{150} \textit{The Trial of William Freeman}, 222, 379.

\textsuperscript{151} Seward quoted the Bible verse, “God made of one blood all the nations of the Earth.” He went on to argue “and that notwithstanding all his ignorance and stupidity, and degradation, he has been a brother man, made in the image of his Maker, and he might have so continued but for the brutal treatment received by him amongst this Christian community.” \textit{The Trial of William Freeman}, 222.

\textsuperscript{152} Ibid., 252.
had been extinguished. Seward, in his defence, quoted extensively from psychiatric luminary Isaac Ray. Ray’s view of personhood was explicitly social: “Our moral and intellectual constitution is constructed in harmony with the external world.” On account of this social construction of the human subject, legal responsibility requires both that “we are endowed with the powers of performing the part allotted to us” and that we are “placed in a situation suitable for exercising and developing them.” Ray goes on to argue that all legal responsibility requires both this intrinsic ability and a “suitable situation.” Seward argued that Freeman was endowed with the powers necessary for full personhood but that he was placed in social situations inhospitable to forming and exercising them.

This does not, of course, mitigate the larger problem, described eloquently by Jeannine De Lombard, that “the abolitionist lawyer's account of the horrific effects of racism on his deranged African American client had indeed conjured a blackness sufficiently monstrous . . .” The social context of poor education and neglect was the context of almost all Northern African-Americans. That begged the question: Even if blacks were not innately incapable of self-control and self-government, hadn't they almost universally been rendered incapable by a racist and diseased society?

154 Ibid.
155 Ibid.
However, along with a striking statement of broad social sin, the defence also insisted that Freeman's social formation had been uniquely brutal. Because of this, one could trace a radical change in Freeman's character. In particular, Seward displayed his opposition to prisoner abuse at Auburn by arguing that Freeman had been driven insane by repeated beatings while incarcerated at Auburn. Freeman's mother testified that before incarceration at Auburn he was intelligent and afterwards he was “foolish and dumpish.”\(^{157}\) Mary Ann Newark argued that he used to be a smart black boy; David Winner reported a marked change from a “sprightly and lively” boy to a “sniveling, sintering, and laughing” man.\(^{158}\) Ethan Worden argued that he had not always been stupid and that as a child he was a “bright, Active Boy.”\(^{159}\)

The case and supporting testimony for the defence had to deal with ambiguities. The defence was attempting to argue for the intrinsic personhood of Freeman while also picturing him as currently brutish and insane. In his opening statement, Seward questioned whether Freeman in his current state could be considered a man, and then goes on to say “he has been a brother man.”\(^{160}\) One of the psychiatric witnesses, Charles Coventry, argued that Freeman’s cognitive capacities were perhaps too low for the diagnosis of moral insanity to actually function and another witness, James R. Cox,

\(^{157}\) *The Trial of William Freeman*, 285, 283, and re-quoted by Seward in closing at 392.

\(^{158}\) *The Trial of William Freeman*, 260.

\(^{159}\) Ibid., 264.

\(^{160}\) Ibid., 222, emphasis mine.
made a similar point when he asserted that he is “not deranged, not enough brain.”

Indeed, so many of the witnesses for the defence compared Freeman to a brute that it caused a writer for the *Syracuse Religious Recorder* to ask: “Why this sympathy on his behalf? Would “anti-capital punishment men” put in a plea of “moral insanity for the animal who has a propensity to kill sheep?” Freeman’s own uncle put things succinctly and flatly stating, “they made him a brute, they don’t do anything with our people except make brutes out of us.”

This rhetoric mirrors the description that Frederick Douglass gave of his life under slavery. Douglass’ *Narrative of the Life of Frederick Douglass, an American Slave*, published in 1845, described how “my natural elasticity was crushed, my intellect languished, the disposition to read departed, the cheerful spark that lingered about my eyes died: the dark night of slavery closed in around me; and behold a man transformed into a Brute.”

As Daniel Walker Howe notes, faculty psychology provided Douglass (and other abolitionists) with a potent critique of slave society: “God has given the slave a conscience, and freedom of will, but the slaveholder took that from him and said he

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161 Ibid., 292.

162 *Syracuse Religious Recorder*, June 18, 1846.

163 *The Trial of William Freeman*, 421.

should not be governed by conscience and his religious aspiration.”\textsuperscript{165} This view resonated with Blanchard Fosgate's later autopsy report on Freeman. Citing the authority of the phrenologist O. Fowler, Fosgate noted that Freeman's “intellectual faculties are not so small,” naturally, but they possessed the “most imperfect development of brain—I ever saw.”\textsuperscript{166} None of the mental balance that phrenology held to be the source of moral life presented itself. “There was no real balance in the brain, it is entirely one-sided.”\textsuperscript{167}

A year after the publication of Douglass' autobiography, establishing the course of the transformation of man into a brute was central to Seward’s legal case, while, alternatively, Van Buren and his colleague Sherwood again and again critiqued those who testified for the defence for presuming that categories of moral philosophy applied to a “demented Negro.”\textsuperscript{168} At the end of his opening statement, Sherwood mocked witnesses for trying to talk moral philosophy to “an ignorant negro” whose mental abilities are better suited to subjects pertaining to the “cell or the cabin.”\textsuperscript{169} Common sense would show that Freeman was just an “unlearned, ignorant, stupid, and degraded negro,” but the “men of learning and science” were more easily deceived and

\textsuperscript{166}The Trial of William Freeman, 504.
\textsuperscript{167}Ibid.
\textsuperscript{168}Van Buren and the prosecution team referred to Freeman (or once his mother) as “degraded,” usually coupled with “negro” (or in the case of his mother “negress”), no fewer than ten times. Ibid. 42, 79, 165, 171, 173, 351, 415, 424, 474, 475.
\textsuperscript{169}Ibid., 183.
were able to convert “natural imbecility and taciturnity” into strong “symptoms” of “mental derangement.”

To contradict the claims of moral insanity the prosecution had to argue that Freeman was responsible for his own inferior moral constitution and that he had always been vicious. The prosecution needed to make the case that Freeman – who, from his deportment at trial, anyone could see had severe intellectual impairments – never experienced a change in character due to trauma. In his opening statement, Sherwood suggested without any evidence ever proffered, that Freeman was “more vicious than ordinary boys” and that he “could not have been otherwise than an ignorant, degraded being.”

Lewis Markham testified that he “was the same as a child” and that he had always thought Freeman to be “shrewd.” Dr. David Dimon testified that he could not see any faculties disturbed and that he was just as he was “when he was a boy.” And further, that “he has the childish expression and contour of features peculiar to those whose intellect has not developed by maturity of years.” Dimon adamantly insisted that it was “imbecility and not dementia.” Dr. Van Epps thought that he “grew demented after he was three years old, and that it was owing to

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170 Ibid., 173.
171 Ibid., 171.
172 Ibid., 387.
173 Ibid., 340.
175 Ibid.
the thickness of his skull contracting his brain.” Dr. James McNaughton, argued that he was “ignorant, depraved and criminal before going to prison.”

Final Outcome
In his closing address, Seward laid ultimate blame for the deaths of the Van Nest family on the shoulders of the local Auburn citizenry, who, Seward claimed, had failed to educate its free black members, then brutally beat the half black, half Native American youngster after unjustly incarcerating him in the now infamous Auburn prison. At the end of his closing statement Seward quotes Freeman’s uncle in full: “They made William Freeman what he is, a brute beast; they don’t make anything else out of our people but brute beasts; but, when we violate their laws, then they want to punish us as if we were men.” Van Buren defended the law against all challengers, theological or medical. He painted Freeman as “vicious and intemperate,” responsible for his own bad moral habituation and as a constitutionally inferior member of a degenerate race. Indeed, as Van Buren wrapped up his case, he drew directly from Ray’s discussion of the distinction between the “morally insane” and a merely wicked man.

176 Ibid., 62.
177 The William Freeman Trial, 321.
178 Ibid., 395.
179 Ibid., 421.
180 Ibid., 424.
181 Ibid., 458. In the psychiatric literature of Ray, tension in this area was central. In the Treatise on the Medical Jurisprudence of Insanity, Ray set about to distinguish moral insanity from crime. He argued that the morally insane have no motive, no accomplices, no remorse, shed more blood than necessary, sometimes plan, but rarely hide what they are doing, and show striking and peculiar character changes (127-72). The normal bad man, on the other hand, has a motive (even though it might be petty), often has accomplices, won’t confess, flees, attempts to
Judge Whitney’s charge to the jury was open both to a McNaughton standard – suggesting that the defence “must prove that he is laboring under such a defect from disease as not to distinguish right from wrong” – and also open to the possibility of moral insanity insofar as Freeman might be suffering from deep within, that “some disease was the acting power within him.” As such, the charge given at the trial was much closer to the Modern Penal Code’s stated concern to include both the McNaughton standard and an irresistible impulse clause. In the words of the court, the defence needed to have proven that “[Freeman’s] moral and intellectual powers are so deficient that he has not sufficient memory, will, conscience, or controlling powers, or if through the overwhelming violence of mental disease his intellectual power has for the time been obliterated.” To prove that Freeman was acting under the impulse of delusion in this instance, the judge invoke the standard he had gleaned from a contemporary case of Andrew Kleim, who had recently been found not guilty on account of moral insanity.

avoid discovery, acts for some selfish end and from his earliest youth is dominated by an “instinct of ferocity” (170-71). Both sides argued that Freeman indubitably displayed one or the other set of activities. Yet Ray’s accounting included undeniable similarities between the wicked and the insane that his thinking did not properly address and that carried into the trial. For, while the foregoing sets of activities suggest a bright line between punishable crime and madness, Ray had argued that human evil can result from either a defective constitution or an evil education. He had also described moral insanity as involving either a loss of faculties or an improper environment and social formation (200).

182 Ibid., 469.
183 While the Model Penal Code, designed by a large team of U.S. legal scholars and prominent lawyers and meant to aid states in the making of criminal law, suggests including both knowledge of right and wrong and an irresistible impulse clause, fewer and fewer states follow this model. As noted in a previous chapter, “As of 2007, 16 states still incorporate” the irresistible impulse standard or some other “volitional prong in their definitions of insanity defence,” Ira K. Packer, Evaluation of Criminal Responsibility (Oxford: Oxford University Press, 2009), 14.
184 The William Freeman Trial, 377.
185 “Article VI. Homicidal Insanity,” American Journal of Insanity 2, no. 3 (January 1846): 245–266.
Upon deliberation, the jury found Freeman guilty of murder and sentenced him to hang. On appeal, however, Cyrus Davis’s refusal in the preliminary jury proceedings wound up sparing Freeman such an ignominious demise. The compromise Davis accepted, that Freeman was “sufficiently sane in mind and memory to distinguish right and wrong,” was considered insufficient according to New York’s higher court. Insufficient, that is, with regard to the law passed on Seward’s watch as governor. A new trial was ordered and set a few months hence. Seward asked Brigham to give him the name of the one hundred most prominent experts on mental illness in New York and beyond. He was prepared for an all-out onslaught. In the interim, Freeman died suddenly in jail.

The question of Freeman's personhood was addressed in an incredibly complicated context. However, it is important to recognize that the defence's claim of “moral insanity” was characterized by the prosecutor, John Van Buren as an inappropriate intrusion of religion. Moreover, editorialists worried that Seward's advocacy of the concepts would lead to an outright Universalist system of punishment.

In a broader world of print, the Freeman murder trial would expose profound anxieties about African-Americans' capacity for citizenship. In Western New York's burned over district, Christians of all stripes were trying to navigate the theological

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188 See DeLombard, “How Freeman was Made a Madman: Race, Capacity, and Citizenship,” In the Shadow of the Gallows ch 5.
ramifications of new practices of punishment. While the gallows were understood
theologically to be at the vanishing point between civil law and divine law, between
human judges and the Divine Magistrate, in the 1840s many were still struggling to
place a relatively new institution of correction - the reformed prison, or penitentiary.
Foes of capital punishment wondered whether the penitentiary had moved far enough
away from the shadows of the gallows and whipping post; proponents of the gallows
wondered whether the prison was governed by a spirit of false sympathy that was
perilously close to Universalism.

This leaves us with an insight into how the asylum might have been understood
against the background of nineteenth-century discussions of law and grace. Asylum,
not in the sense of retreat from the world’s troubles, but according to an older meaning,
as a city of refuge, a shelter from the law’s vindictiveness. The fear that lawyers, with
the help of asylum doctors, were trying to explain away individual culpability was an
important part of the culture wars in Cayuga County in 1845. Yet, the actual use of
moral insanity was more complicated than just an attempt to medicalize crime. In the
trial of Henry Wyatt the charge of moral insanity was just as much a critique of prison
discipline as it was an excuse for Wyatt's behavior. Similarly, moral insanity and
homicidal monomania as employed in the Freeman case was a means of highlighting
the evils of the prison that had turned Freeman into a kind of retributivist monster
whose only desire was to get paid. It was, even more so, a way of highlighting the
failures of local society to properly teach and participate in the moral formation of their
For those arguing for moral insanity, questions of individual sin and moral responsibility were not nearly as interesting as the way in which the broken mind of the individual could provide evidence of collective disease. For this reason it was attractive to men such as Austin, who held a religious commitment to collective responsibility; or, to Fowler, who attempted to formulate a kind of spiritual republic and wanted to highlight the degree to which the continuance of force was forestalling a broader societal transformation. Or, finally, to Seward, more pragmatic perhaps, but who also believed deeply in the need for proper, publicly available education in the moral formation of individuals. Asylum medicine, at least theoretically, provided an alternative to the retributivist model. With its fundamental narrative of the “incurable” madman healed through gentleness and a revocation of punishments and cruelty, it would provide a template for understanding new ways of moral formation, forms that would be enticing to those seeking new ways of understanding the link between morality and punishment, between society and the most heinous acts of the individuals within them. The radicality of that newness, and the profligately politicized grace it entailed, was too much, it would turn out, even for one of the most revolutionary geographical regions of nineteenth-century America.
Chapter 3 **Voice of Unreason**

**Introduction**

Michel Foucault argued in *Madness and Civilization* that in the age of the asylum, madness was finally silenced. Folly no longer rose up and denounced society; its raging condemnations were transformed into a radical incurvature of the self. Prophecy was ended. The age of reform and the moral cure accomplished what prisons and bars and muzzles could not—a silencing of madness’s critique.

Confinement, prisons, dungeons, even torturers, engaged in a mute dialogue between reason and unreason—the dialogue of struggle. This dialogue was disengaged; silence was absolute; there was no longer any common language between madness and reason; the language of delirium can be answered only by an absence of language, for delirium is not a fragment of dialogue with reason, it is not language at all; it refers, in an ultimately silent awareness, only to transgression. And it is only at this point that a common language becomes possible again, insofar as it will be one of acknowledged guilt … In this inveterate silence, transgression has taken over the very sources of speech.¹

The mad were repressed and their discourse silenced. Or so the story goes.

While Foucault’s conclusion in *Madness and Civilization*, derisively termed by some as the “social control thesis,” has been roundly challenged, few historians have provided an alternative to his view of power and in particular to his understanding of religious authority.² In nearly five decades since the publication of *Madness and Civilization*, criticism of Foucault’s work pales in comparison to Foucault’s own critique.

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The best way to re-read *Madness and Civilization* is through the lens of Foucault’s magisterial conclusion in *The Will to Know* (more commonly referred to as *The History of Sexuality*) that power is not only prohibitive but, more fundamentally, productive. Indeed, power is not an entity that can be possessed or alternatively that someone can be dispossessed of; rather it is constantly mobilized in the “interplay” of innumerable “nonegalitarian” relations.” Working from this view of power we might get a more complicated idea of how power, and specifically religious power, functioned in the asylum. Thus, against the suggestion that religion is a mere mask for economic interest, or that religion was distilled in the asylum into a fatally flawed yet pure benevolence, or a view that emphasizes a sharp distinction between licit and illicit religion, this chapter aims to establish that religion in the asylum was both a powerful method of social control and a particularly unwieldy one. The moral cure and the concept of moral insanity, while often a powerful form of social control within the asylum, was also a de-centering ideology when applied by asylum doctors outside of it. Moreover, its application often allowed for exactly the kind of dialogue between reason and unreason that Foucault’s initial work deemed as silenced.

After a brief summary of *Madness and Civilization*’s understanding of religion and the moral cure and a representational review of works on the American asylum since Foucault, this chapter follows the twists and turns of two journals produced by the New York State Lunatic Asylum at Utica, *The Opal* and the *American Journal of Insanity (AJI).*

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It seeks to demonstrate that during the age of moral cure the conversation between rationality and insanity was not silenced but re-constituted within changing structures of power.

Foucault, Religion, and the Moral Cure

The moral cure was a method of caring for the insane that focused on environmental causes of insanity. Many theorists in the nineteenth century argued for a social-structural or moral aetiology for the perceived precipitous rise in insanity. Modern society with its fast pace and individualism caused insanity. In the face of society’s vexations, only the well-habituated survived. Asylum reformers suggested that habits of work and leisure, a regular schedule, good nutrition, improved environments, education, and nurture would stem the rising tide of madness. For those already victim, the asylum held itself out as a place to recover.

Madness and Civilization posited the moral cure as a method of control that used, in part, the power of an overwhelming religious cosmology to silence the mad. Indeed, madmen replace the leper as society’s scapegoat in Foucault’s post-structuralist presentation of the moral synthesis after the Reformation. The leper, Foucault argues, had been excluded to ensure her own salvation as well as the salvation of society at large. Lepers lived in a state of a “rigorous division which is social exclusion but spiritual reintegration.” Foucault argues that in the classical era (post-Reformation and

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4I have written about this aspect of Foucault’s work elsewhere in a paper on Foucault and Max Weber entitled “Rationalized Labor: the End of Enchantment?”.

5Foucault, Madness and Civilization, 260.
Renaissance) it is those who will not or cannot work, especially the mad, that occupy the haunted place in the moral universe once possessed by the leper. The asylum played out its special place in the modern world by creating a “uniform domain of legislation, a site of moral synthesis” where insanity was eliminated by three principles: silence, recognition by mirror, and perpetual judgment. 6 Foucault argued that early asylums were either blatantly religious, as was the case with William Tuke, or, where ostensibly irreligious, still bore the prohibitive power of a religious worldview, as was the case with Philippe Pinel. 7 For Tuke the asylum was an absolute religious domain: “a place of religious segregation for the sake of moral purification.” 8 For Pinel, the asylum became “a religious domain without religion, a domain of pure morality, of ethical uniformity.” 9 While Tuke, the Quaker, worked for a religious segregation of friends, Pinel worked towards a “social segregation that would guarantee bourgeois morality a universality of fact and permit it to be imposed as law upon all forms of insanity.” 10 Tuke’s asylum, directly, and Pinel’s asylum, indirectly, offered cure through the use of a sweeping moral cosmology; the moral cure was powered by the ban, excommunication, guilt and confession, silence and introspection.

**Challenges to Foucault**

Until recently stories of religion in American asylums have focused on

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6 Ibid.
7 Ibid.
8 Ibid., 244.
9 Ibid., 244.
10 Ibid., 259.
repression.\textsuperscript{11} There are whiggish histories that narrate the transition from viewing insanity as a species of sin to understanding it as a species of illness. In these histories, the moral cure is an example of a religious view of mental illness in desperate need of secularization.\textsuperscript{12} Another group of histories can be broadly classed as the “social control thesis” or social crisis thesis and include those of Rothman and Skull.\textsuperscript{13} In these histories, the moral cure is a justifying ideology that smears the veneer of disinterested benevolence over interested economic and social strategies. Gerald Grob, meanwhile, tends to downplay the role of religion even while arguing for the disinterested benevolence of social reformers.\textsuperscript{14} A recent group of studies more interested in a “micro-physics” of power have explored the ways in which individual families arbitrated between what behaviour was licit and illicit.\textsuperscript{15} In these situations it was an inmate's family's view of morality, right doctrine, and excessive religious fervour that was the most important factor in determining what religious expressions were within

\textsuperscript{11}The one exception is Robert Whitaker, Mad in America: Bad Science, Bad Medicine, and the Ensuing Mistreatment of the Mentally Ill (Cambridge: Perseus, 2002). Whitaker points out, among other things, that the ‘cure rate’ for initial Quaker experiments (before the state took over their projects) in country living arrangements was, in fact, much higher than the cure rate of any ensuing mental illness regime, and that including the present deinstitutionalized, pharmaceutically based structure.

