A Narrow Definition of Insanity
Opined by Medical Experts in
the Oliver Smith Will Case in 1847

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Abstract
Physicians specializing in the diagnosis and treatment of insane people (alienists) emerged in the early 19th century and offered their expertise for the courts to consider in judgments of mental competence. In the Oliver Smith will case (1847), the competency of an attesting witness was contested on the issue of insanity. Four well-known alienists testified at trial. Although the insanity of the witness could have been viewed in broader terms, the experts used a narrow definition of insanity based primarily on the presence of delusions. These opinions were only partially consistent with contemporaneous medical notions of insanity and the broad definition of criminal responsibility. We suggest three explanatory factors for the narrow definition related to available medical knowledge, courtroom restrictions including the case itself, and mid-19th-century relationships between mental medicine and the law.

Keywords
19th century, insanity, competency to attest a will, Oliver Smith, Theophilus Parsons Phelps

Introduction
Nineteenth-century alienists were forerunners to psychiatrists—physicians who devoted themselves especially to the understanding and treatment of insanity. The insane were considered withdrawn (alienated) from their normal faculties (Tuke, 1892). For the alienists, insanity was a discrete medical entity including a definition, classification, diagnostic symptoms, causes, duration, prognosis, and treatment (Bucknill & Tuke, 1858; Esquirol, 1845; Prichard, 1837/1973; Tighe, 2005). The diagnosis and management of insanity required special training that could be achieved only in asylums (Eigen, 1995; Mohr, 1993). The “medical jurisprudence of insanity” was a major field of interest for the early alienists who emerged during the first decades of that century (Zilboorg, 1944). As ample experience with insane inmates admitted to the proliferating lunatic asylums accumulated, men like Haslam (Zilboorg, 1944), George (Goldstein, 1987), Prichard (1837/1973), Ray (1838/1962), von Feuchtersleben (1845/1976), and Winslow (1854) were eager to offer their opinions in judicial proceedings involving insanity (Ray, 1839). These alienists, claiming expertise different from other physicians and laymen, offered themselves as medico-legal witnesses who have directed their attention almost exclusively to the study of medical psychology, and who, by patient investigation and long experience, have obtained a practical insight into the characteristics of the varied phenomena of mental alienation, the habits and peculiarities of the insane (Ray, 1839, p. 86) and are therefore able to supply the courts “information as to the nature of those causes on which unsoundness of mind depends as to their extent and duration, their distinguishing character, and ultimate results” (Prichard 1837/1973, p. 252). The history of the jurisprudence of mental medicine of that era is the controversial account of the successes and failures encountered while trying to bring to the attention of the courts theory and experience that converged into special knowledge, mostly in criminal cases (Eigen, 1995; Mohr 1993).

However, “insanity considered in its civil relations” (Zilboorg, 1944, p. 523; e.g., the capacity of an insane person to manage his own affairs or the state of mind necessary to constitute a valid will) was also a topic of great interest to the early alienists and assumed a prominent position in the classification of the “different forms in which insanity becomes the subject of legal investigation” (Coventry, 1844, p. 134).
A central place among the civil issues was occupied by will contests. Testamentary litigation was generally believed to be on the rise in the 19th century as reflected in the textual analysis of contemporary law reports, treatises, and medical-legal literature (Blumenthal, 2006; e.g., the American Journal of Insanity, a predecessor of the American Journal of Psychiatry, published at least seven “will cases” during the first decades of publication beginning in 1844); however, exact numbers need yet to be studied (Eigen, 2006). In an era where capacity of self-government was presumed for all, the bounds of testamentary freedom (absolute liberty of the testator vs. the domestic rights of his family) were debated (Blumenthal, 2006). In legal practice, the extent of the liberty of testation would hinge on the legal meanings of a “sound and disposing mind and memory” (Blumenthal, 2006). It was exactly this niche, comprising cases of “unnatural” or deviant wills that attracted the interest of the early alienists. As scientific experts, they could opine on the observable manifestations of insanity, capable of drawing the line between insanity and mere eccentricity, but also demonstrated a “palpable curiosity regarding the motives that animated the eccentric, the singular, and the socially—if not mentally—irrational” (Eigen, 2006, p. 236).