\textsuperscript{12}Edward Shorter, A History of Psychiatry: From the Era of the Asylum to the Age of Prozac (New York: Wiley, 1998). For Shorter, the rise of a properly scientific and medicalized view of insanity began in the late nineteenth century, but was unfortunately interrupted by a long regnant Freudianism. Thankfully, according to Shorter, reason and proper science have regained the upper hand and are now triumphally tackling mental illness at its final root in physical malfunction.

\textsuperscript{13}Rothman, The Discovery of the Asylum; Andrew Scull Social Order/Mental Disorder: Anglo-American Psychiatry in Historic Perspective (Berkeley: University of California Press, 1989).


\textsuperscript{15}Nancy Tomes, A Generous Confidence: Thomas Story Kirkbride and the Art of Asylum-keeping, 1840-1883 (Cambridge: Cambridge UP, 1984) and Ellen Dwyer, Homes for the Mad: Life inside Two Nineteenth-Century Asylums (New Brunswick: Rutgers UP, 1987).
the realm of reason. Yet another group of thought generally tracks with the social control thesis and examines certain religious groups that were considered socially deviant—spiritualists, Millerites, and revival goers—and shows that such groups were more likely to be considered insane.\textsuperscript{16}

Of the views put forward, the last two are most useful insofar as these scholars tend to generalize less about “religion” and focus more on specific religious groups, practices, and beliefs. Moreover they tend to view religion as a form of control \textit{and} as a form of revolt. As far as the moral cure was concerned, all religions were not equal. While some religious practices inculcated a balanced mind and staid will, others debilitated health, over-stimulated the will, and weakened the mind. Robert Burton’s \textit{The Anatomy of Melancholy} (1621) introduced a charge that would become prevalent in the age of the Great Awakenings when he suggested that Puritans are particularly prone to a form of madness called “religious melancholy.”\textsuperscript{17} In the eighteenth century, religious insanity was most often attributed to Methodists, and in the early nineteenth century the charge was most often levelled against Finneyites and Millerites. As Ronald Numbers writes, by the nineteenth century, “the idea that religious zeal was a mental disease had become a ruling-class shibboleth.”\textsuperscript{18} Indeed, some of the first inmates of the Utica asylum (mid-1840’s) were the religiously insane and included disappointed

\begin{footnotes}
\item[17] Ibid. 100.
\item[18] Ibid. 101.
\end{footnotes}
Millerites. One might fancy that all such individuals were transformed into more or less staid Presbyterians; however, little is known about curative methods used with religious enthusiasts.

In an earlier chapter, it was noted that stories of declension from sin to insanity are over-simplified and only work insofar as a particular type of Calvinism is taken to be the norm. From early on, asylum superintendents appear to have invited such stories by participating in competitive battles with religious forms they took to be insalubrious. Indeed, it was not just religious sects that worried American superintendents. American asylum superintendents at times expressed fear that having Protestant clergy of any variety proved an impediment to a curative atmosphere. In an article in the *AJI*, Isaac Ray began by noting the difference between the “English” and the “French” method of asylum governance. He wrote that the British public “is disposed to attach an undue importance to religious exercises in the moral treatment of the insane.” He went on to say that they “make the common mistake of supposing that in mental as well as bodily disorders, the patient is equally willing and able to profit by the consolations of religion.”

While French asylums were far from irreligious, religion functioned in these asylum in much more proscribed ways. Ray suggested that the contrast may lie in the


20 Ibid., 379.

21 Ibid.
different ways in which Protestant and Catholic clergy understand their vocation. The Priest affects the senses, gives consolation to the heart, and acts as a powerful sanction; the Pastor moves the reason, incites conversation, and calls for willed action. The Protestant clergy often upset the fine-tuned work of the asylum, aroused passion, gave undue attention to lunatic ravings. Any attempt to allay the fears of the insane—that they are damned, that they have indulged in the unpardonable sin—only served to incite their own feelings of importance. This did not mean, according to Ray, that a Protestant pastor could never be a helpful adjunct to the curing process. But “[w]hen it happens, the chaplain is a man of yielding nature, ready always to surrender his own views when conflicting with those of the medical officer. And always willing to make himself useful.” The implication was that, as a rule, Protestant clergy were not such a useful, obliging class of folks, willing to give their moral sanction to asylum processes. In light of such concerns, while chapel evolved into a standard feature of the American asylum, the privilege of attending to chapels was eventually left to those who were well controlled and least taken to flights of religious fancy.

**The Utica Asylum and Its Two Journals**

The Utica asylum was built in 1843 and was one of the first state-funded asylums in the United States. Its imposing Greek-revival façade punctuated the farmland of Oneida County. There is probably no better place for studying the interrelationship of religion and the emerging field of psychiatry than here at the very heart of the burned-over district. Utica was a centre of commercial expansion, the cradle of the emerging

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22 Ibid., 382.
middle-class, and the site of some of Finney’s largest revivals. While the name burned-over district was originally a denotation of spiritual approbation—hard hearted, spiritually dead—it proved to be anything but. Whitney Cross’s analogy of verdant new-growth after a forest fire remains an apt one to describe myriad new religious and reform movements that emerged out of western New York in the nineteenth century.

Amariah Brigham and the Moral Cure
Amariah Brigham was discussed in the previous chapter, where he served as a critical witness for the defense in the trial of William Freeman. Throughout his career he was influential in crafting a particularly American version of the moral cure that began to stress a more physical aetiology of insanity. In particular, Brigham distinguished the causes of insanity into predisposing and exciting: predisposing (heredity), exciting (bad habits, debt, revival, drinking). However, Brigham was still deeply committed to the moral cure and named the following as central to caring for the insane: “removal of the insane from their homes and past associations, kind treatment, manual labour (in most cases), attendance at Sunday religious services, the inculcation of regular habits and self-control, and the diversion of the mind away from morbid turns of thoughts.”

While Brigham enjoined Sunday religious services, he still thought that too much religious expression was insalubrious. In the category of unhealthy religious expression


25 Dwyer, Homes for the Mad, 62.

26 Ibid., 63.
he counted usual suspects such as emotional revivalism, late night camp meetings, and the rappings of Spiritualism. However, he also considered baptism and communion to be both mentally and physically debilitating.\textsuperscript{27}

Brigham laid the groundwork for two publications during his tenure at the Utica asylum, the \textit{American Journal of Insanity (AJI)} (which has since become the \textit{American Journal of Psychiatry}), and a literary digest authored and edited by patients of the asylum, which would not see the light of day until after his death, under his successor, Nathan Benedict. That journal came to fruition the year after Brigham's death in September of 1849, as \textit{The Opal}, whose \textquoteleft\textquoteleft first issue in 1850 was pen-printed and distributed only within the asylum.'\textsuperscript{28} Brigham began the \textit{AJI} as a way to consolidate an emerging but far-flung profession. In the first edition Brigham attempted to print a comprehensive list of American asylums, but had to admit that there were many whose existence might only be a rumour. For instance, of a possible asylum in North Carolina he writes, \textquoteleft\textquoteleft don't know where it is at\textquoteright\textquoteright and of the asylum at Midgeville, Georgia \textquoteleft\textquoteleft know nothing of its condition.'\textsuperscript{29} Brigham took great interest in the \textquoteleft\textquoteleft progress of periodical literature of the lunatic asylums.'\textsuperscript{30} In an 1845 article he included a comprehensive list of periodical literature on asylums. Brigham approved of the sentiment that

\textsuperscript{27}Ibid.

\textsuperscript{28}Benjamin Reiss, \textquoteleft\textquoteleft Listening to Patients: The Opal as source,'\textquoteright in \textit{Disability History Museum} \url{http://www.disabilitymuseum.org/dhm/edu/essay.html?id=71} accessed 20\textsuperscript{th} July 2012. \textquoteleft\textquoteleft The next issues were sold at an asylum fair; and by 1851, the journal was published on the asylum’s printing press, which also published the \textit{American Journal of Insanity}, ... By the end of its first year it had over 900 subscribers and an exchange list of 330 periodicals, which went into the asylum’s considerable library. Its run extended until 1860, when it fell victim to the demise of the moral treatment movement that promoted it.’

\textsuperscript{29}Amariah Brigham, \textquoteleft\textquoteleft Number of the Insane and Idiotic, with a Brief Notice of the Insane Asylums in the United States,'\textquoteright \textit{American Journal of Insanity} 1 (July 1844): 78-88.
“democratic institutions,” such as the press, “have a general tendency to liberate the mind from the shackles imposed upon it by despotic governments.” In this sense, the AJI “conveys a new idea” one that will lead to better care for the insane.

The Opal, Habermas, and Public Rationality

The Opal was originally conceived, though never launched, by Amariah Brigham as a part of the moral cure. In his 1845 article on the periodical literature of insane asylums he included several patient periodicals. During the Freeman trial, Van Buren quizzed Brigham on his testimony that prisoners at the Utica Asylum engaged in such activities as orations, painting portraits, letter writing, and piano and poetry recitals. In early editions of The Opal there is a definite feeling that some of the literature was generated in Brigham’s experimental classroom: acrostics, vignettes on various diversions at the asylum, and essays that reflect on a famous quote. The task of structured writing fit into the ideology of the moral cure: writing was meant to curb the imagination, not excite it; to channel expression, not to create it. Or as the editor wrote of The Opal, it was to be “an organ of intellect, modified, subdued, confirmed, unto ‘wisdom’s ways,’ by the science humane of the New York State asylum at Utica.”

31 Ibid.
32 Ibid.
33 Ibid.
34 The Trial of William Freeman: For the Murder of John G. Van Nest, Including the Evidence and the Arguments of Counsel, with the Decision of the Supreme Court Granting a New Trial, and an Account of the Death of the Prisoner, and of the Post-mortem Examination of His Body by Amariah Brigham, M. D., and Others (Auburn: Derby, Miller & Co., 1848), 301.
35 A.S.M. “The Editor’s Table,” The Opal 2 (1852): 28.
Benjamin Reiss suggests that writing for *The Opal* might have functioned as “work” for those whose past station in life had made them ill-disposed to manual labour.\(^{36}\) The first issue of *The Opal* bears this epigram: “The Opal—devoted to usefulness.” *The Opal* functioned as more than just occupational therapy, or a pleasant diversion; it was a critical part of the creation of a therapeutic atmosphere at the Utica asylum.

As discussed above, many reformers envisioned the asylum as a purified society. In this light, is it possible to view a literary journal for the insane in the context of a widespread nineteenth-century claim that modern society, and in particular modern politics, unnaturally taxed the reason and fomented the passions? Isaac Ray specifically attacked yellow journalism for titillation of desire and manipulation of the reason.\(^{37}\) A literary journal within an insane asylum could be seen, in part, as one of the mechanisms of a totalizing institution insofar as it attempted to “create” an artificial, purified public sphere for therapeutic reasons. Here, we might pause to refer to the prominent place that early literary journals hold in Jürgen Habermas’s understanding of ideal public discourse.\(^{38}\) While readily debatable, a prime candidate for a high-water mark in a re-feudalizing of an American public sphere is the decade before the civil war. Here, in the march toward war, civil discourse broke down and an intense politics of private interest (the small percentage of slave-owning citizens in the South) won for


\(^{37}\)Ibid., 3.

itself concession after concession. In the North the accepted form of rational discourse (premised on Reidian, Common-Sense Realism) broke down in the midst of a violently adversarial relationship between abolitionist and anti-abolitionists. In light of a society thus dis-eased, might not an asylum’s possession of a debating society and creation of a literary magazine be viewed as an attempt to reconstitute a bourgeois public sphere in the face of simultaneous and substantial losses with respect to the public sphere? Interestingly, Habermas’s proposal of inter-subjective communication processes was a way of reclaiming subjectivity in the face of its disappearance in the work of Adorno and Horkheimer. Should we consider the possibility that the project of nineteenth-century asylum superintendents consisted of literally trying to reconstitute the insane as rational and willing subjects through an enforced practice of discourse?

Indeed, contributors to *The Opal* wrote, in the first few years, as if they were participating in a Habermasian public sphere. The editor spoke as though he was immersed in a lively debate with other esteemed publications such as *Godey’s Book for Ladies, Oberlin Evangelist, Niagara Cataract, The Cygnet, Cincinnati Volkfreund, Journal of Missions, Temperance Messenger*, and *Harpers*. The editor spent several pages of each edition summarizing, praising, and criticizing these other esteemed publications. The editor was at his most giddy when such publications deigned to mention “our little

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41 A.S.M, “The Editor’s Table,” *The Opal 1*, no. 1 (1851): 2.
The Opal embraced a broad range of forms—letters to government officials, poems, plays, short stories, essays—and a broad range of topics—politics, immigration policy, religion, criticism of art and literature, and medical jurisprudence.

One contributor railed against the deterioration of advertising. In an article titled “Murderers Abroad,” the writer criticized an advertisement that bore the same slogan. For three solid paragraphs the advertisement had warned the reader to be wary of quack doctors and their nefarious patent medicines, even going so far as to suggest that: “Patent-medicine-doctors were the veriest knaves and scoundrels that ever disgraced the face of the earth.”\(^4\)\(^3\) Ironically, the inmate author observed, for all its outrage, the advertisement itself was simply ballyhoo for a rival brand of patent medicine. Another contributor insisted that printing was a “medium of intelligence and virtue” and declared, “the first and last office of American Democracy is to communicate the most desirable information to the people.”\(^4\)\(^4\) Indeed, the author continued, if truth were not provided by the media, then the nation would be trapped in a web of vain imagining and insanity would be the sure result: “the danger is that the imagination will lead astray into the mazes of Insanity, and lead men to pursue the phantasies of their own creation, rather than to build on to reality of necessity, or the standard unalterable foundations of all glorious truth.”\(^4\)\(^5\)

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\(^4\)\(^2\) Ibid.


\(^4\)\(^4\) Ibid., 117.

\(^4\)\(^5\) Ibid., 118.
public, the dangers of outrageous advertising, and the necessity of truth for the health of democratic society were not lost on contributors to *The Opal*.

The creation of asylum literary magazines such as the *Retreat Gazette* at Hartford, *The New Moon* in Scotland, the *Asylum Journal* in Vermont, and *The Opal* at Utica suggests that asylum doctors did not only use the moral cure to form a subjectivity in patients ‘where silence took over the sources of speech,’ but they also sometimes impelled patients to speak, to speak of their madness, to speak of religion and crime. In part, patient speech was called forth to evidence the curative power of the asylum, to prove the extent to which the chains had fallen off. However, this calling forth of speech was deeply couched in nineteenth-century rhetoric on freedom of the press and the importance of publicity. And while this call to discursive production was curtailed by and deeply infused in methods of asylum control there were moments of genuine critique—moments in which patients seemed to call into question the theological presuppositions at the very heart of the moral cure.

The “true religion” promoted in asylum medicine was believed to create mental order and balance. However, true religion was also constructed against a Calvinist understanding of the law that married divine will with civil obligation. Many early asylum doctors, in their vehement critiques of contemporary forms of the insanity defence, publicly presented a particularly low estimation of state law. The law was seen, at best, as the bearer of a basic, primitive morality; at other times, defenders of the moral insanity defence could be antinomian, understanding their work in opposition to
the law. Like true religion they sought to reclaim tormented souls—giving them asylum from the terrors of the law.

Religious Language to Criticize and Converse

Religious language was able to function for the inmates at the Utica asylum as a common language, one that they shared with asylum superintendents. Indeed it was often through religious language that writers in *The Opal* questioned asylum keeping and engaged in a conversation with the lordly asylum superintendents who wrote for the *American Journal of Insanity*. Any number of examples might be used to show that religious language was used by writers in *The Opal* to question the ideology of the asylum itself. While there was certainly an obsequious character to much of the writing in *The Opal*, the authors sometimes effectively used the language of religion and popular religious movements to challenge asylum keeping. There is perhaps no better example than the piece, “A Dialogue between Two Southern Gentlemen and a Negro.”

In this dialogue a direct parallel is made between asylum keeping and slave keeping. The peculiar institutions are cleverly linked by the proposition that an excess of freedom causes insanity. The dialogue begins with a slave named Bob inquiring about his master’s recent travels. Major Bell had been away visiting various philanthropic institutions’ “asylums for the indigent, ignorant, lunatic, the blind, the poor, widows, and orphans.” Bob initially feigns ignorance about asylums and asylum keeping. He asks, “asylums! What in the name of seven stars are they?” To which Major Bell

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47 Ibid., 151.
answers, “An asylum is a retreat from the world’s cares, a refuge from sorrows.”

Bob soon makes Major Bell the fool by giving him an extended lecture on Pinel, Tuke, and Esquirol and suggesting that he should read the _American Journal of Insanity_. In no time at all, the slave in the dialogue cleverly connects the understanding of the asylum as a refuge with the rhetoric of many Southern slaveholders to the effect that they are protecting their slaves from the perils of freedom. He asserts, “I know my dear and respected master what asylums are, and I know that you are one of their friends, and Master Calhoun says my black brethren are less liable to insanity when enslaved than when free.” There is a natural connection between the slaveholder being a friend of slavery and a friend of the asylum. This would most likely have been jarring to many of the friends of the asylums who were also friends of abolitionism. The writer of _The Opal_ thus highlighted an undeniable tension between the rhetoric of the abolitionists that made freedom a fundamental human right and the ideology of the asylum that considered an excess of freedom to be dangerous.

If that were the full extent of the argument, this article would stand on its own two feet as a trenchant argument against the ideology of the asylum. But the article goes much further in suggesting that the ideology of the asylum really ought to mean the advent of a reign of absolute mercy, even for the worst of criminals. In the

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48 Ibid., 152.
49 Ibid., 153.
50 Indeed, the third superintendent of Utica, John P. Gray, is believed to have sheltered Gerritt Smith, one of the financers of John Brown’s raid, in the Utica asylum so that he could escape prosecution.
beginning of the article, Bob takes on the argument that the asylum is a “refuge” in the sense that it prepares the weary traveller for duty on the pilgrimage of life. Bob counters with another understanding of refuge more in keeping with Old Testament conceptions of a city of refuge where those accused of a crime run for protection against retribution. What’s more, the insane asylum is a harbinger of a time when “all will congregate in Heaven forever and forever. The Parricidal, the Fratricidal, the Homicidal, the Burglar, with the Patriot, the Statesman and the Christian.”51 What is remarkable is that the writer of this piece is not just making claims about the state of the parricidal, but also concerning his own state and treatment. The idea that madness is an excuse to be outside the laws of society is used in the discourse to suggest that incarceration of the mad no longer makes any sense, nor does rigorous training in virtue within the asylum. What makes sense, according to Bob the slave, is a radical course of action that will free the insane, the slave, and the criminal. Another author featured in The Opal argues similarly, suggesting that America must not devolve into an ancient Israel—a slave to the law. The laws of criminal punishment “were made by Moses, in a new country among uncivilized people, dissatisfied and quarrelsome.”52 There should be a new law of grace in America, “we are a christian people. Bibles and school-books on every table, our Sabbath day is changed from Saturday to Sunday, why not do away with these old laws in a measure, or alter them to our enlightened age.”53 Together

52 Anonymous, “To His Excellency Governor Hunt,” The Opal 2, no. 5 (1852): 134.
53 Ibid.
these *Opal* authors argue that the way the current state acts, it treats alike all subjects of grace as lunatics.

Another particularly relevant piece in this vein begins with a suggestion that insanity is entirely the fault of the insane, “there is a difference between those who exert themselves to please the great God, in every thought and word and act, and those who go with the great mass and their mind stagnates.” ⁵⁴ However, the article makes a sudden turn to suggest that it is not the mad whose mind stagnates but everyone else’s. The author denounces the pride of those who can face the mysteries of this world in declaring, “I am Sir Oracle, Here I am to tell you who the sane and the insane are.” ⁵⁵ Asylum visitors are then condemned as those who cannot cast into “the treasury of insanity something more valuable than pitiable looks and word.” ⁵⁶ The article ends with a denunciation of the voyeurism that the *Opal* invites: “shame on the throng of visitors, for shame on the editors who read what madmen write.” ⁵⁷

It is also through the use of religious language that some of the writers of *The Opal* insert themselves into the debates raging in the *American Journal of Insanity*. These series of articles often discuss the topic of insanity in a tone remarkably similar to the *AJI*. One article in the series “psychological jurisprudence” includes a review of the recent literature in Medical Jurisprudence. The author judiciously weighs each book’s


⁵⁵Ibid.

⁵⁶Ibid.

⁵⁷Ibid.
respective usefulness for answering vexing legal questions before finally favouring the
AJI’s choice on the matter, “Beck’s Medical Jurisprudence.” As is noted in another
article, “we refer with more pleasure to Doctor Beck’s from a personal feeling a la mode
esprit de corp.”\textsuperscript{58} The author goes on to say that his own work, while not as systematic,
“is offered as a kind of bouquet to adorn such ponderous and elaborate tomes.”\textsuperscript{59}

The authors of The Opal often wrote as if they were in a direct conversation with
the editors of the AJI. They not only reviewed books that the AJI had previously
reviewed but also directly referred to articles in the AJI. For instance, one writer in The
Opal referred to John P. Gray’s article on the insane poor, heaping praise on it as a “very
able and interesting view of a momentous subject and one that people should become
more personally interested in.”\textsuperscript{60}

\textit{The Opal, AJI, and the Trial of John Windsor}

In the January 1852 edition of the AJI there was a full description of the trial of a
Captain John Windsor, a seventy-year-old Delaware man who was eventually convicted
of killing his twenty-four-year-old wife. This 1851 case represented the beginning of an
infiltration of McNaughton standards into the American legal system. The McNaughton
rule held that
to establish a defence on the grounds of insanity it must be clearly proved that, at

\textsuperscript{58}B.B, “Psychological Jurisprudence,” \textit{The Opal} 3, no. 4 (1853): 74.
\textsuperscript{59}B.B. “Psychological Jurisprudence,” \textit{The Opal} 6, no. 3 (1856): 99.
\textsuperscript{60}Anonymous, “Trial of Capt. John Windsor for the Murder of His Wife: Before the Court of Oyer and Terminer,
Held at Georgetown, Delaware, June 25th, 1851, Before His Honor, Chief Justice Booth; Harrington and Wootton,
the time of committing the act, the accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or if he did know it, that he did not know what he was doing was wrong.\textsuperscript{61}

This allowed for a broader class of people to be considered legally insane, but it also put stern strictures on what delusions would exculpate. For instance, a man who held the deluded belief that the President was sleeping with his wife and killed him would still be guilty of murder, as it would not be acceptable to kill the President even if he were sleeping with one’s wife.\textsuperscript{62}

In a similar fashion, the doctrine of criminal capacity for the Windsor trial read as follows:

\begin{quote}
If a person commits a homicide though effect by insane delusions on subjects with which the act is connected, he is criminally responsible, if he was capable of the perception or consciousness of right and wrong, as applied to the act; and had the ability through that consciousness to choose by an effort of the will whether he will do the deed.\textsuperscript{63}
\end{quote}

The Windsor judge seemed to believe that this trial doctrine would link the McNaughton standard’s language of “any defect of reason” with the language of the recently decided Massachusetts case of Abner Rogers in which the test of excusable insanity was whether actions sprang from delusions.

\textsuperscript{61}As described in Charles Rosenberg, \textit{The Trial of the Assassin Guiteau: Psychiatry and Law in the Guilded Age}, (Chicago: University of Chicago UP, 1989), chapter 3.

\textsuperscript{62}Ibid.

The Case of John Windsor

The Windsor trial eventually demonstrated that, in fact, there was a broad chasm between the standards of Rogers and the McNaughton judges. Implicit in the one standard (Rogers case) is the assumption that many forms of delusions are accompanied by absolute compulsion. Meanwhile the other standard (McNaughton) suggested that knowledge of right and wrong, even among those suffering defects of reason, can itself be equated with the potency to resist one’s compulsions.

The prosecution’s case was built in large part in denying that the accused was suffering from a total obviation of the reason. He was capable of conducting his business with shrewdness. He was knowledgeable not only of the law, but also showed knowledge of individual cases. Moreover, his knowledge of these cases – in particular two cases, one in which a man killed a woman over witchcraft and was not found to be insane and the other in which jealous husband was excused for murder under the theory that it was a crime of passion – strengthened the case of the prosecution for premeditation. He knew the “nature and consequence of what he was doing.” The defence, meanwhile, argued that there were two major delusions widely known to anyone who had been in contact with Windsor: (1) the belief that his spouse was killing him through witchcraft and poison, and (2) the belief that she was having an affair.

The government attorney pushed strong notions about the potential deleterious effects on society if a man more “shrewd in business than most” could shoot a fellow human and escape punishment because “he has practised such nonsense as shooting

64Ibid., 13.
witches and believing in poisoning influences.” He forcefully asked, “What safety can there be for society?” The belief in witchcraft, according to the prosecution, is not enough to prove someone is unreasonable—for many distinguished men, including Cotton Mather, believed in witches.65 While the defence witnesses insisted that the defendant had monomaniacally pursued his delusions, the prosecution argued that there was no irresistible impulse, insofar as Windsor pre-warned his wife regarding his plan to kill her. The prosecution argued that it was not delusion, but jealousy. Not uncontrollable necessity, but revenge. Moreover, the claim that he was acting in self-defence was rejected since the “right to kill in self-defence occurs only when one is pressed against the wall.”66

Another issue at stake in the Windsor trial was the admissibility of evidence from heredity. The accused’s grandfather had a reputation in the community for being insane and one of his nephews had been in the county alms house since his mid-twenties. The prosecution argued that evidence of the grandfather’s insanity was hearsay. However, the existence of a biological predisposition towards insanity was a crucial part of the case for the defence. Perhaps much more important, however, were strong debates in the Windsor trial over the authority that should be given the testimony of alienists. In the following interaction the prosecutor objected to an alienist even being able to differentiate compulsion from a free act of the will.

65Ibid., 16. The judge in his summation was clear to chasten the prosecution for implying that allowing a plea of insanity would result in societal disintegration: “the same law which protects him if he is innocent; can afford him abundant protection to society in any supposed case against him.” Ibid., 17.

66Ibid., 14.
Defence: Was it an act of the will or was it the result of insane delusions?

Prosecutor: [objects] The Doctor is not an expert in this matter. What gives this doctor the right to decide the question for the jury? The issue of the place of medical testimony was a hotly contested question. Who should give answers to abstruse questions about the mysteries of human volition? The prosecution suggested that recent debates over the concept of moral insanity showed that the medical profession was not unified enough to provide a reliable standard for insanity in the courtroom and later on pondered whether it was even possible to define who counts as a doctor. “If he gets it as a doctor—does every doctor have it—aleopathists; homapathicks; botanicks; cold watermen; root doctors; conjurors and all?” The prosecutor scoffingly asked if ‘the doctor’ who advised Windsor to shoot witches in effigy should be brought to the stand. Perhaps, the witch doctor could “tell the jury that this will qualify him to murder with impunity.”

Nevertheless, the judge decided to allow the testimony of medical men. Failing on that score, the prosecutor argued that only doctors who knew the defendant before the murder should be allowed to testify concerning the mental state of the accused at the time of the crime. The prosecution supported this suggestion with the fact that that the judges who put forth the McNaughton standards believed that the practice of expert medical testimony should be discontinued. However, the judge decided that the testimony of doctors did not require that they had seen the insane person before the act.

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67Ibid., 10.
68Ibid.
was committed, as this principle had been established precedent in American law courts and the opposite view was the mere opinion of a few English judges.69

The trial record shows that debates about moral insanity had already taxed the credibility of alienist medical witnesses. The prosecutor was quick to cite recent prominent courtroom debates in the case of William Freeman and Abner Rogers over the existence of insanity. He even went so far as to render the vision of human nature held by various alienists as absurd when he quoted a doctor who said, “I never knew any human being who was of sound mind.” If such a vision of insanity were to have its day, all crime would be excusable.70

The transcripts report that the trial became especially heated during the defence cross examination of one of the prosecutor’s medical witnesses. Dr. James H. Fisher was called to the stand to give witness to the cause of death. However, the defence questioned him regarding whether he believed the defendant was insane. Fisher testified that he believed Windsor to be a monomaniac. Later the prosecution called Fisher’s insanity diagnosis into question, and the defence attorney wryly objected that it is highly extraordinary to call into question the credibility of your own witness.

The defence ultimately relied on the claim that Windsor was suffering from monomania. Windsor’s lawyer was quick to assert that he was not introducing

69Ibid., 11.
70Ibid., 14.
anything “like the doctrine of moral insanity.” Instead the defence suggested that its case rested on the “actual insanity of the prisoner at the time of committing the act.”

The legal precedent that the defence’s case depended upon was that of the Abner Rogers trial. As stated above, the Rogers test of insanity was whether the action sprung from delusion. If it sprung from delusion then “the accused is entitled to an acquittal.” Windsor’s lawyer argued that Windsor’s act, like Rogers’, was *prima facie* an “act of insanity and not of the will.” At its very core Windsor’s defence centred on the notion that at the time of the crime “due to the overwhelming power of mental disease, his intellectual power [was] obliterated. He [was] not a moral agent.” In short, this was a case of irresistible impulse. Doctor Charles Stilwell of the Royal College of Surgeons London and an associate of Samuel Kirkbridge, one of the most famous of all nineteenth-century alienists, argued: “I stated positively that a certain class of ideas have gained such a control over him as to supersede entirely the control of the will.”

Another doctor, Elias S. Richards testified that the accused was under “imperious necessity.” He went on to argue that in monomania, as in total insanity, the powers of

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71 Ibid., 7.

72 Ibid.

73 From instructions to the jury in *Report of the Trial of Abner Rogers*, 278. The key question was whether there was “a delusion and hallucination” and, if so, whether it “indicate[d] such a diseased state of the mind that the act of killing the warden was to be considered as an outbreak or paroxysm of disease which for the time being overwhelmed and suspended reason and judgment.” Ibid.

74 *The Trial of Captain John Windsor*, 8.

75 Ibid., 8.

76 Ibid., 11.

77 Ibid., 12.
the will are lost. The accused was no longer capable “of acts of the will,” but only of “the impulsion of delusion.”

In short, the defence attempted unsuccessfully to separate itself from the perceived excesses of the moral insanity defence while still trying to argue for a form of insanity in which the mind’s impairment was minor while the will’s impairment was total. Anything less than a total impairment of the will would have raised the possibility of the defendant Windsor controlling the impulse. When the jury found Windsor guilty, they were affirming something like the McNaughton standard; the defendant may have suffered delusions, even serious, delusions, but they were not enough to render him incapable of acting upon his knowledge of right and wrong.

Windsor in the AJI and The Opal

An AJI article on the trial included a lively and lurid description of Captain Windsor’s crime and a provocative call for mercy. The writer asserted that this was most certainly a case in which the insanity defence should apply. Windsor had “insanity flowing in the blood,” he was a victim of the infirmities of age, and at the time of the murder he was under the influence of morbid delusions. The case demonstrated much that was wrong with how the insanity defence was practised in America. The AJI author argued that the judge and jury wrongly assumed that madmen must be totally divested of their reason. The courts to date, according to our anonymous author, had unfortunately failed to appropriate Locke’s aphorism:

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78 Ibid.

“madmen err as men who argue right from the wrong principles.”

Indeed, the judge pushed the McNaughton rule to an immoral end by suggesting that the jurors consider the defendant’s knowledge of right and wrong and resist “searching after [the mind of the defendant’s] powers and capacities, where the usual medium of communication through language and action is itself sufficient.”

The result was a monstrous miscarriage of judgment that our author compared to Jesus’s crucifixion. The judge committed “cool, calculating, deliberate, diabolical, judicial murder, this law trial was one [over which] the voice of blood cried to heaven against this court.” The article ends with a copy of a note signed by some of the most prestigious asylum doctors of the day—Samuel Kirkbride, Isaac Ray, and Luther Bell—calling for Windsor’s acquittal. A note adds that they were unsuccessful in their attempt.

The next month in the February edition of *The Opal* the author includes the following:

To the editor of the Opal

Dear Sir,—I am about to commence the trial of a man who is under indictment for a capital crime. I strongly suspect that the fellow has not known what he was about these ten years past. As a question may possibly arise, during the trial, as to the proper definition of insanity, I take the liberty to ask your aid on the occasion. I understand that a number of insane persons are kept at the lunatic asylum; indeed, it is said that you have a touch yourself. As, therefore, you are fully qualified to advise me, and as I should be sorry to order the poor fellow to be hung, if he is innocent, please give me the requisite information, and oblig e,
Yours. Justice of the Supreme Court.\textsuperscript{83}

In the shadow of the recent rebuffing of the asylum doctors' attempt to get Captain Windsor out of the noose, the writer shared this fictitious letter apparently as a way of saying that asylum doctors are greater authorities than lawyers on such issues. As the author puts it on the next page, “do not discharge this man to the ether world until you have sent for the superintendent.”\textsuperscript{84}

But the fictional letter also provided an opportunity for the editor of The Opal to voice his own opinion on the insanity defence and make his own special claims about what occasions a lack of responsibility. It allowed him to assert that he, as well as the asylum superintendent, has had a chance to watch many insane women and men. He writes that the Supreme Court justice was correct in coming to him because “idiots and lunatics were considered by ancient wisemen as worthy of a special veneration, as being the vehicles through which God conveyed the discreet manifestation of his will.”\textsuperscript{85}

Moreover in contradistinction to the view put forth by the AJI on the Windsor trial, that “madmen err as men who argue rightly from the wrong principles,” The Opal writer suggests that this understanding of insanity is inadequate and that insanity should be determined by a “loss of power to regulate the order” of one’s thoughts.\textsuperscript{86} Still, there is not much that distinguishes this position from that of the AJI, and in a central sense it is

\textsuperscript{83} A.S.M. “Editor’s Table,” The Opal 2 no. 2 (1852), 91.

\textsuperscript{84} Ibid., 92.

\textsuperscript{85} Ibid.

\textsuperscript{86} Anonymous, The Opal 2, no. 4 (1852): 151.
the same—those familiar with the asylum possess first hand knowledge about the mad
that jurists do not.

Social Conservatism, Radical Reform, and the Asylum

Foucault and Rothman make a strong case for the fundamental social
conservatism of the moral cure. Rothmann understands antebellum reforms as a
reaction to perceived social disintegration—concern about the rising tide of madness is
an aspect of a widespread fear that the early American republic has lost both her
Spartan virtue and her way. Foucault reads the creation of asylums into a larger societal
movement that championed the virtues of a vital societal work force and therefore
regarded all those who did not work as a threat. While it would be naïve to attempt to
rehabilitate the reputation of antebellum asylum reformers as uncomplicated do-
gooders, it is also naïve to view them as mere reactionaries. While the moral cure might
have been an effective method of mental control within the asylum, the ideology of the
moral cure was also deeply socially disruptive, especially when it was preached outside
of the asylum.

Perhaps the most interesting question to ask in light of the creation of asylum
literary magazines such as The Opal is why inmate speech was called forth publicly.
One should, of course, at least entertain the notion that doctors really intended to aid
those in their charge. For the wider public, it was then important to show that asylums
were doing their job. In an age of the importance of publics and publicity, asylum
journals could serve to make large and imposing institutions seem less secretive.
Debates at the Windsor trial should also cause us to consider whether public patient discourse also served to consolidate the power of asylum heads outside the asylum.

Patient speech helped to prove the curative effects of the asylum. Religious language is often used in *The Opal* to refer to doctors and asylum directors as “saviours.” One patient when asked, “What do you think of Pinel?” answered that “he broke my chains” and that his spirit lives on in current asylum administration. “I know my redeemer liveth.”87 Another, in an apology for an attempt to superarrogate himself at the expense of the superintendent, writes: “He knows how frail our nature is, our souls how apt to stray; how much we need his graciousness to keep us in the way.”88 It is none too clear from the passage whether the patient is referring to the Jesus of the hymn writer or to the asylum superintendent. In another apology, John P. Gray, the third Utica asylum superintendent, while not divine, certainly appears as divinely ordained: “‘he that handleth a matter wisely, procureth favour,’ and let me be permitted to hope that this gentle and prudent way of expressing my wishes, may chance to prove so acceptable to heaven and all power ordained by God, as to prevent any loss of happiness.”89

Yet many of the theories of the early contributors to the *AJI* would have seemed dangerous to the average citizen. The doctors often believed that they were on the cusp of a moral revolution. One of the writers of the *AJI* wrote, “we are exploring the frontier

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87 Anonymous, “Pinel,” *The Opal* 2. no. 4 (1852): 123. The phrase is from the Bible, Job 19:25.


where virtue and vice fade into each other.” This moral revolution was brought about in part by a new focus on the place of heredity, nurture, and habituation in the shaping of mental health. The moral cure sought to treat insanity by providing a purified environment, salubrious habits, and good, kind-hearted moral nurture. Moreover, it often invoked the power of the will to heal the reason.

However, this focus on habits and environment, while justifying the kind of care offered in the asylum, could also be used to argue against the quintessential American virtue of personal responsibility. Writers in the *American Journal of Insanity* consistently challenged common beliefs about the relationship between insanity and criminality – between madness and sin. Early asylum doctors advocated legal innovations such as a plea of temporary insanity that even today are viewed by large segments of the North American population as radical and socially de-stabilizing. During the early years of the asylum, many of the most prominent superintendents of American society tried to gain acceptance for a new category of insanity – moral insanity. Undergirding the diagnosis of moral insanity was the theory that a person could be insane by reason of an imbalance of will and emotions unrelated to an impairment of the reasoning.

In the creation of the diagnosis of moral insanity, champions of the asylum were flying in the face of established legal precedent. Many Americans still assumed that for a person to be deemed inculpable of a crime, their symptoms had to be so intense that they were almost wholly devoid of rational faculties – inarticulate, and animal-like in

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habit. Many of the early asylum doctors advocated for a much broader definition of the insanity defence that would include any act that was motivated by a delusional belief. In part, the process of commitment to asylum with loss of legal rights of property and political rights of suffrage itself expanded the number of people considered legally inculpable. One writer of *The Opal* opines over the fact that the fundamental freedoms of democracy can be taken away from someone because they are shown to have certain symptoms while another person similarly diseased is held responsible for their crimes.\(^{91}\)

In a July 1852 *AJI* article titled, “Instantaneous Insanity: considered in a medico-legal point of view” the author makes the claim that sometimes “the first act of insanity may be murder.”\(^{92}\) The author goes on to explain that though all people sometimes have a desire to kill another human being, people of a healthy will are able to triumph over this morbid impulse. However, when someone acts on this desire “there is no moral responsibility” because in order for someone to be responsible they must have a “proper association of ideas, and an ability to examine and compare them.”\(^{93}\) One can only imagine how the idea would be popularly taken that all murderers are, in fact, not guilty by reason of insanity. In an article titled, “On Medico-Legal evidence in cases of insanity,” another author writes that the true test of criminality should not be whether the person knew right from wrong but “whether he had lost all power of control over

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91 Ibid., 2.
92 Ibid., 4.
his actions.”94 In an 1845 article, Amariah Brigham stresses the similarity between prisoners and the insane. He writes that both should be considered objects of pity and claims that the insane are “unfortunate inheritors from nature of tendency to error, which instead of being repressed by proper education have been strengthened by their social condition.”95 This analysis begs the question—what in the end separates the insane from the cussed? If both suffer from hereditary predisposition, bad nurture, and poor education, what makes one guilty and the other guiltless of crime?

The End of The Opal

The writers of The Opal sometimes wrote as thankful recipients of the moral cure. More often, they positioned themselves into a purified public sphere as asylum reformers. In point of fact, their writing was often similar in both tone and topic to the AJI. While The Opal explored a broader range of themes than the AJI, The Opal writers consistently discussed the topics of greatest concern to writers of the AJI—the insanity defence, the difference between prisons and asylums, the aetiology of insanity, and religious insanity.

Indeed, the feeling of being in a common conversation with the AJI and its writers was buoyed by the fact that the circulation list of The Opal and the AJI was nearly identical. The same institutions and individuals received both publications.96 In fact the subscription list of The Opal was built on the subscription list of the AJI, and it

95Ibid.
was a small cadre of asylum superintendents and doctors that would be interested in either. As the years passed, *The Opal* topically began to look more and more like the *AJI*, moving away from set literary pieces to embrace series of articles with names like “the ethics of pathology,” “aesthetic philosophy,” and “psychological jurisprudence.”

The writers in *The Opal* wrote as if they had an audience, in particular as though they had a similar audience as the *AJI*. While it is unknown the extent to which superintendents from other institutions read *The Opal*, it is clear that at least the superintendent of Utica was reading it. As mentioned above, John P. Gray twice received public apologies in *The Opal*. The author of “Psychological Jurisprudence” who used the pen name B.B. wrote both of these apologies. In one apology, the author asks forgiveness for not addressing “pathology within [my] true influence and jurisdiction.”