The Oliver Smith will case (1847) offers an opportunity to examine the practical application of the theoretical basis of insanity in a civil case. A newspaper article, “The Case of Oliver Smith’s Will” (Anonymous, 1847) and a short book by attorney James W. Boyden (1847 [HeinOnline 2008]) were the first reports of the case. The book provides a comprehensive account, including a biography of Oliver Smith, a copy of his will, and the proceedings in the Probate Court. They were followed by an article titled “A Will Contest on the Grounds of the Insanity of One of the Attesting Witnesses,” running title “Oliver Smith’s Will” (Anonymous, 1848), the second account of a will contest published in the American Journal of Insanity (henceforth, the Journal), preceded only by a translated abstract of a French will case (T. R. B, 1846).

The anonymous author of the report might have been Amariah Brigham, the Journal founder and first editor, who wrote many of the articles that appeared in the earliest volumes (Brigham, 1833, 1973). Brigham acknowledged the Hampshire Gazette for the report of the trial, of which only a substance (italics in original) of the testimony was included. He was also one of the experts involved at the trial.

Based on these, other sources (Amherst College, 1927; Anonymous, 1899, 1907, 1939), and personal communications, we introduce Oliver Smith, his will, the attacks to the will, and the participants at the trial. We describe the mental malady of the attesting witness, and the medical experts’ testimonies and opinions, followed by a brief summary of the lawyers’ arguments and the verdict, and then compare the experts’ testimonies with contemporaneous medical notions of insanity including their own published works on that subject.

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**Oliver Smith: The Man and His Will**

Oliver Smith of Hatfield, Massachusetts, farmer and tradesman, died a bachelor in 1845 at the age of nearly 80 (Anonymous, 1847, 1848, 1907, 1939; Boyden, 1847 [HeinOnline 2008]). He was the youngest of six brothers, all deceased before him; his father died when he was 1 year old, and he was raised by his mother. Having a very limited formal education, at the age of 21 he took his share in the patrimony, in land, at the value of US$500. In course of time, being an industrious, hard working man, who made good investments as well as other successful financial decisions, while spending little (Sttebins, 1898), he accumulated a significant fortune.

Oliver Smith was a charitable man, directing his assistance toward poor young women, the building of school houses in poor districts of his native town, and the American Colonization Society. Given his personal history, and because “his kindred were in good circumstances” (Boyden, 1847 [HeinOnline 2008], p. 8), it was anticipated that the “bulk of his estate should be applied to public uses” (Boyden, 1847 [HeinOnline 2008], p. 8). And so it was.

As early as 1832, with the aid of a local judge, a draft of the first will was prepared, and completed the same year by Charles P. Phelps, a successful lawyer of nearby Hadley. Various codicils were added from year to year, reflecting the fluctuations in the value of his property. Accordingly, the number of the beneficiary towns varied from 8 to 12, and “some individual legacies were occasionally inserted, or omitted” (Boyden, 1847 [HeinOnline 2008], p. 8). Eventually, Charles P. Phelps prepared another will, which was executed on July 15, 1844. A codicil was added on the 13th of August, 1845, with further specifications on how to invest the funds, however without changing the will’s beneficiaries. In his final will, a detailed and thoughtful document, Oliver Smith nominated Austin Smith, a nephew (“a shrewd man of business, honest, keen, and clear in his dealings”; Sttebins, 1898, p. 174), as executor to the will, and for his past and future services was given the testators’ homestead in Hatfield. Ten other relatives were given mostly small annuities. The major bulk of the estate, around US$400,000 (a large sum of money, but comparable with other “will cases” reported in the Journal), was left for the establishment of an agricultural school in Northampton, for use by the American Colonization Society, and especially for the use and benefit of indigent boys, girls, young women and widows, and residents of several local towns. The attesting witnesses on both occasions included Charles P. Phelps and his sons Charles and Theophilus Parsons.

**Attacks to the Will**

Oliver Smith’s heirs-at-law (16 in number excluding the executor, all of them nephews and nieces, husbands included
whenever married) were “aggrieved” (Boyden, 1847 [HeinOnline 2008], p. 59). Some of them were probably included in the preceding will or codicils and now excluded. Others, although included in the last will, were disappointed at the relatively small bequests appointed. All of them thought “it was natural that those, who had lived around him for fifty years, his relations by blood, should expect from their uncle, a bachelor, at least some token of his remembrance” (Boyden, 1847 [HeinOnline 2008], p. 29). All of them were ready at any time to stop legal proceedings “had he (the executor) seen fit to divide between them and the devisees” (Boyden, 1847 [HeinOnline 2008], p. 30; 19th century will contests as already indicated were usually fought on similar grounds; Blumenthal, 2006).

At the Probate Court held at Northampton in March 1846, the executor to the will expressed his willingness to execute the trust, supported by Osmy Baker, a lawyer appearing on behalf of six of the beneficiary towns. Charles P. Huntington on behalf of the heirs-at-law opposed the Probate of said will, and objected the jurisdiction of Judge Conkey as Judge of Probate on account of interest (his town of residence was mentioned in the will). The latter claim was subsequently declined, and in December 1846, Judge Conkey approved the will and codicil.

Shortly thereafter, Smith’s heirs-at-law filed a probate appeal to the Supreme Judicial Court (SJC) claiming that (a) Oliver Smith was not of “sound and disposing mind and memory” at the time of the execution of the will and codicil and (b) the will and codicil were not “attested and subscribed in the presence of the testator by three competent witnesses;—competent at the time of attestation” (Boyden, 1847 [HeinOnline 2008], p. 2).

The first claim was dropped (Smith’s neighbors “promptly testified they had never known a more sensible, saner man”; Anonymous, 1907), and it was agreed by all that the testator was of sound mind. Hence, the parties went to trial on the formal objection that one of the attesting witnesses, Theophilus Parsons, was incompetent on account of insanity. Idiots (“those who have no intellect, whether from birth or occasioned by subsequent cause”; Walker, 1860, p. 264), lunatics (“those who have intellect but in a deranged state. There need not be frenzy or raving madness, but only derangement greater or less of the reasoning faculties. And here the true criteria is delusion”; Walker, 1860, p. 264), infants, and those on the ground of interest or infamy were incompetent to testify according to American law (Walker, 1860) of the time.

Thus, Theophilus was dragged into the plot by the heirs-at-law legal tactics whose “case was not too strong” (Fuess, 1928, p. 149). There seemed to be only one point at which an attack could offer any chance of success. “One of the witnesses to the will had lived so secluded from society and had conducted himself so singularly that he was reputed to be insane” (Fuess, 1928, p. 149). The decisive evidence was based on the fact that 11 months before the will was made, the witness was declared insane by Dr. Woodward, Superintendent of the Worcester State Asylum (Anonymous, 1847, 1848; Boyden, 1847 [HeinOnline 2008]; Brown, 1862).

The Participants at the Trial

Judge Wilde of the SJC for the County of Hampshire presided at the trial, in front of a crowded courtroom, at Northampton, Massachusetts, for three consecutive days beginning July 6, 1847 (Anonymous, 1847, 1848; Boyden, 1847 [HeinOnline 2008]). Rufus Choate, R. A. Chapman, and C. P. Huntington represented the heirs-at-law, while Daniel Webster, C. E. Forbes, and Osmyn Baker represented the executor. Choate (Brown, 1862; Fuess, 1928) and Webster (Remini, 1997) were two of the most prominent lawyers of the time. Witnesses included the father, the brothers, and Theophilus himself (evidently considered competent by the court to testify at the time of the trial), as well as 13 or 14 laymen and nonexpert physicians. Four asylum superintendents were called as experts, all of them formed part of the group of the “thirteen originals” of American psychiatry (Overholser, 1944); Samuel B. Woodward (1787-1850), first president of the “Association of Medical Superintendents of American Institutions for the Insane” (henceforth, the “Association”; forerunner of the American Psychiatric Association; Overholser, 1944); Amariah Brigham (1798-1849), founder and first editor of the Journal; Isaac Ray (1807-1881), pioneer and founder of the field of medical jurisprudence of insanity in America (Zilboorg, 1944); and Luther V. Bell (1806-1867). Woodward, who examined Theophilus about 4 years before the trial, was also heard as a witness.