The apology came on the heels of a provocative article in which B.B. drew the line between sin and insanity uncomfortably close. Isn’t it the case that all humans beings are “in a measure, morally insane: They know the right and they approve it too; they know what is right and yet the wrong prevails?” B.B. had gone on to draw the conclusion that the only appropriate way to go forward from the universality of humanity’s moral insanity would be to give grace free reign and to relinquish “inexpedient criminal prosecution.”

While this article would most likely have been allowed under the watch of

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99 Ibid. 106.
Utica’s previous superintendents, Amariah Brigham and Nathan Benedict, Gray received the article with utter disdain. In April 1858, the same month that B.B.’s apology ran in The Opal, John P. Gray, now editor of the AJI, wrote an article there titled “Moral Insanity.” While Gray would make a name for himself by challenging the diagnostic category “moral insanity” in the trial of President Garfield’s assassin, Charles Guiteau, this article was Gray’s first published work on the subject. At the crescendo of Gray’s argument in “Moral Insanity,” he quoted from the same passage as B.B. The apostle Paul’s famous confession that “[i]f I do that I would not, it is no more I that do it, but sin dwelling in me,” 100 would seem to exculpate humans of their sin, he argues, but the gist of Paul’s argument is the exact opposite: “This is being helpless enough, it would seem, to exculpate a man from penalty ... but the drift of the argument doesn’t tend this way.” 101 Indeed, the similarity between “moral insanity” and what Paul describes in Romans is proof not that sinners should be set free, but that the morally insane are not ill, but depraved. After his bold disavowal of moral insanity, Gray began to move increasingly away from the moral cure. Soon he broke the foundational taboo of Pinel’s asylum and returned physical restraints, especially with the infamous Utica Crib. 102 The Utica Crib came to be used widely in asylums throughout the U.S. and has become a dominant metaphor in secondary literature for the declension of the asylum in nineteenth-century America. Utica Cribs were contraptions in which an intractable

101 Ibid.
inmate would be semi-permanently bedded in a cage from which escape was nearly impossible. He began to experiment with previously untested drugs and performed extensive dissections on the brains of deceased Utica patients, looking for the cause of insanity which he now suspected to be lesions on the brain. A year and a half after B.B wrote on moral insanity, Gray shut down Brigham and Benedict’s experiment in a purified public square—he closed the classrooms, ended the debating society, and finally shut down The Opal.

Conclusion

In a July 1852 article in the AJI on the insanity defence, a doctor argues that acts of homicidal insanity are different from other acts of murder because they have no motive. In order to support this view, the writer includes alongside the testimony of great jurist Lord Brougham the testimony of a “lunatic” who, when told about a particular instance of motiveless murder, responded—“he will not be hanged… he is one of ourselves.” In part, the writers of The Opal were encouraged to speak because in so doing their testimony confirmed the doctor’s power to know the ‘precise moment where virtue and vice fade into each other.’

The writers of The Opal most certainly realized this role and the complications attendant with the power to distinguish sinful acts from insane acts. Sometimes Opal contributors were greatly troubled by such authority. As one author writes,

You must not judge of me and hang the crazy man because I show so much rationality as to render offence sufficiently heinous for punishment … Governor, I

am not crazy I tell you, never was and never shall be unless injured by unlawful means or treatment. And how do you know but there are persons hung, as little deserving of the punishment as I am of being here. Are subjects of grace, lunatics?  

After many decades of effort, the attempt to separate mentally ill people from guilty people continued to create as many dilemmas as it solved. *The Opal* contributors were quite right. In part, their speech was called forth in order to demonstrate that the criminal did not differ explicitly from the mad. One could lose his mind and still be capable of a great deal of rational discourse. In other instances, *Opal* writers, as in the slave dialogue, used such comparisons to argue that they should be freed from an all-encompassing law and confinement in the asylum.

The protest of the mad in the age of the moral cure may have been as weak as Emily Dickinson’s little bird who stomps her feet upon the wind in anger at an omnipotent God. However, the fact that asylum doctors allowed public speech, even dissident public speech, points us to a peculiarity that might be missed if we too strictly follow Foucault’s original diagnosis suggesting that, during the time of the moral cure, a religious cosmology and morality were used to silence prophesying by the mad. The madman was indeed silenced, but this would come later, as the psychiatric guild moved into more strictly physical interpretations of madness and later into the rigid Freudian dichotomy between analyst and analysand. So long as prominent intellectuals of nineteenth-century American culture entertained the possibility of insanity’s aetiology in social structures and ethical training, those deemed to be mad could speak from

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104“To His Excellency Governor Hunt,” *The Opal* 2, no. 5 (1852): 134.
below, as it were, and make use of common religious texts and themes, legal precedents, and the language of the emerging psychiatric guild as a way to question their diagnoses and confinement.

Instead of a narrative governed solely by a thesis of silencing social control, it might be more fruitfully suggested that early asylum doctors allowed the mad their prophetic rants, not because they were ineffectual, but because they aided in the consolidation of the asylum heads’ claim to be society’s new oracles, to be manning the watchtowers of a new urban reality, to speak the words of prophecy, to explore the frontiers of right and wrong while educating the public concerning not only madness but also concerning what constitutes the best kind of civilization. And thus allowed to speak, asylum inmates sometimes succeeded in posing troubling questions to their keepers.
Chapter 5  **John Gray's Backlash**

**Introduction**

In January of 1876 the Association of Medical Superintendents of American Institution for the Insane (AMSAII) met at the First Presbyterian Church of Auburn, New York. In this church, Charles G. Finney had preached, the first president of Auburn Seminary pastored, and leaders of the New School in the Presbyterian church had met to regroup after the Old School took control of the General Conference in 1837 and excinded four synods in the West.\(^1\) At First Presbyterian, leaders of the New School had drafted the Auburn declaration defending the legitimacy of both the “new measures” in revivalism and of modifying the Westminster Confession, for many the touchstone of reformed doctrine, with the theology of Nathaniel William Taylor.

By the 1876 meeting of AMSAII, New School and Old School Presbyterians had reconciled their differences just long enough to be busy fomenting another division.\(^2\) The debates that raged between defenders and opponents of moral insanity during the centennial of the Declaration of Independence revisited many of the Presbyterian controversies about sinfulness of the 1830s. Asylum superintendents debated the meaning of freedom, the vitiation of human nature, the engine of human motivation, and the scope of human culpability. Many of the arguments that occurred in 1876 at the

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superintendents' meeting seemed out of place at an academic, professional association and far more suited for an ecclesial assembly.

The AMSAII meeting opened in a fashion that can only be described as a textbook example of the “evasive banality of official culture.” The Honourable T.M. Pomeroy, mayor of Auburn, suggested that AMSAII's hosting of its meeting at First Presbyterian Auburn, meant that “religion and science have embraced each other” and that “religion has ceased to fear that the tables of the law ... will be undermined by scientific inquiry.” Yet, not all of the members of the association were so certain. John Perdue Gray believed that some of the brethren were not as zealous for the law as he. Specifically, he doubted the good will of those advocating for moral insanity. Gray characterized moral insanity as a metaphysical interloper, profoundly dangerous to the law civil, moral, and religious. Gray argued here, as he had a myriad of times elsewhere, that moral insanity would lead to the foolish position that “sin is after all only lunacy, and man is a helpless automaton.”

John Gray, editor of the American Journal of Insanity, superintendent of the Utica asylum, and a longtime member of AMSAII, engaged in a lengthy round of polemics with Dr. Richard Gundry, superintendent of the Southeastern asylum in Ohio. Their

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4“Proceedings of the Association of Medical Superintendents,” American Journal of Insanity 32, no. 3 (January 1876): 363.

5Ibid., 367.
debate hinged on the proper reading of Roman's chapter seven, in particular St. Paul's lament “it is no more I that do it, but sin that dwelleth in me.”\textsuperscript{6} Gundry had quoted from Paul, “appeal[ed] to so-called ungovernable emotions,” and associated this unruliness, much like Isaac Ray and Luther Bell had before him, with theories of automatism and moral insanity.\textsuperscript{7} Gray charged Gundry with perverting “this state of warring ... between right and wrong, common to men, into insanity.”\textsuperscript{8} He exhorted Gundry to read a bit further into the book of Romans where Paul declares: “It is no more I that do it, but sin that dwelleth in me.”\textsuperscript{9} Gray asserted, “Now, if it is sin, then the man must answer to God and the law.”\textsuperscript{10} The acceptance of Gundry's view would merely result in the “sentimental abandonment of responsibility.”\textsuperscript{11}

In the midst of Gray's vitriol against moral insanity he stopped to note the significance of Auburn, New York to medical jurisprudence. Here, in Auburn in 1846, “science came to vindicate the law.”\textsuperscript{12} This would have been a surprising reading for John Van Buren and others who had argued that the case would lead to the reign of 'Judge Lynch.'\textsuperscript{13} Gray noted that the people of Auburn would have hung the lunatic

\textsuperscript{6} Rom. 7:20 (King James, or Authorized Version)

\textsuperscript{7}“Proceedings of the Association of Medical Superintendents,” 361.

\textsuperscript{8}Ibid., 362.

\textsuperscript{9}Ibid.

\textsuperscript{10}Ibid.

\textsuperscript{11}Ibid.

\textsuperscript{12}Ibid., 363.

\textsuperscript{13}To recall a phrase from the previous chapter here. The phrase appeared in \textit{Auburn Journal and Advertiser}, March 18, 1846.
William Freeman except for the moral courage of the counsel for the defence William H. Seward and of his chief psychiatric witness Amariah Brigham. Gray's praise of Seward and Brigham's defence is unusually ironic. Seward had forcefully argued that Freeman was morally insane. Brigham staunchly defended the doctrine of moral insanity as well, spending his time as Utica's top personality devising moral cures accordingly. Moreover, Seward's defence of Freeman and earlier of Henry Wyatt were part of a project to cement a legal precedent in New York for moral insanity. However, by this time Seward has entered the American pantheon as Lincoln's Secretary of State during the Civil War.

Despite his praise of Seward and Brigham, John P. Gray's view of the doctrine of moral insanity was notably similar to John Van Buren's and Thomas Spencer's. Gray argued that the doctrine of moral insanity was a socially dangerous innovation that conflated insanity with sin. He would resist the politicization of grace insisting that any hint of corporate rather than individual responsibility for heinous acts was an intolerable compromise of the worst kind. Moreover, he would insist that the asylum should be a space in which the fear of the law is instilled.

Gray spent much of his tenure as editor of the *American Journal of Insanity* (now the *American Journal of Psychiatry*) attempting to refute the doctrine of moral insanity. In forming his own distinction between insanity and depravity, Gray drew from both theological and scientific sources. However, these sources often proved difficult to reconcile. Gray's theology required him to maintain a theory of human
responsibility necessary for his Reformed morality. Meanwhile, the materialistic determinism implicit in standard psychiatric accounts of mental illness provided a polar opposite scientifically. In order to hold together moral and material accounts of human actions, Gray proposed a distinction between brain and mind. This distinction allowed Gray to give a materialistic account of the crimes caused by the mentally ill and a moral account of the infractions of the common criminal. However, as the psychiatric guild became ever more materialistic in its accounts of mental illness, Gray’s easy solution to the relationship of iniquity and insanity faltered. As the end of his life neared, Gray increasingly had the unfavourable reputation of taking more interest in opining against immorality than practising medicine. This was in large part because, even as the president of the guild and editor of the nation’s foremost psychopathology journal, Gray would rather have lost the category “insanity” than the category “sin.”

This chapter presents the long career of John P. Gray as a lens through which to understand broader transformations in AMSAII. Gray's particular struggles with how to balance freedom and determinism, his campaign to refute moral insanity, and his theological commitments to the centrality of law and punishment in the formation of the human person make him a transitional figure in American psychiatry. His struggles provide insight for understanding the debates that convulsed AMSAII from 1848-1886. Discussion here prominently includes the ways in which theological and somatic arguments were mixed in Gray’s refutation of moral insanity. While Gray's commitment was to keeping the stability of what he believed to be traditional religious
notions of sin, law, and responsibility, his intense refutation of the metaphysical nature of moral insanity had the unexpected effect of sidelining questions regarding the moral aspects of 'responsibility.' Responsibility shorn of its connection to broader questions of moral guilt easily became closely aligned with a notion of social danger. The remainder of this introduction will forward the contradictions of Gray's work via appraisals then and now of his career and an analysis of the shift that occurred in understandings of the term moral insanity over his lifetime. The next section overviews Gray's life up to and including the defining year in Gray's career, April 1857-April 1858. During that twelve month span, Gray began his campaign against moral insanity, a campaign that he would pursue doggedly over the remaining three decades of his life. Unsurprisingly, Gray's opposition to moral insanity set him in direct conflict with Isaac Ray, and section three briefly lays out the Ray-Gray debate. Section four, From the Civil War Cases to Gray's Apex, culminates in Gray's role in the trial of Charles Guiteau for the assassination of President Garfield in 1881 and sets up the marvelous reversal in his thinking occasioned by more radical forms of materialism. Those forms of materialism and the incredible shift in thinking occasioned by it are examined more closely in section five, William Hammond and Gray's Reverse Course. The conclusion notes how the themes discussed here have played out in certain major American trials over the last century and a quarter.

*Appraisals of Gray Then and Now*

Gray's career is essential for understanding the interconnection of theological justification for punishment and an increasing insistence on more medicalized
understandings of insanity. When Gray testified at the trial of Charles Guiteau, he was the most powerful man in American psychiatry. He was the editor of America’s foremost psychiatric journal, he was an honorary member of almost every psychiatric association in Europe, and in 1870 he had been made president of the Psychological Section of the International Medical Congress. His advice had been sought by President Lincoln, and he had testified—almost without fail for the prosecution—in some of the most famous trials of the nineteenth century. Besides the trial of presidential assassin Guiteau, Gray also testified at the trial of Lewis Payne who had attempted to kill William Seward as part of the conspiracy that took down Abraham Lincoln. His opinion had also been sought civilly in important cases of contested wills such as in the situation of family feuding over the will of Cornelius Vanderbilt. The relationship between insanity and crime was something with which Gray remained critically engaged his entire career. In the pages of the *AJI*, Gray published over eighty case studies of people who had committed or attempted murder due to an insane delusion.\(^{14}\) Gray was a man with whom the guild had to reckon.

Yet in spite of such pomp Gray was something of a tragico-comic figure. He ultimately gained the reputation of being a hired gun for the prosecution. While his aforementioned case studies reveal a man willing to admit that many murderers were mentally ill, at almost every trial in which he was asked to testify, he declared the defendant sane. Sometimes, as in the case of Samuel Rich, such declarations appeared

nothing shy of ridiculous.

Rich was well known in his small community for thinking that he was a horse. At one time a neighbour spied Rich alone, deep in the woods, neighing and carrying on like a scared stallion for over two hours. Nonetheless, Gray argued that although “this was an unusual case in that there was so much look of insanity,” Rich’s antics as horse were nothing more than mere attention seeking. Gray testified that he had no doubt that Rich was sane at the time of the murder.

At the time of Charles Guiteau’s trial for the assassination of President Garfield, Gray’s own asylum at Utica was immersed in scandal due to high injury and death statistics among the patients. Edward Spitzka petitioned the New York legislature to investigate Gray. The legislature refused. Spitzka was livid. He asserted that Gray was nothing more than “an indifferent, superficial man owing his position merely to political buffoonery.” At the time of his death, Gray was not only the most prominent but was also the most controversial figure in American psychiatry, even if the controversy surrounding Gray went practically unnoticed in prominent obituaries in such places as The New York Times and The British Journal of Medicine.

The Times obituary noted Gray’s chief medical contribution as “establish[ing] in

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the asylums of this country the microscopic study of the brain.”\textsuperscript{17} \textit{The British Journal of Medicine}, meanwhile, claimed in its remembrance of Gray's life that “[h]is name was in almost everyone's mouth in America during the excitement consequent on the assassination of President Garfield by Guiteau.”\textsuperscript{18} \textit{The British Journal} did note, however, that at the Guiteau trial other “mental experts” had “warmly contested his opinion.”\textsuperscript{19}

Recent appraisals of Gray’s life and career predominately written in the field of the history of medicine have tended toward the same dualism as Gray’s contemporaries. They have either focused on Gray as representative of the vanguard in more psychosomatic approaches to mental illness or they have painted Gray as a reactionary conservative, more interested in maintaining law and order than advocating for the insane.\textsuperscript{20} Gray is portrayed either as a key figure in the progress of psychiatry or as a man stymied in archaic religious confessions. While more recent assessments of Gray have worked to reconcile the two dominant pictures of Gray, none have paid particular attention to the complex theological questions that animated Gray at the most profound level of his thinking.\textsuperscript{21} Nor have they analyzed either his theological position


\textsuperscript{18}“John P. Gray,” \textit{British Medical Journal} 2 (December 4, 1886): 1124–1125.

\textsuperscript{19}Ibid., 1125.


\textsuperscript{21}Two works that have attempted to deal with the apparent dualism in Gray include, Gary Belkin, “Moral Insanity, Science and Religion in Nineteenth-Century America: The Gray-Ray Debate,” \textit{History of Psychiatry} [Great Britain],
or his repudiation of moral insanity in light of changes this diagnostic category underwent throughout the nineteenth century. What follows contends that both are necessary in order to reconcile divergent portrayals of Gray.

While historians of science have been ambivalent at best about Gray's legacy, a recent article portrays his repudiation of moral insanity as heroic. In a 2008 article Jeffrey Geller argues that “Back to the Nineteenth Century is Progress.” Geller places Gray in the vanguard of taking a “scientific approach to explaining mental illness” and praises his rejection of moral insanity as prescient. He argues that Gray's rejection of monomania and moral insanity should serve as an precedent for contemporary psychiatrists struggling “with the lack of clarity in the 'vice-mental disorder relationship'.

Geller is responding to an earlier position paper of John Z. Sadler who argues that there are several disorders in the DSM IV where vice and mental disease are confounded, and where the only symptom of mental disease is participation in illegal acts (e.g. Kleptomania, Pyromania) or immoral behaviour (e.g. conduct disorders or

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23 Ibid.


Sadler argues that the DSM is crippled by its inability to identify its rationale for describing some illegal actions as mere crime, others as true insanity, and still others as a mixture of the two. The DSM takes an amalgamated view on these questions “either both or sometimes one or the other” that is often based on a folk metaphysical view of the relationship between the two. This lack of clarity, in Sadler's view, has much to do with the fact that DSM IV is not clear or honest about the metaphysical commitments that shape it.

Sadler suggests that the psychiatric guild needs to become more upfront about its basic underlying metaphysical assumptions. Moreover, until the guild has some clarity on these issues, debates will continue to rage about: (1) the insanity defence (2) what kind of mental duress should mitigate punishments (3) the problem of the mentally ill in prisons (4) stigmatization of the mentally ill as dangerous, and (5) the social-moral role of psychiatry. Sadler thinks that the right way forward is an open question.

Geller insists that the right answer would include careful attention to the thought of John Gray. Geller presents Gray's position as a way to get beyond the impasse of confusing moral and medical accounts of human action. Gray would certainly be

\[\text{Sadler, “Vice and the Diagnostic Classification of Mental Disorders,” 1.}\]
\[\text{Ibid., 12.}\]
\[\text{Sadler argues that any attempt to distinguish mental illness from vice requires a metaphysical account. These metaphysical accounts are typically either moralizing or medicalizing. Sadler suggests that Thomas Szasz is an important example of giving a moralizing account of vice through his belief that “any misconduct should be handled through institutions whose social role addressed moral conduct: the criminal justice system, the education system, or religious institutions.” Those arguing for a medicalizing account include those who argue that “criminal behavior may be best constructed as a neurodevelopmental disorder.” Ibid.}\]
\[\text{Ibid., 13.}\]
pleased with this account. Nevertheless, what follows describes the intricate ways in which Gray's transparently superficial attempt to rid psychiatric medicine of its religious and metaphysical baggage, in other words his attempt to secularize psychiatry, was deeply connected to theological commitments.

**Shifting Views of Moral Insanity**

Within Gray’s professional lifetime the category of moral insanity shifted.\(^{30}\) The moral insanity that Ray, Brigham, Bell, and others advocated was critically dependent on a “change in character,” an aberration from one's normal way of being in the world, an inexplicable moral devolution. This form of insanity was believed to have a predisposing cause in biology, but an exciting cause in one's psycho-social environment. For this reason, the insane required “moral treatment” that would remove them from the exciting irritant in their environment and help them gain healthy habits of self-control, clean living, and industry which were supposed to make the mentally ill less susceptible to contagious social unease and disease. Crucial to this form of moral insanity was the belief that the will could be diseased apart from the reason.

By the time of assassin Guiteau’s trial in the 1880s, however, the diagnostic category “moral insanity” was increasingly connected to a more hereditarian explanation of mental illness. Moral insanity, it was asserted, was caused by a “morbid propensity” or a “neurotic taint” that predisposed a person to crime.\(^{31}\) Every crime, sin,

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\(^{31}\) Ibid., 253.
and petty offence from murder to forgery could be traced to some deviate germ cell. Mental illness of this sort was no longer seen as a result of bad behaviour or education; instead, every form of cussedness was seen as a product of inherited disease. A change in character was no longer the *sine qua non* of the disease; instead, the morally insane were often believed to be cruel and immoral from birth. The claim was no longer that the will acted apart from the reason. Instead, the morally insane were often believed to be intellectually deficient. This shift will be important for understanding critical tensions in Gray's career and the emerging field of American psychiatry.

**Gray's Life through a Defining Year (April 1857-April 1858)**

John P. Gray's ascent through the ranks of asylum medicine was rapid and controversial. A native of the Quaker State, he graduated from the University of Pennsylvania's Medical School in 1848 and by 1854 he was the superintendent of one America's most prestigious asylums, the New York State Hospital at Utica, and editor of the *American Journal of Insanity*. In 1851 Gray had been named Third Assistant Physician at Utica under Amariah Brigham's successor Nathan Benedict. By 1853 Gray had risen to the rank of First Assistant and was preparing to take a job at the Michigan State Lunatic asylum when Benedict became ill. Gray was made the acting superintendent during his medical leave. While Benedict convalesced, Gray duplicitously wrote letters assuring Benedict everything was running smoothly and to rest as long as he needed, simultaneously complaining to the managers about the burdens Benedict's continued illness was placing on the institution. Benedict was forced into resignation. Many other
asylum heads regarded Gray as something of a mutineer.  

Early on Gray had embraced the Reformed faith with the zeal of a convert. His father had been a Methodist circuit rider, and Gray's undergraduate degree (1846) was earned at Pennsylvania's Dickinson College, at that time affiliated with the Methodist Episcopal Church.  

His brother, Rev. Dr. Edward J Gray, would later become the president of Dickinson College Seminary. While the exact time of Gray's switch to Calvinistic faith is unknown, Gray was a member of the Utica Reformed Church throughout his tenure at New York State Asylum. Gray's acceptance of Reformed theology shaped his attitude towards insanity and his profession in a myriad of ways. Prominently, Gray feared that asylum doctors were shaping a vision of the human person that de-emphasized the role that law and fear of punishment played in crafting responsibility. Gray also limited the definition and aetiology of insanity to underplay psycho-social attributes in order to protect his particular Reformed understanding of individual sin.

During his first years as superintendent of Utica, Gray maintained many of the central elements of moral cure. He continued the Opal, the classrooms, the social outings. Yet Gray also began to make significant changes right away. During his first year, Gray began performing regular autopsies on deceased patients in order to find the somatic source of their insanity — visible lesions on the brain's surface in his view. He

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also implemented microscopic tests to ferret out the physiological basis of living patients' mental disorders.  

During this early period, Gray became vocal in his repudiation of moral insanity. While previously there were growing challenges to the doctrine of moral insanity from popular, legal, and theological sources, Gray would be the first and most vocal critic of moral insanity from within AMSAII. Gray's rejection of moral insanity broke what had been a functional consensus among the ranks of the AMSAII. The first recorded serious debates over moral insanity in AMSAII meetings did not occur until 1863. In an 1861 article, Isaac Ray described the opponents of moral insanity as a “half dozen grasshoppers under a fern making the field ring with their importune chink while thousands of great cattle repose beneath the shadow of the British oak, chew the cud, and are silent.”

*Reasons for Gray’s Attack on Moral Insanity: Hugh Miller and Charles Huntington*

What precipitated Gray's vehement attacks on the doctrine of moral insanity? The causes seem to be two-fold, and the change in Gray's thinking took place over a critical year from April of 1857 to April of 1858. In April of 1857 Gray published an article in the *AJI* that dealt with the suicide of a prominent geologist, Hugh Miller. It is clear that Gray deeply respected Miller. He wrote that “here was one in whom no morbid cravings for the unknowable swayed a humble belief in the sufficiency of

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revealed truth to meet the moral wants of our race.”  

Miller was able to extend “the science of the world’s creation thousands of years into the past” and reared there “bulwarks about the infinitely important domain of his religious belief.” Yet, Gray was deeply troubled that a man so obviously erudite and moral could have committed such a heinous act as taking his own life. Gray spent the article arguing that Miller committed the act because he suffered from maniacal delusions. However, Gray found this conclusion troubling. “If such a one be not safe from a calamity so terrible, how great a lesson to fear for those of a feeble intellect, of stronger passions, and unfortunate lives.”

Here, when presented with the loss of sanity of so eminent a man, Gray’s later certainty about purely materialistic causes of mental illness would not hold.

In this particular instance Gray struggled deeply with the question of how it was possible that so great a thinker could devolve into madness. In engaging such questions, Gray revealed a latent tendency to assume that mental illness is caused by vice, and that when found in one of such “conservative religious belief and unstaved character,” it is especially repugnant. Furthermore, while Gray gave an explanation vis-a-vis physical pathology, he exhibited a great fear of the ramifications of his materialism. The brain is a “complex and delicate machine through which the spiritual essence must elaborate all that we can know of life;” that it can spiral into

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38 Ibid., 334.
39 Ibid., 333.
40 Ibid., 332.
“derangement and a terrible destruction” was profoundly scary.\footnote{Ibid., 334.}

Gray would argue as late as the AMSAII meeting of 1857 that unsoundness of mind “comes from various causes including habitual vice.”\footnote{John P. Gray, “Insanity in Relation to Crimes,” American Journal of Insanity 12, no. 4 (April 1856): 343.} At that meeting, Gray presented a paper on the “Personal History of J.W. Layman,” later published in the January 1858 volume of AJI, in which Gray spoke of Layman's “frequent impulses to acts of violence” in a way that suggested impulsive insanity and a derangement primarily of the moral faculty. He also seemed to accept the medical-theological assertion that was at the heart of the moral insanity defence, a distinction between the power to know the good and the power to do the good. He claimed

\begin{quote}
If one knows the difference between right and wrong, he is responsible for the wrong; yet, with all his knowledge, he may physically or mentally lack the power of shunning the wrong or doing the right; and therefore to the eyes of God appear inculpable, although no human eye can detect the weakness which is his real apology, and is morally his defence.\footnote{Ibid., 336.}
\end{quote}

It seems that Gray's early acceptance of moral insanity might have been due to its centrality to asylum medicine and the fact that it was still a relatively uncontroversial medical category.

Indeed, the moral philosopher, Francis Wharton, in his 1855 A Monograph on Mental Unsoundness, argued that moral insanity was considered a medical fact. In later editions, Wharton would openly challenged the doctrine, but in 1855 he only offered a
minor warning that the doctrine should be used sparingly: “If Juries were to allow it as a general motive, operating in cases of this character, its recognition would destroy social order as well as personal safety.”44 Wharton’s concern that moral insanity might be allowed to become something of a ‘general motive’ seemed to be being realized in many notable trials. The plea found its most legal success and public approval in trials of relatively respectable men and women. Usually, these were crimes of passion in which a man murdered his wife’s paramour or, a woman, a lover who jilted her. Sometimes, it provided a dodge for those who were vigorously against the death penalty. Many newspapers, even when praising the acquittal, would suggest that the plea of insanity was a necessary subterfuge in a situation where the law did not do enough to punish philanderers.45

Unsurprisingly then, Gray’s most prominently stated intention for challenging moral insanity was that “violence against persons and property is now so prevalent, that we should be extremely cautious before recognizing any doubtful form of insanity.”46 His repudiation of the doctrine occurred just after the highly controversial trial of Charles B. Huntington which occurred in New York City in July 1857. Huntington had been a New York, Wall Street socialite with a reputation for liking fast horses and fast women. Huntington was eventually charged with forgery; his crimes

44 Francis Wharton, A Monograph on Mental Unsoundness (Philadelphia: Kay and Brother, 1855), 44.


included larceny, embezzlement, and a good deal of old-fashioned conning. While no respected medical personage testified in the case of Huntington, his enterprising lawyers used moral insanity to explain his crimes. Gray responded in the AJI with a charge that would fuel many of his anti-moral insanity diatribes, insisting that Huntington was like the “ordinary herd of reprobates—those lunatics always at large, who wander about the purlieus of great cities, as well as about some of the rural districts, seeking whom they may defraud.” Yes, agreed, Gray Huntington is insane just as all “knaves, 'confidence-men,' [and] forgers are apt to be.”

The American Medical Association debated the merits of moral insanity in the immediate aftermath of the Huntington trial. This debate was reported in the AJI, and it occurred between David M. Reese and Charles Coventry. Reese claimed that moral insanity was simply a manifestation of a materialist determinism with its roots in phrenology. Coventry challenged this view, arguing that moral insanity did not depend on phrenology. The author of the review in the AJI seemed to concur with Coventry on the claim that an important distinction can be made between the moral insanity of the phrenologist and the more broadly accepted understanding of moral insanity.

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49 Ibid.
51 Ibid.
Reese was a member of the Methodist Episcopal Church. Early in his career, Reese had tussled with a hard-line Calvinist who wrote a pamphlet entitled “Quakerism Not Christianity!” and had suggested that Quakers and all other Arminians were not really Christians.\(^{52}\) Reese's Methodism shared with John Wesley a strong sense of the reality of human depravity, and this formed his own rejection of moral insanity. While Reese rejected the “perilous enchantments” of the doctrine of predestination, his commitment to the profundity of human depravity is obvious.\(^{53}\) Reese also referred to the Roman's passage as a text that proved that the phenomenon of moral insanity was after all only sin. Reese quoted a succession of texts as evidence for this, “'I find a law in my members, warring against the law in my mind.' 'When I do good, evil is present in me.' 'He that knoweth to do good, and doeth it not to him it is sin.' 'He that knoweth the Master's will, and doeth it not, he shall be beaten with many stripes.' 'I see the good and yet the ill pursue'.”\(^{54}\)

These biblical texts demonstrate, according to Reese, that only intellectual insanity can disqualify someone from punishment. The practical impact of moral insanity is even more nefarious, including the abolition of the gallows and the transformation of prisons into hospitals: “there is a specific sense in which all the guilty and depraved may be said to be morally insane, as is distinctly taught in the Scriptures,

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\(^{52}\) David Meredith Reese, *Quakerism Versus Calvinism: Being a Reply to “Quakerism Not Christianity,” or Reasons for Renouncing the Doctrine of Friends* (New York: Wm. A. Mercein, 1834).

\(^{53}\) Ibid., xiv.

Reese argued that the question of moral insanity had already been dealt with by theologians in their debates about the “mooted question of natural ability and moral inability.” Reese argued, like Finney had argued in his sermon “Moral Insanity,” that while intellectual insanity is a particular kind of natural inability, moral insanity is just another name for the “will madness” of the common sinner. Gray's editorial approval of Reese and subsequent use of similar passages suggests that, beyond a political or social concern about increasing crime, Gray began to feel a theological threat around moral insanity.

Homicide in Insanity: The First Blow

Later Gray's theological concerns about the doctrine of moral insanity would become more obvious. However, from the very start of his campaign against the doctrine, Gray insisted that the real problem with moral insanity was that it was not materialistic enough. “Homicide in Insanity” published in the October 1857 issue of AJI marked the launch of Gray's own efforts against moral insanity. Doctors, according to Gray, do not deal with “diseases of metaphysical entity, which the method of inductive inquiry cannot reach, but with a disease of the nervous system.” For the remainder of his career he tirelessly argued that the problem with the moral insanity diagnosis was that it conflated moral causes of human action with physical. He consistently took what he perceived to be the scientific high ground. Many of the early proponents proved

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55 Ibid., 730.
56 Ibid.
easy targets for this attack. In particular, an insistence on a change of character, the conviction that environment incited insanity, and an inability to differentiate the environment that caused insanity from regular poor nurture left many defenders of moral insanity particularly open to the charge that they had confused insanity with sin and permitted Gray to form his attack on purely medical and scientific grounds. Immediately in “Homicide in Insanity” Gray argued that insanity did not spring from bad moral habits but from “some remote or direct form of physical disease.”

Moreover, Gray insisted, moral insanity was confused medical nomenclature. That persons suffering from physical insanity sometimes committed immoral and violent acts springing from their insanity was an opinion shared by common law and common opinion. However, by introducing the unhappy terminology 'moral insanity', Gray felt that doctors unwittingly conflated insanity and human sinfulness. In order to exculpate a person of a crime the “substantive term” insanity is sufficient; the “adjective qualification moral only muddles the matter.” Gray argued that violent acts are never impulsive or inexplicable. They will always fit “into some well acknowledged class of insanity ... or [are] discovered to be a result of evil habitude [that] would have thrown them into the same class as criminals deserving no particular clemency.” If the proponents of moral insanity would be proper scientists, they needed to recognize that mental disease had physical and not moral causes. It was confused medicine to claim

58 Ibid., 145
59 Ibid., 146.
60 Ibid.
that any form of insanity could be caused by bad moral habituation.

Gray asserted that moral insanity was nothing more than an infelicitous marriage of terms that automatically conflated sin and insanity. Gray's early repudiation was connected to his insistence on a stronger vision of the purely physical nature of insanity, and went alongside radical changes within the Utica asylum. By the end of the 1850's, Gray had scuttled the successful Opal, had began using more physical and chemical restraints, and had removed “moral causes” from his list of the incitements to insanity published in his annual report. This occasioned revolt amongst the assistant physicians under his charge and a swell of resignations followed.

Gray presented “Homicide in Insanity” to the members of AMSAII. While no debate erupted about moral insanity, there arose a long debate about the physical versus moral causes of insanity. The old guard was resistant to many of Gray's claims. Nehemiah Cutter, one of the original thirteen, commented that it would be better if the public knew “less of the hereditary transmission of insanity.” Horace Buttolph, formerly medical assistant under Amariah Brigham, commented that far more cases are caused by the improper formation of the religious faculties than spring from physical cause. Dr. Edward Jarvis supported Cutter and Buttolph reminding those assembled to read British cleric John Barlow's sermon “On Man's Power Over Himself to Prevent

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62 Ibid.
and Control Insanity."

Of Related Import at the 1857 AMSAII Meeting

Other papers presented at that AMSAII meeting such as one on the proper treatment of the violent insane by a Dr. Taylor also questioned core values of the moral cure. The paper suggested that that the ideological rejection of restraints was hindering the creation of a properly curative environment within the asylum. Pliny Earle rejected this claim, suggesting that it was profoundly dangerous to admit any exceptions to the no restraint rule. Kirkbride responded that the use of restraining apparatuses was a "great evil." Gray took the side of Taylor declaring "[R]estraint is among the necessary means for the proper care of certain persons admitted to all institutions." By the 1861 meeting of AMSAII there was a growing acceptance of some form of restraints, especially muffs and drugs (ether and chloroform) as an acceptable method of calming unruly patients. Meanwhile, strong supporters of moral insanity like Dr. Nichols opposed using depressing drugs to control patients.

A new guard that eventually sidled up to Gray were committed to the link between self-control and external restraints and fear. They also insisted on a much stronger somatic vision of mental illness. This was exhibited in their push for the need for these measures in the asylum as well as in criminal justice and broader society. Gray

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63 Ibid., 86.
64 Ibid., 72.
65 Ibid.
66 Ibid.
67 Ibid., 63.
had argued the year before, in his important disavowal of moral insanity, that because unsoundness of mind assumes such various phases, and springs from such various causes (some of them habitual vices) ... certain modes of correction and restraint, less severe than the discipline of prisons, and more rigid than that of asylums, might, perhaps, be wisely applied in cases of criminal propensity.\textsuperscript{68}

Gray argued that when self-control fails it is important to realize the need for the control of others: “such control ... is restraint; in a modified way, it is correction; and correction is a milder term for punishment.”\textsuperscript{69}

It is important to see this move to physical restraint and the use of controlling narcotics in the context of a broader rejection of central and founding tenets of the moral cure, indeed of the organization of AMSAI as a whole. These founding tenets included the preference of moral suasion over fear, the exclusion of doctrinal religion, rejection of restraints, and the preference for non-medicinal cures. The movement away from the moral cure has often been read as a product of professionalization or over-crowding. In their zeal to be “real doctors” the membership of AMSAI turned away from the vagaries of metaphysical practices of body-mind cure and determined that their art should be more determinedly physical and somatic. Or, as the asylum became larger, practical pressures transformed them from therapeutic to custodial institutions.\textsuperscript{70}

However, it would be equally or more correct to suggest that the same theo-juridical

\begin{footnotes}
\item[69]Ibid., 343.
\item[70]Gerald N. Grob, \textit{The Mad Among Us: A History of the Care of America’s Mentally Ill} (Simon and Schuster, 1994); Grob, \textit{Mental Institutions in America}.
\end{footnotes}
instincts that occasioned the rejection of “moral insanity” occasioned the rejection of the moral cure. In particular, a stronger insistence on the centrality of punishment to the formation of the human person and the desire to more vigorously delimit the line between insane and sinner won the day.

The question of the moral relationship between insanity and sin, which was so forcefully worked out in the courts, was institutionally raised in debates over what should be done with different classes of insane, criminal offenders. In the 1857 meeting, there was furthermore, a paper presented on “Criminal Insane, Insane Transgressors, and Insane Convicts,” by Edward Jarvis.\(^71\) Jarvis, a graduate of Harvard (1830), was a Unitarian who had desired to be a minister in his early years. Friends advised Jarvis against the ministry because he was a not a clear speaker.\(^72\) His abrasive and moralizing personality got in the way of his acquiring a job as a superintendent. However, he became a prominent member of AMSAII due to his gift for statistics. Jarvis melded his statistical acuity to a moralizing tendency.\(^73\) Jarvis had discovered critical errors in the 1840 U.S. Census in how the mentally ill were counted and he came up with his own detailed report of insanity in Massachusetts.\(^74\) In particular, Jarvis noted that in the


1840 Census the number of free, coloured insane was profoundly inflated. These census findings supported Southerners views that slaves could not care for themselves and that they would sink into insanity if burdened with freedom. Jarvis’ work sought to show the connection between education, occupation, sex and race and the tendency towards insanity. His work was critically important to the formation of a mental hygiene movement that eventually became part of the American eugenics movement.

Jarvis’s division of the insane from the wicked depends to a great degree on the question of causality. He argued that there is an important, undeniable distinction between people who have become insane as a result of a life of crime and those who commit crimes due to mental disorder. In the discussion that followed in AMSAII there seems to have been general unanimity among the superintendents of the asylum on this point. Most are convinced that convicts who have gone insane in prison should have special institutions constructed for their care. However, there was considerable debate about whether criminals who had been judged not fit to stand trial or found ‘not guilty by reason of insanity’ should be placed in institutions with “Insane Convicts” or should be sent to a regular asylum. Moreover, some questioned whether there should be such a staunch division between those whose family committed them in order to prevent them from committing a homicide and those judged by a court to be ‘not guilty.”

This commitment to the need for punishment in the treatment of some types of

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mental illness gained institutional form in the foundation of the first asylum for the criminally insane, opened, appropriately enough, at Auburn in 1859. The creation of an asylum specifically for the criminally insane was largely a product of Gray’s efforts. He advocated for it in his Annual Reports before the New York legislature, and among powerful friends. Later he served on its board of commissioners. At first, the asylum took only those who had a verdict of ‘not guilty by reason of insanity,’ but eventually, at the discretion of the superintendent of Utica, it also admitted patients whose illness was said to be displayed in violence and ferocity.