Theophilus’s Mental Malady

Theophilus was born in Hadley, Massachusetts, in 1821 (Anonymous, 1847, 1848, 1899; Boyden, 1847 [HeinOnline 2008]). His mother was the daughter of famous Chief Justice Theophilus Parsons of the Massachusetts State Bench. He prepared for college at local schools and in 1837 went to Amherst College. The descriptions and opinions concerning Theophilus made by the objecting and proponent witnesses evidently were not concordant (Anonymous, 1847, 1848; Boyden, 1847 [HeinOnline 2008]). However, the points of agreement and other available data permit a coherent account. Theophilus, a rather reserved and shy boy, was not fond of company and changed conspicuously during his last year of college. He was in poor health (dyspepsia, pain in the head), generally depressed, and even more asocial. His physician told him the complaints were of nervous character. Consequently, he left college in the summer term of his junior year and the last part of his senior year, and did not complete his requisite assignments for commencement. Nevertheless, being a good student, he eventually graduated college in 1841. Thereafter, considering himself physically disqualified from...
pursuing a profession, he lived at home working on the family farm. Although not usually at the dinner table when company was present, he could discuss freely many subjects and was a voracious reader. In the summer of 1843, he told his uncle that he experienced peculiar feelings, extraordinary elevations of spirits and fullness about the head. Another uncle (a reverend), who met him on July 1, 1843, thought he was under “high religious excitement” (Anonymous, 1848, p. 231), confessing to taking pears from a tree near the road when 10 or 12 years old. In August of the same year, shortly after his father broke a thigh in an accident, Theophilus started to claim that some people, including his brother, intended to injure him, and he was in a state of nervous excitability. He became reluctant to enter the nearby woods, locked the windows during the day, and got up at night to see if there were people around.

In this state, he was advised by his father to go to Worcester Asylum, accompanied by another brother. Woodward described him on August 1843 as follows:

Theophilus was still and silent, answering only in monosyllables. . . . I found his health poor. . . . complained of dyspeptic symptoms, of uncomfortable feelings in his head, not exactly headache, but an oppression. . . . at times, he seemed anxious, walked about the room, looked out of the windows and doors, and admitted his apprehension that some one was in pursuit of him. He said, that he was afraid that people would dissect him, that there was a conspiracy, that individuals were about the house, suspected of evil intentions, and . . . suspected a brother of being in conspiracy. While I was conversing with [brother], Theophilus came to me, walking rapidly, and asked, “Doctor, do you think me a pig?” I thought this totally disconnected with anything said previous. . . . I asked him why he said so. He replied that it occurred to him, at that moment, that I thought so. (Boyden, 1847 [HeinOnline 2008], p. 19-20)

Woodward, thinking it would be better for Theophilus to stay at home, rather than in the asylum with “other eighteen insane persons in room” (Boyden, 1847 [HeineOnline 2008], p. 25) apparently in worthier conditions, prescribed for Theophilus, who was not better. On Sabbath, after his return, under some delusion and in a state of excitement, “he threw himself into the water” (Anonymous, 1848, p. 229), probably trying to “drown himself in the river” (Boyden, 1847 [HeinOnline 2008], p. 27). It seems that within several months, a change for the better took place. According to Theophilus, he was more rational and had no fears or delusions anymore. His mind, however, had been somewhat more depressed since then, and he more frequently avoided company. In Spring 1844, he wrote a history of the Five Books of Moses for Sabbath School that was accepted by the Committee of Publication. In the following years, he continued to read new books, occasionally wrote short pieces, and managed his “little gains” (Boyden, 1847 [HeinOnline 2008], p. 16) from the farm.

At the time of the execution of the will (July 1844), Theophilus said, his “bodily health was not much improved,” but his mind “was good” (Boyden, 1847 [HeinOnline 2008], p. 15).

At trial, Theophilus’s testimony “was given with remarkable clearness and precision. He gave a minute and lucid account of the transaction of attesting the will, relating some circumstances which the other witnesses had omitted” (Anonymous, 1848, p. 228).

We know little about Theophilus following the trial in which his sanity, at least in the eyes of some, was “fully established” (Boyden, 1847 [HeinOnline 2008], p. 5). Of his class at Amherst College, he was the only one not to pursue a career and one of few not married (Amherst College, 1927; Anonymous, 1899). He was not mentioned either in his father’s extensive autobiography of 1855, nor in his correspondence with family (P. Nelson, personal communication, June 2007). During almost his entire life, he was more or less considered an invalid, and for several years was unable to go out of doors. Most of his life passed at Hadley quietly and uneventfully. His final illness (apoplexy) was a short one, and he died at the age of 77 at Amherst (Amherst College, 1927; Anonymous, 1899).