In Gray’s 1858 article, “Moral Insanity” it becomes clear that Gray’s rejection of moral insanity was deeply related to his theology of punishment. True religion, for Gray, forms a seamless whole with true science and true law. None can contradict either of the others. In this vision, religion protects the sanctity of the affirmation that human beings are essentially free, a theory that is also inscribed in laws and should be the ruling foundation of psychiatric care. That there are various aspects of humanity’s unruly nature that seem to evince another reality should be disregarded as the errant vision of metaphysicians or materialists. The vision of Rush, Bell, Brigham, Ray, and Prichard saw the need for graciousness in the healing of the disordered mind. Gray rejected the suspicion of the terrors of the law that had motivated Ray, while turning

78 Ibid.
79 Ibid., 311-320.
80 Ibid., 320.
away from Brigham and Rush’s commitment to reading, education, soothing views, and sermons. Gray instead insisted that moral sense could be instilled through a rational, self-interested, fear of punishment.\textsuperscript{81} His most famous innovation in this regard was the long infamous Utica Crib whereby noncompliant patients were locked in a cage that forced them to lie in their bed all day long.\textsuperscript{82}

In “Moral Insanity,” Gray turned to theological sources including Thomas Hooker and biblical sources including Genesis and Romans. The article bore many similarities to a Princeton Review article written the year before which also reviewed the Huntington trial.\textsuperscript{83} Where an earlier edition of the Review had included an article supportive of moral insanity (also by Lyman H. Atwater) this article, a copy of which was available in the Utica asylum library, included a scathing critique of moral insanity.\textsuperscript{84} The author suggested that there was a profound distinction between “insanity that clears from responsibility” and “culpable madness.” While, in principle, it affirmed intellectual insanity, the article highlighted the difficulties involved in distinguishing the delusion “which excuses crime, from that which constitutes its essence.”\textsuperscript{85} “All sinful feelings and desires involve a certain blindness or delusion of the

\begin{thebibliography}{99}
  \bibitem{81} Ibid., 318-320.
  \bibitem{85} Atwater, “Moral Insanity,” 351.
\end{thebibliography}
Taking a strikingly voluntaristic position, the essay argued that all
"apprehensions, judgements, and reasonings about these objects are very much
controlled by feelings."\textsuperscript{87}

Furthermore, Atwater argued, the most difficult form of moral insanity to
understand are those where there is no rational motive, where a person acts from a
sudden impulse, in the face of strong remonstrance of conscience, and against self-
interest, for instance, when a mother feels a sudden impulse to kill a child. The author
draws a stark distinction between this form of moral insanity and one that merely an
instance of the passions overwhelming the reason.\textsuperscript{88} This form is difficult to
understand because people under the sway of sudden, animal motives do things
against the "normal instinct of human nature, even in the fallen state, so that even
hardened and desperate men will not ordinarily commit them."\textsuperscript{89} In these cases, the
actions do not seem like they are the result of the growth of previous vice and crime.\textsuperscript{90}
However, it is part of the human struggle to overcome all incitements to sin, "whether
they arise from physical or moral infirmity."\textsuperscript{91} Following the stern intellectualist logic of
McNaughton, there is no impulse so great, so preverse, that it can overpower rational
control. The author does little to explain why, despite his pessimistic view of the

\textsuperscript{86} Ibid., 349.
\textsuperscript{87} Ibid., 350.
\textsuperscript{88} Ibid., 366.
\textsuperscript{89} Ibid., 368.
\textsuperscript{90} Ibid., 264.
\textsuperscript{91} Ibid., 371.
capacity of human reason, “delusion” represents a more theologically acceptable definition of insanity.

In “Moral Insanity,” Gray built on his own distinction between moral insanity and true insanity and also gave a more full-bodied account of sin. He insisted that insanity can be distinguishable from sin. Gray’s article differs from Atwater's article in the Princeton Review in critical respects. The Princeton Review article, with its recognition that sin can arise from the intellect, the will, or the physical infirmities as well as from habitual vice and the passions, presents a much more blurred line between sin and insanity than the one that Gray hoped to maintain.

Gray began “Moral Insanity” with a rather wry comment that it is a good thing that the “trial” of Cain had a more competent tribunal than many modern psychiatrists who would have assuredly declared Cain innocent by reason of moral insanity. They would claim that Cain’s acting impulsively, with no motive, and with little possibility for gain was a sure sign that he was overwhelmed by a fit of moral insanity.\(^\text{92}\) The snide comment was a direct repudiation of the theories of moral insanity that had been formed by Rush and Ray, theories which had insisted on the possibility that the will could act in a way that was unmotivated by reason or passions. Where Ray held that one way to determine when someone is committing an otherwise criminal act on the basis of a diseased will is a lack of motive, Gray suggested that this was precisely the

\(^{92}\text{Gray, “Moral Insanity,” 311.}\)
case with Cain. Motiveless crime was not an exception. It was the rule.\textsuperscript{93}

Such disordered reason and bound will are not signs of insanity, as proponents of expanding the insanity defence would claim, but of mere wickedness. Gray wrote of the Pauline dilemma that it would seem that human inability with respect to doing good could be seen to exculpatory. However, Gray believed that Paul’s argument tends to move in just the opposite way:

It seems rather that the will is oftener right than the passions, but the passions are often too strong for the will; yet when the passions get the victory as they are apt to do, according to St. Paul, some modern judges and doctors are disposed to attribute it to moral insanity, while it is simply and only human depravity.\textsuperscript{94}

For Gray, true science would never doubt the eternal truth of human being’s freedom to do the good.

To Ray’s description of myriad cases in which people seemed to be acting under the compulsion of a disease, Gray was able to retort, through healthy citations from Romans, that human freedom, in a technical sense, is not a legal necessity. Eventually, Gray grounded Ray, who was not nearly as theologically sophisticated as his predecessor Benjamin Rush, on the shoals of Jonathan Edwards’ influential distinction in the previous century between natural ability and moral inability. According to Edwards, humans possess a natural ability to obey God. In demanding obedience from humans, God is not asking humans do to something that is “unnatural” for them like

\textsuperscript{93}Ibid.

\textsuperscript{94}Ibid., 320.
asking them to fly or walk on water. Instead, humans have a moral inability to obey God because humans lost in the fall, according to Edwards, a want or desire to follow God.  

Gray insisted, as had Hale, Atwater’s *Princeton Review* article on moral insanity, and David Reese, that in every criminal act, the perpetrator is in some sense out of his or her mind. Superficially, the insane and the wicked have much in common. Both are unable to reason correctly or to prevent themselves from sinning. Since the fall of Adam it is impossible to say of any human that they are without blemish in their reasoning capacity. Gray read the book of Romans as saying that the depraved person is no longer able to know right from wrong. The cause of this state of affairs, according to Gray, is that through continued exercise of vice, a person’s knowledge of right and wrong has been obscured.  

Theologically, then, it would not matter whether extrinsic principles, such as bad education and bad training, have obscured a person’s knowledge of right and wrong. As sons and daughters of Adam all people are born into a mad world where right and wrong are difficult to discern. Furthermore, even when one does know right from wrong she will still always struggle due to a bondage of the will as evidenced by the Pauline dilemma: “The good that I would, I do not; but the evil which I would not, that

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On Gray's view in “Moral Insanity,” such disordered reason and bound will are not signs of insanity, as proponents of moral insanity would claim, but of mere wickedness. Gray wrote of the Pauline dilemma that it would seem that human inability to not sin would exculpate him or her. However, Gray believed that Paul’s argument tends to move in just the opposite way:

It seems rather that the will is oftener right than the passions, but the passions are often too strong for the will; yet when the passions get the victory as they are apt to do, according to St. Paul, some modern judges and doctors are disposed to attribute it to moral insanity, while it is simply and only human depravity.98

One may rightly begin to wonder whether for Gray there could be any misdeed attributable to insanity. If so, what would such a deed look like?

To answer this problem, Gray suggested in “Moral Insanity” that while the wicked lose their ability to reason about good and evil through poor habituation, the knowledge of right and wrong in the insane is obscured by physical disease. A person is not culpable with respect to a crime only if it can be proven that she or he has “a disease of the body that produces any distinguishing changes in the mind.”99 The insane, as a result, have a will “weakened or impaired, to an extent that indicates the effects of disease.”100 As such, they are not subject to Paul’s dilemma. They do not act against their will, like the wicked, but rather without one.

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97 Ibid., 320.
98 Ibid., 320.
99 Ibid., 318.
100 Ibid., 320.
Gray’s distinction between mind and brain offered a philosophical rationale for his differentiation of the insane and the wicked; it also helped Gray to balance the determinism of medical insanity with the freedom necessary for his Reformed account of human responsibility.\(^{101}\) Gray argued that the human brain is only the “physical instrument of mental action.”\(^{102}\) The brain may suffer from a “morbid physical change” that would cause that person to act in unaccountable and insane ways; however, the human soul is “independent of the bodily condition, as far as disease and death are concerned, and not a cerebral product in any sense.”\(^{103}\) The soul is immortal and immaterial and although “as long as it is allied with the material brain its proper function can be hindered,” the soul itself is incapable of being touched by disease and decay.\(^{104}\) “Whatever philosophers, psychologists or infidels say, every attempt to confound body and soul in a common destruction, has proved repugnant to the souls of mankind.”\(^{105}\) For Gray the distinction was clear: the insane have diseased brains while the wicked have diseased souls. While the truly insane need a doctor, the morally insane are in need of clergy.

In sum, in the circumstance of a diseased brain, the insane have no control over

\(^{101}\) Although Reformed theology is often popularly equated with asserting a lack of freedom, most Reformed thinkers contend that humans sin freely, but are not capable (post the fall) of doing good on their own. This distinction, whether or not it can be coherently held, is generally employed to vindicate God of ultimate responsibility for sin.

\(^{102}\) Ibid., 316.


\(^{104}\) Ibid., 178.

\(^{105}\) Gray, “Moral Insanity,” 320.
their own insanity and are therefore morally inculpable for any action springing from such disease. However, Gray believed that the spark of the human soul could never be completely obviated by bad action. Thus the wicked are responsible for their bad actions because they are culpable for the bad moral habituation that makes such action inevitable. That there were distinct problems with this tidy solution should have occurred to Gray as early as 1857. Continued reflection on his conclusions in the case of Hugh Miller should have troubled Gray's neat package substantially.

The vision, shared by Gray, Reese and the author of the Princeton Review piece – of insanity as the common lot of humanity – made its way into sermons preached at the Utica asylum. Reverend W.E. Knox, pastor of the Presbyterian Church in Rome, N.Y., preached a dedication sermon for the new asylum chapel after the first was destroyed by a fire in July of 1857:

For what is the account the gospel gives of any of us in our native condition but as so many poor, and blind, and sick, and even insane, according to that scripture which says, “madness is in their hearts while they live.” ... The world in one view of it is a vast Insane Hospital, into which a great superintending Physician is come who knows how to cause lunatics, whom no chains could bind, to sit at his feet “clothed and in their right mind.”

This madness 'in their hearts' is the great monomania, and it is definitely to be classified as sin, and all other monomanias are lesser in their impact.

Ray v. Gray

It would take three years, but in 1861 Ray finally published a rejoinder to Gray's

1858 article “Moral Insanity” and addressed the general tenor of the “American Journal of Insanity, which of late years has taken frequent occasion to attack the doctrine with ... zeal, if not ... knowledge.” Ray’s essay, “An examination of the Objection to the Doctrine of Moral Insanity,” impugns the opponents of moral insanity for maintaining “their position not by means of cases, but by the metaphysical arguments, by objections to the fidelity of the observation, by appeals to startling consequence, and too often for the credit of their cause by sneers or jibes.” The tone of Ray’s essay is bitter. Insinuating that Gray came to his position through guile, Ray proceeded to this cheeky retort: “facts may be met with facts, arguments may be met with arguments, but sneers, jibes, sophism and conceit must be encountered with a very different class of weapons.”

Ray’s claim that the opponents of moral insanity depend on metaphysical arguments and not case studies was matched in Gray’s reply to Ray, published in the same edition of the AJI. Gray remarked that “Dr. Ray does not give a single illustrative case observed by himself.” Furthermore, Gray lambasted Ray’s dependence on metaphysics “to arrogate proof under the shallow disguise of imposing by indefinite terms, [what] we had supposed was left to medical quacks and theological

108 Ibid., 114.
109 Ibid., 118.
dogmatists.” Gray believed that Ray's separation of moral from intellectual faculties was a metaphysical commitment bolstered by phrenological theory and that it could not be sustained by careful clinical observation.

Ray, meanwhile, mourned Gray's ignorance of the fact that the theory of moral insanity was central to the modern revolution in the understanding of insanity—the recognition that insanity was more than just “furious ravings” or delusions; instead a majority of asylum residents had relatively sound intellects but suffered from overwrought emotions and affective disorders. Furthermore, it was discovered that in some instances of insanity, it was only the volition, emotions or sentiments that were affected. In these patients, intellects were sound, but insanity demonstrated itself in unfounded bitterness, loss of normal affections, and at times, the radical transformation of moral character.

Ray argued that the rejection of moral insanity depended on a metaphysical claim that if the intellect is in a healthy state it will be able to control the passions or volition. Yet this fails to take account of the fact that as soon as the moral powers become diseased, their normal relationship to the intellectual powers is no longer intact.

111 Ibid.
113 Ibid.
Gray countered that Ray's metaphysical error simply presumed that the moral powers can ever act independently of the intellectual powers. He argued that Ray clearly believed that reason, will, and emotions represent “independent powers.” Moreover, “on no other theory can be based Dr. Ray's definition of moral insanity.”

Gray replied that the brain is in every way a unity, and because of this, it is impossible for the moral powers to be diseased without the intellectual powers being affected.

In truth, Gray and Ray were both correct; metaphysics, and not clinical data separated them. Gray's vision of an unshakeable unity of the faculties was an affirmation of a classically intellectualist position. He supported this view with the writings of mid-nineteenth-century Scottish philosopher Alexander Bain and evolutionary philosopher Herbert Spencer. Ray, still holding to the earlier Scottish philosophers as the highest authority argued that the division between moral and intellectual powers had been held “from Plato to [Dugald] Stewart.” Ray asserted, further, that Gray’s bombast that the “mind is now recognized to be a unity, and even the grand division into intellectual and emotional faculties merely a convenience” was “vague, loose, and incorrect.”

Nonetheless, Ray insisted that he believed in the essential unity of the mind;

115 Gray, “Summary-Dr. Ray on Moral Insanity,” 188.
116 Ibid.
117 Ibid.
118 Ray, “Dr. Ray on Moral Insanity,” 137.
119 Ibid., 135.
functionally, however, there are different powers. The unity of the mind should not mean that one power cannot act independently of another. Ray also admitted that there are similarities between descriptions of insanity and descriptions of sin. However, this argument “would be equally strong against admitting any kind of insanity in defence of crime.”

Ray's article was filled with venom against Gray; however, what he apparently found most revolting was Gray's assertion that moral insanity might exist, but it would nevertheless be too speculative for the law to consider. Ray was reacting to a comment that Gray made two years prior to the writing of “Moral Insanity.” There Gray commented that “human laws can only take cognizance of acts, and of motives as developed by acts: they cannot rise to the subtleties of ethics of casuistry. But the Divine law takes cognizance of motives as well as acts, and judges with equal severity both.” Gray drew the conclusion that such people might be legally guilty even though objectively guiltless before God. Ray saw many things wrong in this assertion. First, he took it that moral insanity is not too speculative to be known and observed by an expert on mental illness. But, he also saw the very dint of such an argument undermining a primary commitment of the common law that 'it is better for ten guilty criminals to get away than for one innocent person to be punished unjustly.' For Ray, it was precisely

120 Ibid.
121 Ray, “Dr. Ray on Moral Insanity,” 120.
122 Ibid., 126.
because human magistrates and juries are not invested with God-like sagacity that insanity laws have been placed on the books.\textsuperscript{124}

Analyzing the degree to which, in describing moral insanity, alienists were unwittingly describing human sin, Gray argued that what was wrong with Ray’s thought was that “it tempts men to indulge their strongest passions under the false impression that God has constituted [them] in such a way that their passions or impulses are generally not governable by the will.”\textsuperscript{125} Gray’s appeal to the trial of Cain, described above, was especially crafted to aim at the heart of Ray’s differentiation between sin and insanity.

Ray, unsurprisingly, was not convinced, arguing that Gray’s critique worked both ways, “If the difficulty of distinguishing between moral depravity and moral insanity is a sufficient reason for ignoring the latter altogether … the argument would be equally strong against admitting any kind of insanity in defence of crime.”\textsuperscript{126} Indeed, as shall be seen by the end of this chapter, Gray’s position would eventually force him into a rather precarious position with respect to the newer school of neurological psychiatry.

\textbf{From the Civil War Insanity Cases to Gray’s Apex}

Gray’s strident somaticism placed him in the vanguard of a movement towards more consistently physical explanations of mental illness. His place as a scientific mind

\textsuperscript{124} Ray, “Dr. Ray on Moral Insanity” 132.

\textsuperscript{125} John P. Gray, “Moral Insanity,” \textit{American Journal of Insanity} 14, no. 4 (April 1858): 321.

\textsuperscript{126} Ray, “Dr. Ray on Moral Insanity,” 120.
was affirmed when he was named president of the Medical Society of the State of New York in 1874, an unheard of honour for an asylum head. Apart from the actual content of his medical doctrines, however, Gray also cannily decided the right way politically in every important American Civil War related case that came his way.

Gray's first charge in this regard came about when Gerritt Smith's role in financing John Brown's failed raid on Harper's Ferry became widely known. When his family learned of his participation in the raid, they attempted to check him into Utica's asylum. In spite of his strict insistence on physical causation by this point, and in spite of his later reputation as a hired gun for the prosecution, Gray quickly allowed that Smith was insane and granted him entry at Utica.\(^\text{127}\)

Throughout the 1860s, Gray's reputation grew. He challenged the doctrine of moral insanity not only in pages of the _AJI_ and at AMSAII meetings, but also in the courts. He was frequently called by prosecutors to dispel the doctrine. On July 11, 1863, shortly after the Battle of Gettysburg, a David M. Wright was accused of committing a murder in the death of Second Lieutenant Alanson L. Sanborn.\(^\text{128}\) Wright had become enraged when he saw slaves walking on the sidewalk and pushing Southern men and women to the side. William Seward, by now a prominent member of Lincoln's cabinet, suggested that Gray be called from Utica as a good person to discern the issue of

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insanity in this particular case. Gray questioned Wright and found that he had Southern sympathies and had been convinced while living in North Carolina that slavery was in accordance with scripture. His action then, apparently unlike Gerritt Smith's, were motivated by political sympathies for the South and not by an irresistible impulse.

Given his sympathies and growing stature, it is not surprising that Gray was further called upon to help in the trial of Lewis Payne, one of the conspirators in Lincoln's assassination. Payne's part was to kill Seward, and, although unsuccessful, he severely injured Seward and two of his sons. Payne hung with the other conspirators in 1865 after Gray quickly undermined his plea of insanity.

Meanwhile, Gray’s vision and influence was shaping the work of other writers on medical-legal questions, in particular John Ordronaux, John Elwell, and Francis Wharton. Susanna Blumenthal writes that during this period the law begin to realize that its primary mission is to search for the “practical rules that could be administered without inhumanity, for the security of civil society, by protecting it from crime,” and Gray was instrumental in shaping this particular vision. These writers shared Gray’s perspective that it is only the most radically insane who cannot be improved by

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129 Ibid., 434.
130 Ibid., 436.
punishment and that it is outside the scope of any mere human judge to determine questions of actual moral guilt. Francis Wharton had originally supported the notion of moral insanity due to the weight of Isaac Ray’s authority, but came to reject the category on the force of Gray’s argument.\footnote{Ibid., 147f.} John Elwell quoted considerably from Gray and suggested that in order for a person to be considered insane he or she must be shown to be “absolutely without the power of self-restraint.”\footnote{John Elwell, \textit{A Medico-Legal Treatise on Malpractice and Medical Evidence: Comprising the Elements of Medical Jurisprudence} (New York: J.S. Voorhies, 1860), 360.} Wharton went further, suggesting that it was the law’s function to “subordinate passions to reason” and that even someone suffering from insanity should not necessarily have any asylum from the law because one of the best ways for the moral sense to be formed is through penal discipline.\footnote{Janet Tighe, “Francis Wharton and the Nineteenth-Century Insanity Defense: The Origins of a Reform Tradition” in \textit{The American Journal of Legal History} 27, no. 3 (July, 1983): 249.}

Gray continued to hammer moral insanity as a metaphysical interloper in the world of science. In a talk given to medical doctors, Gray argued that the study of insanity was particularly perverted in the middle ages by the “general tendency of the intellectual activity of those times to abstruse and barren philosophical speculations upon everything connected with the mind, and its relation to the body.” He bluntly castigated the medical study of the brain. It was the last science to emerge out of the darkness of the middle ages “clogged with the fetters of metaphysical theories even to the present day.”\footnote{Ibid., 147f.}
Gray went on to argue that the real improvement of the moral cure would be found in “better hygienic and sanitary conditions of the patients” and that, in and of itself, it was not a medical cure at all. Morality Insanity is the last remnant of the metaphysical school. For too long, “the treatment of the so-called diseases of the mind was quite a different thing from the treatment of diseases of the body; and this idea has not wholly disappeared.” According to Gray, insanity is “subject to the same laws,” and presents the same general pathological conditions, which are found in other diseases. In the midst of the topic he makes an argument about the secularization of medicine: “Medicine throughout this conflict stood by the sufferer” even at the risk of appearing heretical.

Despite Gray and his compatriots’ fevered work to undermine the doctrine of moral insanity, it was still an open question at AMSAI. During the 1871 annual meeting, a Dr. Compton rose, “I would like, however to ask just one broad question before I take my seat, and that is, do we recognize moral insanity or not?” Dr. Kirkbride promptly answered that all depends, “if you read Dr. Ray’s book, you have one view of it, and the Journal of Insanity, has another.”

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136 John Gray and Medical Society of the State of New York, Annual Address Before the Medical Society of the State of New York, February 5, 1868 (Utica: Roberts, 1868), 5.
137 Ibid., 7.
138 Ibid., 9.
139 Ibid., 3.
140 Ibid., 11.
Throughout the 1870s Gray was kept busy testifying in some of New York's most infamous trials including the trials of the Sleepy Hollow Murder, Issac Van Wort Buckhout, and a serial killer Edward H. Ruloff. In 1870 Gray testified in the trial of Ruloff, a amateur philologist of such brilliance that many intellectuals decried the necessity of punishment. Indeed, his brain was reputed to be one of the largest in the world and is still kept in a collection at Cornell. Ruloff's crimes gained wide publicity both for the heartlessness with which they were committed and the intellectual gifts of the criminal. Even Mark Twain weighed in, attempting to cut through popular cant about the immorality of hanging such a brilliant man by offering himself to be hung in his place “for the interest of learning and science.”

The next year Gray testified in the trial of Isaac Van Wort Buckhout, the so-called Sleepy Hollow Murderer. Buckhout killed his wife, his neighbour Alfred Rendall, and his neighbour's son Charlie Rendall. After the murder he rushed into the street and yelled, “I have killed Charlie Rendall.” Medical witnesses for the defence included Dr. Brown of the Bloomingdale asylum and Dr. George Choate, formerly superintendent at the Massachusetts State Lunatic asylum. The medical witnesses for

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the prosecution were in a state of disarray and the trial ended with a hung jury. A new trial was held, and Gray was called upon this time. He was able to pull together testimony for the prosecution and helped to shape a narrative that Buckhout was not insane but morally deficient, “given over to habits of leisure, drink and … jealousy.”

*Uncomfortable Allies*

While Gray shared social and theological commitments with supporters of his crusade such as Ordronaux, Elwell, and Wharton, he soon found more uncomfortable allies. A new generation of neurologists were pressing ahead more intensely with insights into the purely somatic nature of mental illness. The 1870 trial of Daniel McFarland brought to the fore a neurological psychologist who would eventually pose severe challenges for Gray. Dr. William Hammond claimed to ascertain the presence of congestion of the brain in a defendant by the use of an ophthalmoscope. Moreover, by the use of a “dynamograph,” a nineteenth-century invention for measuring muscle force, Hammond investigated the tone of McFarland's nervous system and ascertained that “he was incapable of willing.” This early trial pushed Gray's strict adherence to physical causation of mental illness in a new direction, one in which technological advances could be used to locate particular physiological defects heretofore undiscoverable.

During the 1876 meeting of the AMSAI, referenced already in the introduction to

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145 Ibid.
147 Ibid.
this chapter, the close connection between “responsibility” and “punishability” that Gray so often championed was shared by another unlikely ally, Dr. Bucknill, from England, who praised Gray’s position against Gundry. Bucknill supported his position, not from a Calvinist view of the restraining use of the law, but on the basis of anthropology and political efficacy. He suggested that the debate over responsibility could be transformed into a simpler question about punishability. The important question presented to theorists on insanity law is who should the state punish and who should the state refuse to punish? The test was efficacy. In the case of the total lunatic it is not efficacious to punish. To punish such a person hurts the state’s claim to moral legitimacy. However, when the state punishes the “marginal lunatic” it often supports the legitimacy of government, culls vigilantism, and provides the strongest possible warning to the lunatic to control his or her actions. When the state punishes the “marginal lunatic” who commits a violent crime it reduces public stigmatization of all lunatics as dangerous. The reason for this, Bucknill argues, is that such punishment undermines the conviction that all insane men and women are dangerous and incapable of self-control. Bucknill argued that there is a natural tendency to kill lunatics in many primitive societies. He makes the dubious claim that in Australia, where “aboriginals” connect insanity with danger, all insane persons are speared to death. Bucknill asserted that if the courts connect insanity too closely with criminality, it risks forcing the

148 “Proceedings of the Association of Medical Superintendents,” 358.

149 Ibid.
Unfortunately for Gray, the movement towards more psychosomatic accounts of mental illness gave birth to a more eugenic form of the moral insanity defence. Up to this point, Gray had countered the moral insanity defence with scientific explanations. However, the diagnostic category of moral insanity was undergoing a radical change. Up and coming neurologists trained in Europe, such as Edward Spitzka, were arguing that “bad heredity” and “degenerative stigmata” caused moral insanity. Moral insanity and its attendant antisocial behaviour were not the result of bad moral education but of the uncontrollable processes of disease passed on from parent to offspring. Such developments would tax the very limits of Gray's materialist commitments. Despite Gray's ability to accept that insanity was a physical disease, he was deeply unsettled by the idea if men like William Alexander Hammond that it was the absolute, biological fate of some men and women.

The Guiteau Trial
It was the trial of Guiteau that first brought Hammond and Gray together. This trial has been masterfully treated in Charles Rosenberg's 1968 book *The Trial of the Assassin Guiteau: Psychiatry and Law in the Gilded Age*. Rosenberg places Gray at the prosecution table throughout, instrumental in the creation of strategy for the trial. There Gray made his familiar charge that moral insanity is just another name for sin. Hammond argued for hereditarian causes of insanity suggesting “that Guiteau’s family

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150Ibid.

history ensured his assassin’s role and absolved him of criminal responsibility.”152 The three most important questions throughout the trial, in fact, were heredity, the question of delusions, and the nature of the inspiration on which Guiteau purportedly acted. But, more importantly for Gray the trial of Guiteau was the pinnacle of his career. He worked intimately with the prosecution preparing questions for the other medical witnesses and performed masterfully on the stand.153 While, in the Freeman trial, Van Buren had painted moral insanity as profoundly dangerous to law, order, and public safety, Gray, in the Guiteau trial, made the diagnosis seem ridiculous.154 Guiteau was executed by hanging in Washington D.C. On June 30, 1882.

**William Hammond and Gray's Reverse Course**

While Gray seemed to be at the height of his powers from his 1874 presidency of New York's Medical Association to the 1882 court proceedings, by the time of the Guiteau trial, the movement toward hereditarian accounts of mental illness had begun to shake some of Gray's most deeply held commitments. As early as 1875 Gray, in an essay entitled “Responsibility of the Insane: Homicide in Insanity,” moved toward a position subtly different from the one he had elaborated in “Homicide in Insanity” and “Moral Insanity” in the late 1850s. He wrote that in neither the case of the criminal nor the insane are their actions totally automatic since

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154 Ibid.
some consciousness and reflection accompany the initiatory stages of any human action. ... [T]he error of a purely physiological view of mental action consists in giving it an exclusively physical origin and basis, regardless of the fact that the mind has acted with great vigour in many conditions of bodily disease, involving various organs, and the nervous system, and even the brain.  

In “Responsibility of the Insane,” Gray showed a profound discomfort with purely materialistic explanations of mental illness. “It is apparent enough that the mind is always superior in endurance, and in consequence is not readily dethroned by causes, however material,” he wrote. Somehow Gray had been able, for nearly two decades, to live with the tension between the case of Hugh Miller and his mind/brain distinction. He was gradually forced to take a definite side in a movement of the guild toward pure materialism. The side he took would have come as a great surprise to those he had battled in the 1850’s and ‘60’s.

Yet, for the most part, Gray remained committed throughout the 1870s to the heart of his distinction between sin and insanity. Insanity is disease. Crimes and other aberrant behaviour of the insane could be traced to verifiable lesions on the brain. In Gray’s continued quest to differentiate sin and insanity, he had become one of the most vocal proponents of psychosomatic approaches to mental illness. Gray confidently dissected the brains of deceased Utica asylum inmates looking for physical signs of their insanity. He confidently asserted that in each case of insanity such lesions had been identified. Gray was certain that he had been able to empirically observe the

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156 Ibid., 13.
fragility of human existence that had so troubled him in the case of Hugh Miller.

Hammond Forces Gray's Hand

By the 1880s, however, William Alexander Hammond, who had been a Surgeon General for the U.S. Army during the Civil War and testified on behalf of McFarland in 1870, presented a new, frightening synthesis between the views of Gray and Spitzka. Hammond had praised Gray for his emphasis on German laboratory method and as an expert on medical jurisprudence. 158 It was clear, however, that even as he praised Gray, his materialism far outstripped Gray’s. Hammond had been appointed to the post of U.S Surgeon General directly by Abraham Lincoln. Hammond was the choice of those who wanted to circumvent the leadership of Dorothea Dix over army nurses. 159 Dix served as the superintendent of the U.S Army nurses during the Civil War and personally oversaw their appointment. She favoured matronly nurses, over thirty-five, who tended also to be less yielding to the demands of physicians. 160 Later, Hammond himself would fall out of favor with some of these same army doctors. They became angry with his decision to ban calomel (a mercury compound) from army medical supplies. 161 Hammond claimed correctly that the compound was not only ineffectual, but also dangerous; doctors at the front lines were not so ready to yield a favoured


treatment. Hammond was eventually demoted from his position as Surgeon General over the calomel controversy. Hammond objected strenuously that this was unjust and that if they wanted him to leave his post as Surgeon General that he would have to be courtmarshalled. He was, and promptly.162

After his military service Hammond became, in 1867, a professor of nervous and mental diseases at Bellevue Hospital Medical College in New York. Later he would serve in the same capacity at his alma mater, New York University. In the 1870s Hammond began to limit his heretofore generalized practice of medicine to cases of nerves and mental diseases. In 1874 he founded the American Neurological Association with an army friend Silas Weir Mitchell.163

Hammond and other prominent neurologists such as Mitchell and Spitzka became critics of the asylum. He argued that more often than not superintendents are appointed for political reasons and that many cases of mental disease did not need to be treated in the asylum. In fact, “in many instances sequestration is not only unnecessary but positively injurious.”164 His argument against the asylum no doubt had much to do with his desire to raise the legitimacy of non-asylum methods of care for mental illnesses. However, it also was a natural offspring of a kind of strong insistence on


individual liberty. Noting that while early asylum heads were against restraint and worked feverishly for abolition of restraints within the asylum, Hammond remarked that they yet never “dreamt of the abolition of the restraint of the asylums.” 165 This emphasis on individual liberty shaped his rejection of laws against drinking and drunkenness. In a speech on “Sumptuary Laws and their Social Influence,” he noted that even though drunkenness is both a vice and a sin, it is not the purpose of the state to make laws that interfere with personal liberty. 166

Hammond also wrote fiction. His novels covered many genres – western, romance, mystery, morality tales – and most of them included discussions of insanity, law, religion, and Hammond's understanding of justice and the purpose of punishment. At times, Hammond's axes to grind resulted in stilted dialogue. For instance, in Dr. Gratton, the titular doctor had the following question for the mysterious Mr. Lamar: “you don't mean to tell me that you believe that what I call a morbidly recurrent idea and hallucination of hearing were the results of the agency of a supernatural being.” 167 They also included rejection of religious positions he disdained such as the doctor's conclusion from the above conversation: “There was something weak and pitiful in a man whose whole life had taught him the folly of superstition.” 168

On religious subjects, Hammond, like many of his generation, favoured a

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165 Ibid., 7.
168 Ibid., 130.
Protestantism which valorized will power and demonized emotions. During his life he had a “habitual association with fashionable Protestantism,” but his views tended at many junctures towards materialism and a this-worldly religious outlook.\textsuperscript{169} He was violently opposed to Catholicism, Spiritualism, revivalism, and Quakerism because of their excess emotionalism.\textsuperscript{170} He had an interest in both Buddhism and Stoicisn in part because they reinforced his belief that the emotions must be controlled.\textsuperscript{171} His fiction showed an interest in “healthy religion” which was moderate and ethical.\textsuperscript{172} In Mr. Oldmixon, the heroine Barbara believed “according to her own light” not because of “fear of heaven or hell” or out of duty to a deity but because “it was right.”\textsuperscript{173}

The Universalism and Monogenesis theorizing that marked the philosophy of Rush and Prichard and shaped the early asylum movement was firmly rejected by Hammond. He wrote: “the several races of men are distinguished by great differences - so great, indeed, that they can scarcely be regarded as due to any other cause than diversity of origin.”\textsuperscript{174} Hammond combined a radically hereditarian view of moral insanity with Gray’s vision of psychiatry in service to law and order. In the novel Lal,

\begin{footnotes}
\item[170] Ibid.
\item[173] Ibid.
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one of his main characters makes a passionate defence of the need for lynching because of a “criminal class that good laws were powerless to repress.” Laws, according to the moral world of that novel, were made not for the sake of abstract moral purity, but for the protection of society.

For Hammond, the will is one of the least cultivated of human capacities and “it is capable of a degree of development far in excess of that which is commonly exhibited even by persons of marked intellectual ability.” He firmly believed that it was a distinguishing mark of men in their “natural condition,” women, and lower races that they lacked self-control. The insane are often weak-willed, according to Hammond: “many, if not a majority, of these mentally-depraved persons, whether sane or insane are capable of regulating their feelings, their ideas, and their conduct by a standard more in accordance with that by which right-minded persons are guided is a matter in regard to which I do not believe a reasonable doubt exists.” He argued that we will never be quite sure in any case of so-called irresistible impulse that all possible will-power has been exerted. Hammond goes so far as to praise a man who upon feeling an irresistible impulse to murder his wife, instead cut off his arm.

176 Ibid.
179 Hammond, “Self-Control in Curing Insanity,” 312
Hammond agreed with Gray about the uses of punishment. In an essay in *Putnam Magazine* entitled “Society versus Insanity,” he argued that fear of consequences is the best way to restrain impulsively insane persons. There he asserted that “all psychologists recognize the force of example.” Moreover, every superintendent of an asylum, according to Hammond, could witness to the importance of rewards and punishments for even the profoundly mentally alienated. He finished the *Putnam Magazine* article with an insistence that if it is understood that murderers will all be punished, then the insane will control their impulse to kill. He did so by way of reiterating an analogy that he would repeat alarmingly often throughout his career – insane people who murder should be slain for “the same principle that we slay wild and ferocious beasts.”

Hammond carried this literary emphasis on law and order to his work in medical jurisprudence. Arguing that even those people whose reason has been totally obviated by disease should not find any asylum from punishment, Hammond remarked that older debates about sanity were related to questions about intention. Even if such notions are an important part of judging someone’s strict moral responsibility, they are relatively unimportant to issues of crime and punishment. He argued that many who

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182 Ibid.


are insane should be punished for the sake of society’s safety “even though they be morally irresponsible for their acts.” 185

Hammond thought that the legal test for insanity should be unmoored from philosophical debates about “objective” moral guilt or innocence. Still, Hammond favoured keeping the McNaughton test even as he dismissed “knowledge of right and wrong” as a medical test of insanity. Rather, Hammond supported McNaughton standards as a functional way to discern who is dangerous to society: “A man with murderous tendencies which he is unable to restrain, is as much an enemy of society as a ferocious tiger or a mad dog, and ought to be dealt with in quite as summary a manner as we deal with these animals.” 186 The question of “motive,” Hammond insisted, was a question about the sinfulness of an action and has no bearing on the action's criminality:

The motives of a person committing a crime are not to be considered in the estimate we may form of his criminality. They may be an extenuation of his sin, but sin and crime are two different things. With the first, society has nothing to do; but the latter, being a violation of law, concerns it very intimately. 187

Although, Hammond embraced the possibility of moral insanity, arising no doubt from his pessimistic vision of human nature, Hammond believed the propensity for murder exists in all, is “inborn, instinctive, and no amount of civilization or refinement is

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185 Ibid., 49.
sufficient to abolish it altogether,” and that law exists to protect society from these propensities. He argued that “intention, and therefore sanity, were factors in judging moral responsibility,” but that crime is simply any violation of the laws society had established to protect itself.

Hammond rejected the immateriality of the mind that both Gray and Ray had insisted upon, arguing that much science had been confused by Descartes who “confounded the mind with the soul, and lodged it in the pineal gland.” Hammond suggested furthermore that science for too long has been “fettered by theological and metaphysical dogma, which give the mind an existence independent of the nervous system.” Hammond spoke explicitly in praise of Gray's desire to bring asylum medicine in line with general medical science in a review of Gray's speech before the New York Medical Association. However, Hammond quickly pivoted to criticize Gray's medicine as exemplifying the kind of confusion of science of brain with metaphysics, concluding that Gray's methods were illogical and unscientific.

Gray Responds

Gray, who had heretofore been America’s leading proponent of material causes

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188 Ibid., 626
189 Ibid., 185.
191 William A. Hammond, Spiritualism and Allied Causes and Conditions of Nervous Derangement (G.P. Putnam’s Sons, 1876), 14.
192 Ibid.
of insanity, pronounced Spitzka and Hammond “materialistic pagans.”\textsuperscript{193} The new
genetic theories of mental illness repulsed him. “No person has ever been born insane,”
he opined.\textsuperscript{194} Why the new genetic theories of mental illness repulsed Gray so deeply
would be unclear without attention to his theological commitments. His own division
of brain and mind had allowed for a great deal of material determination of the human
person. He had been willing to recognize that physical disease could cause all sorts of
crime and immorality. Gray’s carefully constructed distinction between sin and insanity
was in the process of breaking down as he worked to repudiate this new form of full
fledged materialism that nevertheless allowed for punishment. To contradict
hereditary accounts of mental illness, Gray, in 1884, attempted to argue that what
seemed [like genetic transference of medical and moral insanity] was “due simply to
parallelisms or similarities in education and environment.”\textsuperscript{195} That children have many
of the same personality traits and behaviours as their parents is “due to unconscious
initiation from infancy to manhood; a gradual process of education.”\textsuperscript{196} Gray argued
that insanity “is not a slumbering element in the body,” instead it comes from external
causes, “the habits, the exposures, the vices, the accidents, the over-toil, the excesses” of
the individual.\textsuperscript{197} What seems like the passing down of morbid propensities from one
generation to the next is really just the passing down of bad habits via familial

\textsuperscript{194} Ibid.
\textsuperscript{195} Ibid., 6.
\textsuperscript{196} Ibid., 10.
\textsuperscript{197} Ibid., 7.
inculcation. Gray’s zeal to answer the guild’s determinism had now come full circle, undermining his own carefully wrought distinction between sin and insanity. For if insanity was caused by bad moral habituation, there was no way, on his own terms, to distinguish it from sin. Isaac Ray, who had survived until just three years prior, would no doubt have been intrigued by this turn in Gray’s thinking.

The psychiatric guild’s movement away from moral insanity is mirrored by a changing emphasis on how criminal insanity was understood more generally. Nicole Hahn Rafter discusses how, at the turn of the century, almost all criminals were understood to be mental imbeciles. This vision of the criminal arose concurrently with a shift in how the mental faculties were believed to be ordered. At the time of Rush “the intellectual and ethical abilities vary independently.” It is possible for a person to be “smart yet wicked” and a “mental imbecile is not necessarily immoral.” Yet, after the Civil War, and before the advent of Freud, “scientists abandoned this view in favor of a second position according to which intellectual and ethical abilities vary together.” The impact of this strong emphasis on intellectual incapacity on criminality was to strengthen the view that criminals were “born not made.”