Medical Expert Testimonies and Opinions

The experts were asked if Theophilus was insane (idiot or lunatic; Walker, 1860) on July 15, 1844, and consequently incompetent to attest the will (Brown, 1862). All four agreed that Theophilus was insane in August 1843. However, the crucial date was neither August 1843 nor July 1847, when the experts were able to observe but not examine him. Therefore, the legal question dictated that those contesting the will would claim that insanity was present in July 1844, by trying to expand its scope, whereas the parties supporting the will would try to limit its definition, or deny its existence. This becomes apparent in the lawyers’ arguments to the court to be summarized in the next section. Thus, the experts were interrogated as to presence of insanity, its characteristics, duration, causation, relationship to peculiarities of behavior, competence at daily activities, body complaints, not to mention their opinion concerning Theophilus’s reliability at trial and his competency at the crucial legal time.

Woodward thought Theophilus was ill during the 2 years preceding their first meeting. At Worcester, the alienist was certain that Theophilus suffered from at least one delusion and was influenced by it, and that this was a form of insanity, insane melancholy different from hypochondriasis. He was not impressed by Theophilus’s literary and work accomplishments claiming that many insane persons write coherent letters, essays, poetry, or even books. Avoiding society, he proclaimed, was not necessarily the effect of delusion.
Woodward was convinced that Theophilus’s condition was caused by hard study–induced dyspepsia that produced a morbid condition of the brain and nervous system, that is, insanity. He saw no evidence of delusions in 1844, maybe due to a lucid interval. Woodward argued that insanity is not always dependent on the delusion. Rather, because the dyspepsia that caused the “aberration of mind” (Anonymous, 1848, p. 233) existed in 1844, he was insane, and therefore not legally responsible.

Brigham thought Theophilus was insane at Worcester in 1843, and that his delusions and attempt to drown himself in the river after his return from Worcester confirmed the presence of insanity. He regarded his “religious revivals” (Anonymous, 1848, p. 234; Boyden, 1847 [HeinOnline 2008], p. 26) a reflection of a developing insanity, but was less convinced that Theophilus’s dyspepsia, headache, shyness, or writing an essay, caused or perpetuated his insanity. He noticed that dyspepsia very frequently precedes, but generally subsides, at the commencement of insanity and that there is very little headache in the insane. He mentioned, as a general fact, that when the minds of the insane recover, their bodies recover, although their minds are sometimes relieved before they recover their bodily health. Brigham was not impressed by Theophilus’s literary activities and indicated that an insane person could still write a book, unless there is “general insanity” (Anonymous, 1848, p. 234; Boyden, 1847 [HeinOnline 2008], p. 27). He was impressed by Theophilus’s account of his recovery and concluded that there was no evidence for insanity in 1844.

Ray, similarly impressed by Theophilus’s testimony, found his frank and open account the strongest proof of his mental stability. He agreed that there were delusions for a limited time in 1843; however, they were no longer present in 1844. He claimed that those delusions were the only proof of insanity in 1843. Nothing further indicative of insanity was observed. Consequently, Ray said that Theophilus was perfectly competent to attest the will in 1844.

Bell, in agreement with the other experts, had no doubt concerning Theophilus’s insanity at Worcester, in 1843; however, he presumed that it gradually disappeared in 2 to 3 months. Headache was not an essential component of insanity, and thus it was concluded that Theophilus was capable to attest the will, in July 1844.

A Brief Summary of the Lawyers’ Arguments, the Verdict, and Epilogue

Choate raised an expanded and comprehensive account concerning Theophilus’s insanity, which, rhetoric excluded, might seem derived from a contemporaneous textbook on insanity, whereas Webster argued for a limited one (Anonymous, 1847, 1848; Boyden, 1847 [HeinOnline 2008]). According to the plaintiffs’ lawyer, a change in personality started when Theophilus went to college, in the end of the 3rd or the beginning of the 4th year; this culminated into manifest insanity during the summer of 1843, when he was “not mad for the first time, but differently mad” (Boyden, 1847 [HeinOnline 2008], p. 31). Because no “restoration” had been proven, in July 15, 1844, Theophilus was “there present; but . . . his mind was not there; he was brooding over some delusion” (Boyden, 1847 [HeinOnline 2008], p. 32), hence unable to “try the testators’ mind” and to “protect” him (Boyden, 1847 [HeinOnline 2008], p. 31), and therefore was, according to his interpretation of the law, an incompetent witness.