In part, Gray recognized in the moral insanity theory of the new neurology a crumbling of his own religious cosmos. This recognition is partially evident in his 1884

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199 Ibid.
200 Ibid.
201 Ibid., 85.
article on “Heredity.” Gray writes “the dread of heredity lies in the popular belief that it is the law of our being.” 202 This dark picture of the universe and its operations revolted Gray: “[T]hat nature puts a destructive force on a race … [is] contrary to any philosophical system of evolution itself.” 203 It was a denial of the goodness of nature but, more importantly, of the benevolence of God: “[T]he hopes and destinies of modern civilization are wrapped up in the noble potentialities which a beneficent creator had imbedded in the constitution of human nature.” 204 We are not ruled by the dark forces of disease and decay but by a provident God.

Gray sensed a growing movement towards understanding the forces of nature as indifferent and even malevolent to human beings. While Gray could maintain a theory of benevolent and progressive evolution, materialistic evolution terrified him. In part Gray’s own form of evolutionary progress was a theological retelling of Herbert Spencer’s. “The earth itself is … the purifier of all corruption,” Gray asserted. 205 Human nature possesses a “recuperative tendency to cast out and eliminate the elements that are hostile to its own existence.” 206 God impresses this “benevolent principle” on the physical world. 207 That insanity could be passed on physically from parent to child upsets the way that human progress makes suffering redemptive. The new science of


203 Ibid., 20.

204 Ibid., 19.

205 Ibid., 17.

206 Ibid., 15.

207 Ibid., 20.
Hammond and his ilk was taken as a repudiation of Gray’s hopeful vision that he found echoed in the words of Alfred Lord Tennyson:

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\begin{align*}
    That \ somehow \ good \\
    Will \ be \ the \ final \ goal \ of \ ill, \\
    To \ pangs \ of \ nature, \ sins \ of \ will, \\
    Defects \ of \ doubt \ and \ taints \ of \ blood. \quad &208
\end{align*}
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In attempting to repudiate Hammond and Spitzka’s form of godless materialism, Gray’s own carefully constructed distinction between sin and insanity broke down. With the death of Gray in 1886, George Alder Blumer became head of the Utica asylum. Also the head of the American Medico-Psychological Association, he worked feverishly to make Utica a place that would reflect his eugenic commitments.\(^{209}\)

**Conclusion**

Gray had been for a time the most prominent figure in American psychiatry. Yet, in spite of his allegiance to his professional guild, Gray went to his death willing to dissolve the category “insanity” into the broader category “sin.” Gray himself probably would have furiously rejected this charge, repeating his familiar mantra that insanity was a disease and that sin was a result of bad habit. Nevertheless, he left unreconciled his assertion in “Heredity” the apparent genetic transference of insanity was education in bad habits with his earlier account of the difference between sin and insanity. Nonetheless, it would be too simplistic to assert that Gray was merely a law and order conservative or a man stymied in archaic religious confessions.


Gray was a man of faith who believed, like many of his contemporaries, that science and religion were compatible. In his rejection of the moral insanity of Ray, Gray displayed a deep faith that careful scientific observation could address baffling questions like the relationship of depravity and insanity. He opposed Ray, Bell and Brigham's redux of the bound will, their vision of corporate guilt, and their rejection of the fear of the law. Gray recognized in Ray, not bad science, but bad theology—God did not create humans naturally unable to follow his commands. That Gray was able to accept a great deal of materialism in his own account of human destiny and action was due to his deeply held conviction that all the forces of nature were ultimately in the hands of a provident God.

Through the first three quarters of the nineteenth century, American defenders of moral insanity accepted the existence of independent faculties of will, volition, and the various moral faculties. They believed that these independent faculties exerted their powers, like the intellectual powers, through the fragile instrument of the brain. All human beings are born with the capacity for willing and willing was elevated by some thinkers to be the highest capacity of human beings. It allowed them to grow as moral agents, becoming not just narrowly concerned with self-interest, but open to others. The will, like the more strictly rational powers, could become diseased, and for this reason the very source of human freedom is also the source of the incredibly contingent nature of human life. The possibility of going insane was the dark underside of genuine human freedom.
Gray, in his arguments against moral insanity, argued that the mind is a unity. The will cannot be diseased because it has no physical reality. Gray declared the will a metaphysical entity beyond the human fray of death and disorder and disease. He sought to protect the will from the contingency of habits and environment and nurture. Yet, in so doing, he enshrined the will as a theological concept relatively unassailable by medicine, but also, then, of no practical use for medicine. This “will” was central to the law and yet denuded of any power to usurp the law’s rationalism. Gray had returned to the formulation of Hale and Tracey in which the only insanity that the law could allow would be a total obviation of the reason.

The antebellum alienists who fought to gain legal acceptance for “moral insanities” were more committed to the gracious moral government of God than a concept of fundamental human goodness. In this they were like the early Universalists; such similarities were not lost on their many detractors. While the alienists were never able to sharply distinguish their vision of the fundamental human condition from a Calvinist vision of humanity’s universal madness, they did break sharply with highly-influential, contemporaneous schools of thought and figures working within that tradition by attempting to give juridical and medical force to a politically charged notion of grace.

Ironically, Gray’s faith that his science and religion were compatible placed him in the vanguard of a mass movement in American psychiatry away from “traditional . . . moral views stressing free will and individual responsibility towards one in which
scientifically-derived determinism plays a role.”\textsuperscript{210} While Gray did not realize it, in his attempt to repudiate Ray’s doctrine of moral insanity as metaphysical, he opened the way for a materialistic vision of moral insanity. While Ray, Bell, and Brigham insisted that anyone could become insane, Hammond insisted that insanity was the fate of the constitutionally inferior. Hammond’s reprise of the doctrine of moral insanity would be the version that shaped emerging notions of psychopathology. Early alienists sought to politicize an almost universalist notion of grace and corporate responsibility. Hammond would seek a secular analogue to the doctrine of double predestination-- some individuals were born enemies of society.

Gray opposed such a notion with all the weapons available to him, but in the face of a more far reaching materialism that developed in the wake he created, Gray’s medical jurisprudence fell to pieces. Ray’s moral insanity, however, had already been laid to rest. Gray’s reactionary rejoinder to grace politicized, for all intents and purposes, had swept clean the notion of the will from scientific and legal discourse and set the stage for purely materialistic, even eugenic theories of human personality.

\textsuperscript{210} Tighe, \textit{A Question of Responsibility}, 3.
Conclusion

This dissertation has argued that the medical-legal experts who advocated for the concept of moral insanity were not attempting to secularize sin but to sacralize society and especially the law. I have used the term *politicization of grace* to describe the complex ways in which the movement to reform the insanity defence to include diseases of the volition was understood in the context of broader religious debates about the self, sin, responsibility, punishment, and the metaphor of human insanity *post lapsum*. This politicization of grace had several important components.

First, *a pessimistic view of human nature*: I have argued that the concept of moral insanity is best understood in the context of the longer tradition of voluntaristic determinism or the bondage of the will. Its originators, Rush and Prichard, shared a rejection of the primacy of the intellect. Rush posited a fundamental 'anarchia' in the human soul; Prichard insisted that a tendency towards insanity indered in the minds of all human-beings. Rush and Prichard's American disciples, alienists such as Ray and Bell, used animal magnetism and phrenology to understand the human condition of moral bondage and collective entanglements. Marcel Gauchet and Gladys Swain argue that there was in this period a recognition that even in the maimed condition of mental breakdown, with all its loss of conscious control over thought and action, human beings retain their subjective integrity on some level. Their condition still belongs to them as the particular individuals that they are; their insanity does not obliterate
their personality and may even be an emphatic translation of it.¹

In other words, sin and insanity are basic, rather than anomalous, conditions.

Second, *a communal concept of human personhood*: American proponents of the concept of moral insanity and of widening the insanity defence believed that humans are networked together. The ideal self is socially connected. Boundaries between selves, along with sympathy and magnetism, link people together in a republic that mirrors the phrenolological mind. Like the reformers Robert Abzug studies in *Cosmos Crumbling*, they believed that “individualism ... unchecked by a sense of community ... foretold disaster.”² The writings of alienists on the burgeoning problem of insanity were riddled with concerns about the mental effects of unchecked selfishness, constant self-improvement, and ever more intense self-reflection. The healing of the mind required often that a person be turned away from an incurvature of the self to a more healthful benevolence towards others.³

Third, *a critique of society as maddening*: moral insanity originated as a critique of what was seen as an inappropriate deification of intellect and a critique of selfish and godless modernity. Society causes insanity. Because of this the asylum was understood as an alternative society, a purified public, a place where reason can be returned through proper habituation.

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Fourth, the interconnection of secondary and primary means of grace: knowledge and freedom cannot solve all social problems. In Rush's vision, appeals to reason alone cannot heal the micronomia of the human heart – what is necessary is a curative grace. This vision would shape early asylum medicine, especially in the insistence that the insane are re-formed through gentleness and not through fear of the law and of punishment. While the asylum as an institution was a vehicle of social control, the idea of the asylum that many found to be quite unstable, revolutionary, even anarchic, threatened to do away with civil punishment and empty out the prisons.

Finally, a politicization of grace involved an attempt to apply juridically a Pauline insistence on human moral inability: while the legal mentality of revivalist theology was making religious language of sin closer to the legal language of guilt, alienists were following Benjamin Rush. He insisted that the basic human problem is not a lack of moral knowledge; instead, it is humanity's incapacity to do what is right. Because of this, God is not so much judge, but physician, providing supernatural grace clothed in nature to the inhabitants of this earthly Bedlam. In all the above, the line between sin and insanity was drawn complicately close, not because alienists were attempting to explain away sin, but because they were attempting to offer a remedy in a place of forebearance and restitution. For this reason, trials where the concept of moral insanity was employed often showed a great deal of tension about the relationship between self and society, sin and sanity.

John P. Gray and his followers reacted with an attempt to refute the
“metaphysical doctrine” of moral insanity. Like Finney, Gray insisted that the normal sinner has a freely chosen “will madness” and that this kind of moral insanity is the normal condition of the sinner. He rejected what he believed to be at the heart of the concept of moral mania, the dubious claim that Paul's statement of inability means God has constituted people in such a way that they cannot control their passions. In this attempt he sought to provide a purely medical definition of insanity. He would attempt to forcefully draw the line between sin and insanity, between those who needed a judge and those who required a doctor. He would insist that it was impossible for the will or emotions to be diseased apart from the intellect. In the process, he insisted on the centrality of the will as a theological concept, but denied its absolute physical existence. He sought to fuse theological, legal, and medical understandings of responsibility, and he reappropriated Edwards' distinction between natural and moral inability to distinguish between the insanity and sin.

Further, Gray saw no tension between law and medicine, and this was reflected in his asylum governance. During his tenure, the Utica asylum became an increasingly juridicalized place. Gray rejected the earlier generations' fear of constraints and drugs and offered in its place a valorization of a fear that was necessary to instil self-control. Hammond would join the view of a stark moral inability of earlier visions of moral insanity to Gray's insistence that insanity was purely physical. He would also share Gray's insistence that psychology should serve the law.

Our contemporary period, just like the nineteenth century, is frequently convulsed
with culturally significant insanity trials. On March 30, 1981, John Hinckley attempted
to shoot President Ronald Reagan. Like Garfield’s assassin, Charles Guiteau, Hinckley
pled not guilty by reason of insanity. Hinckley’s father, John Hinckley Sr., was the
chairman and president of the Vanderbilt Energy Corporation. He hired a coterie of
lawyers who presented a detailed picture of the younger Hinckley as withdrawn from
society and fetishizing actress Jodie Foster. A host of psychiatrists declared Hinckley a
psychopathic personality. Hinckley was found not guilty by reason of insanity and
placed in a private mental hospital in Washington D.C.\footnote{For a succinct and fascinating
treatment of these issues see Peter Low, John Calvin Jeffries, Jr. and Richard J.
2\textsuperscript{nd} ed. 2000.}

Immediately following the Hinckley case there was a national uproar. Several
states including Texas, Michigan and Georgia reverted to older juridical tests. Before
the Hinckley trial, in a majority of states, an attorney need only prove that a person
committing a crime was mentally ill. Now many states returned to a doctrine that seeks
to determine whether a person knew the difference between right and wrong. A new
choice of verdicts was given to judges and juries – insane, but guilty.\footnote{Ibid., v.}

Andrea Yates, a mother who killed her four children in a Houston suburb twelve
years ago, was given a life sentence under the juridical category insane, but guilty. It is
likely that Gray would have been as outraged by the outcome of the Yates case
Hinckley’s. Over eighty case studies published by Gray in the \textit{AJI} include several
dozens cases very similar to that of Andrea Yates, in which postpartum mothers killed

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their children. As Ellen Dwyer writes, “Gray felt great sympathy for such exhausted
wives and overworked women and castigated his fellow citizens for not supporting
overworked women, particularly in the weeks following childbirth.”

Despite our comfortable belief that we are progressing on questions of mental
health, even the reactionary in this nineteenth-century account proves surprisingly
radical compared to recent figures. The Yates’ trial was an example, as the trials of
Abner Rogers and William Freeman, of insanity trials as cultural crisis. Everywhere
pundits, reporters, preachers, celebrities, and editorialists tried to find the larger
cultural meaning in the action of one psychotic woman. Andrea Yates’ own explanation
of her act left only aching questions. The “children [were] retarded and tainted and not
developing correctly.” The television cartoons scolded “that [her children] were eating
too much sugar and that she was a bad mother.” She said she concluded that “the way I
was raising them they could never be saved; they had to die to be saved.” She never
denied that she was guilty. She asked the police to look on her head, telling them that
they would find the number 666 imprinted there: “I need to be punished. I’m guilty.
Destroy Satan.”

Yates’ mystifying narration being what it was, editorialists sought to determine
the underlying meaning of her crime. The National Review blamed feminism. It
satirized a letter from NOW. “Stop Persecuting Andrea,” it read, “defend her liberating

6 Ellen Dwyer, Homes For The Mad: Life Inside Two Nineteenth-Century Asylums. (London: Rutgers University
Press, 1987), 90.
views on the origin of human life. Fight our culture’s war on women.” It is time that the world gets the message, “a home paid for by a man is no place for a woman.”

Yates was far from a feminist. She accepted the control of her husband including his command that she only have one friend. Yet, the Review lampooned NOW in part because its members did defend Andrea Yates – donations came in to help defray her legal bills and dozens of famous women recounted their experience with postpartum depression and the rigours of motherhood. While not condoning her actions, they could sympathize. Many implicated the Yates’ Christianity, faulting the biblical narrative of Abraham, belief in demons and hell, and the crazy itinerant preacher who convinced Andrea that bad mothers are witches. Others blamed Randy Yates, Andrea’s husband, and the “conservative Christian culture that continues to empower controlling and abusive husbands.”

Several notable conservatives thought Yates was either a sinner or wickedly insane. Chuck Colson suggested that “scripture should have been the arbitrator of Andrea’s worldview” and if she had only read her Bible more she wouldn’t have fallen for such malicious lies. Another writer in World Magazine took a similar tack suggesting that Andrea was “guilty of not feeding truth to her conscience,” arguing by using the first chapter of Romans, that humans are culpable both for irrationality and

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the malicious acts which may result: “to despoil a moral compass by a history of small rejections of the light is to become more (not less) culpable for the immoral action that may result, though the subject does not feel guilty.” Yates could have resisted the suggestions of the devil just as Christ did: “when he heard voices saying ‘Throw yourself from the pinnacle of the temple...’ he rebuked them.”

Park Dietz, the psychiatric witness for the prosecution, believed that he could read Yates’ mind and that there was rationality in her delusions. He did not deny that her actions were based on the delusion that Satan had told her through the television that her children were hell bound and that she needed to kill them before they reached the age of accountability. Yates, according to Dietz, nevertheless knew right from wrong. She had testified that she wanted then Governor George W. Bush, the rod of human justice, to rid her of her demons. Dietz saw this as clear evidence that she knew what was illegal, and by extension right from wrong. As Dietz put it,

Under Texas law, if a mentally ill person commits a murder in response to a command hallucination from God, they would surely be insane. If they did it at the direction of the chief of police, they are arguably insane. If they believe it at the direction of a gang leader, at the direction of Napoleon, at the direction of Satan, they are not insane. Gang leaders, Napoleon, and Satan do not have moral authority in Texas.

Perhaps the most interesting thing about the articles that circulated at the time of the trial was how very much they tried to see in her actions a place for broader social commentary – motherhood is too difficult, Christianity is too oppressive, abortion is too

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accessible. Many mentioned post-partum depression. Few mentioned that Andrea actually was diagnosed with schizophrenia and rare post-partum psychosis. In fact, even in the articles defending Yates, mental illness played a secondary role in commentators’ explanation of her actions. She murdered because she was insane with too many children, insane and a conservative Christian, or insane and a dominated housewife. It is little wonder that the courts concluded that she was insane and guilty.

If trials reflect the 'agenda of controversy,' the Yates trial evinces a considerable amount of controversy on how to balance social and individual causation of mental illness. Indeed, in his famous work, *What ever Became of Sin?* the Christian psychologist Karl Augustus Menninger does not simply bemoan the loss of personal responsibility, he also insists that that one of the most besetting problems of his age is our “collective irresponsibility” for each other. He argues that a loss of a strong sense of our collective sin often means that our criminal justice becomes simply a morality play and that criminals become little more than scapegoats for our collective inadequacies and our incapacity to accept the fundamental complexity of our own moral situation.

This dissertation began with the assertion that nineteenth-century alienists, much like Herman Melville, vacillated between a rejection of Calvin and a stunning rearticulation of his vision of nature's cruel chaos. In Melville's short story “Bartleby

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14 Ibid., 154ff.

the Scrivener,” the narrator, upon reading “Edwards on the Will,” recognizes that the spirit of Christian benevolence requires that he be gracious to the will-mad Bartleby; he insists that “others may have loftier parts to enact; but my mission in this world, Bartleby, is to furnish you with office-room for such period as you may see fit to remain.”\(^{16}\) The asylum, at least theoretically, sought to provide a space of grace. With its fundamental narrative of the 'incurable' madman healed through gentleness and a revocation of punishments and cruelty, it would provide a template for understanding new ways of moral formation. Yet, this hope was never realized; the asylum transformed quickly into a snake-pit and a space of violent social control. In the end, politics and law trumped grace.

Still, this dissertation insists that if there is a way forward it is through a deeper exploration of the 'long past' that shaped the concept of moral insanity. Instead of Park Dietz, the psychiatric witness who insisted that he could read “rationality” and “freely chosen” sin in the delusions of Andrea Yates, one might turn to Augustine. In the midst of refuting the Stoic view of the good life as a life of reason and of rational control, Augustine commented:

\[\text{Crazy people do and say many incongruous things, things for the most part alien to their intentions and characters; and when we think about their words and actions, or see them with our eyes, we can scarcely – or possibly we cannot at all – restrain our tears, if we consider their situation as it deserves to be considered.}^{17}\]

\(^{16}\) Herman Melville, “Bartleby, the Scrivener” (1853) [http://www.bartleby.com/129/] accessed June 19, 2013.

For Augustine, human madness represented a repudiation of dreams of a morality seated in the self and its powers of control.

The ambiguity at the very heart of the concept of moral insanity is an ambiguity at the heart of Christian understandings of the relationship between sin and sanity: How does one distinguish the irrationality that absolves from sin and the irrationality that is sin's essence? How does one distinguish a bound will from a diseased one? Melville answered with the plaintive: “Ah Bartleby! Ah Humanity”; a writer in The Opal insisted that all recipients of grace are lunatics; and countless proponents of the concept of moral insanity suggested that passions aren't just ungoverned, but, perhaps ungovernable. Alongside, or behind all of this in the nineteenth century, stood the fearful bogey of the popular imagination, a Universalist heaven, where Judas sups with Peter, Rogers with the prison warden, and the convict William Freeman with John Van Nest.
Primary Source Bibliography

I list here the primary nineteenth and late eighteenth-century sources that I have used in this dissertation or that I have substantially consulted in research for this project. This bibliography is intended to indicate the substance, range, and type of nineteenth-century American literature that I have consulted in the formation of ideas. While this is by no means an exhaustive list of potentially relevant literature, it is hoped that this might serve as an aid for those who may wish to pursue themes or topics within this dissertation further. Works are not double entered (so, for instance, individual articles and annual proceedings of AMSAII are not listed separately from their inclusion under the American Journal of Insanity).

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