For Webster, the case turned a good deal on the “character of a young man” (Boyden, 1847 [HeinOnline 2008], p. 33), and if insanity has been proved, then it might be “temporary or coming and going” (Boyden, 1847 [HeinOnline 2008], p. 35), or curable. Moreover, even if there was insanity, then much would depend on its degree. According to Webster, in mid-July 1844, Theophilus was intelligent, and understood the nature of an oath, and therefore was credible (competent) to testify in a case of assault or battery. Consequently, he concluded that “a competent witness in a court of law is a competent witness to a will” (Boyden, 1847 [HeinOnline 2008], p. 34).

Judge Wilde, while charging the jury, reminded them that the issue before them was whether Theophilus was a competent or credible witness. He identified principle elements of competency as absence of interest, infamy, and imbecility of mind. The judge commented at length on the evidence of the “mental capacity” of Theophilus and concluded that “if the jury believed that he might have been admitted to testify in court immediately after attesting the will, he was a competent witness within the statue” (Boyden, 1847 [HeinOnline 2008], p. 36). Subsequently, at the third ballot, the jury was “unanimous in favor of establishing the will” (Boyden, 1847 [HeinOnline 2008], p. 36). This concurred with the December 1846 ruling of Judge Conkey. In August 1847, Judge Conkey ruled that the validity of the will had been established and appointed Austin Smith executor of the will (Anonymous, 1939).

Thereafter, the Smith Charities were founded (Ebbeling, 1976). When Austin died, unmarried, in 1861, his estate of US$450,000 was bequeathed to his sister Sophia. Sophia Smith bequeathed her fortune in 1870 for the establishment of Smith College for Women at Northampton (Sttebins, 1898). She was one of the heirs-at-law opposing Oliver Smiths’s will (Boyden, 1847 [HeinOnline 2008]).

The Medical Expert Testimonies in Light of Contemporaneous Notions of Insanity

In the middle of the 19th century, a considerable amount of knowledge had accumulated in Europe regarding insanity and was made available to American alienists in textbooks, periodicals, and by personal visits. By 1847, the 3-year-old
“Association” had its third annual meeting that provided a forum for the exchange of ideas. The proceedings were published regularly in the Journal, the first periodical in the English language to be devoted exclusively to psychological medicine (Overholser, 1944), that also published both translated and original articles by European authors and reported news from Europe. Rush’s textbook of 1812, Ray’s “Treatise” of 1838, and “lesser volumes” (Bunker, 1944) were already published. The alienists who participated in the trial were actively involved in the formation of American mental medicine. They all contributed to the literature and debate on insanity. With the exception of Woodward, all had visited the institutions for the insane in Europe, and all were inspired by French and English alienists (Overholser, 1944). The American view of insanity was therefore very similar if not identical to the European perceptions (Dain, 1964).

Definition of insanity. Nineteenth-century writings reflected a very broad definition of the faculties impaired in insanity (Esquirol, 1845; Prichard, 1837/1973; Winslow, 1854). “Definition of Insanity—Nature of the Disease,” published in the first volume of the Journal, most probably by Brigham, described “a chronic disease of the brain, producing either derangement of the intellectual faculties or prolonged change of the feelings, affections, and habits of an individual” (Anonymous, 1844, p. 97). Thus, this wide ranging definition of insanity, departing from overt delusions and frenzied behavior, was inherently problematic (Bucknill & Tuke, 1858; Prichard, 1837/1973; Ray, 1838/1962; Winslow, 1854; “insanity belongs to a class of phenomena that may be described and explained, but are not the proper object of a definition”; Ray, 1871/1976, p. 631), especially in a medicolegal setting where lawyers would ask for a definition of insanity to confound and discredit the expert witness (Ray, 1838/1962, 1839; Winslow, 1854). We therefore presume that the four alienists would avoid defining insanity as much as possible. The text itself does not refer to definitions (Anonymous, 1847, 1848; Boyden, 1847 [HeinOnline 2008]).

Classification of insanity and diagnosis. Classifications were abundant and varied (Bucknill & Tuke, 1858; Esquirol, 1845; Prichard, 1837/1973; Ray, 1838/1962, 1839). Ray’s (1839) comprehensive classification of insanity was similar to the one adopted by Esquirol (lypemania/melancholy, monomania, mania, dementia, imbecility/idiocy). In his “Treatise,” he maintained,

A natural classification of the various forms of insanity . . . will be of eminent service to the legal inquirer . . . The deplorable consequences of knowing but one kind of insanity, and of erecting that into a standard, whereby every other is to be compared and tested, are too common in the records of criminal jurisprudence. (Ray, 1838/1962, p. 59)

After Pinel, Woodward (Grob, 1962) divided insanity into mania, melancholia, and dementia. Each existed in chronic and acute forms. Brigham and Bell as well used a symptomatological classification, although the latter had his reservations and suggested an etiological classification (Bucknill & Tuke, 1879).

It is remarkable that only Woodward presented a specific diagnosis (insane melancholy) beyond the general label of insanity. One does not know if any other diagnosis was ascribed to Theophilus by the other alienists involved.

Diagnostic symptoms. Analyzing symptoms that characterize insanity was considered fundamental (Ray, 1839). In addition to disorders of sensibility, understanding, intelligence and will, change in habits, tastes, and passions, which could appear a long time before an individual was regarded as insane, were important diagnostic elements (Esquirol, 1845). For Ray a change of character was a proof of insanity (Ray, 1839), a view sustained over the next decades (Bucknill & Tuke, 1879).

The mental phenomena demonstrated by Theophilus could be subdivided into delusions and nondelusions (e.g., change of disposition and habits, depression/melancholy, behavioral, etc.). It is remarkable that only the overt delusions expressed by Theophilus were considered central indicators of insanity by all four experts. Other morbid phenomena were not mentioned, or mentioned only in conjunction with a delusion (e.g., the attempt to drown himself in water), or considered nonspecific (e.g., headache as a good explanation for avoiding company).

Causes of insanity. Esquirol (1845) divided causes of insanity into general or special, physical or moral, primitive or secondary, and predisposing or exciting. Hereditary predisposition as well as ill health, dyspepsia, and application to study ranked high in physical and moral causes of insanity based on American asylum data (Earle, 1848).

“Dyspepsia-hereditary” (Anonymous, 1848, p. 232) in three generations was mentioned at trial by Dr. Gridley, one of the nonexpert physicians involved (Anonymous, 1848; Boyden, 1847 [HeinOnline 2008]). Theophilus’s father was a noted hypochondriac and Theophilus Parsons, the grandfather, was regarded as the “hypochondriacal Chief Justice” (Fuess, 1928, p. 149). We would suggest considering these remarks somewhat humorously, presumably made by the defendants, as the reputation of being a hypochondriac was not associated with insanity in either case.

Brigham (1833/1973) published on the association between moral causes, body ailments, and insanity. He theorized that prolonged moral causes continuously irritate the brain, followed by dyspepsia and insanity. At trial, however, he tried to diminish the causative role for dyspepsia and headache in this case. Woodward suggested hard study as a cause for Theophilus’s dyspepsia. However, as the evidence showed, Theophilus had dyspepsia and headaches before, during, and after the summer of 1843, long after he graduated college. Neither Theophilus himself nor any of the alienists attributed much importance to his father’s accident; consequently, it was not considered a “shock” or a moral cause.
Duration of insanity. All alienists of the time agreed that the duration of insanity is variable (Prichard, 1837/1973). The duration of the disease in cases terminating favorably was considered by Pinel to range from 5 to 6 months and by Esquirol and Tuke to be as long as 1 year (Bucknill & Tuke, 1879). Associated with duration was the idea of “incubation” of insanity that was developed by French alienists in the first third of the 19th century for clinical and forensic reasons (Esquirol, 1845; Martinez Perez, 1993). Ray (1839) was also cognizant of the state preceding insanity and seemed to have adopted Pinel and Georget’s opinions on incubation of mental alienation during which the true state of the patient is generally misunderstood, or not appreciated and may last for a long time.

The medical opinions at trial varied on the duration of Theophilus’s delusions. The shortest notion (Bell) considered it to have continued for 2 or 3 months. Ray referred to its existence in 1843 but not 1844. Brigham and Woodward were of a similar opinion. Theophilus himself said the delusions terminated in winter. If it was winter (January, February), then the duration of the delusions was 6 to 7 months.

From a broader medical point of view, the question was not purely whether there was a clear delusion in 1844, but if there was evidence of insanity or other nondelusional morbid phenomena in 1844. The medical experts were also interested in the morbid phenomena that preceded August 1843 covering the period of “religious revival” (Anonymous, 1848, p. 234; Boyden, 1847 [HeinOnline 2008] p. 26), extraordinary elevations of spirits and excitement, and changes of habits and disposition described by some witnesses at the end of college. Whether regarded as an incubation period, indicative of approaching insanity, or as forming a part of a broader definition of insanity, they surely indicate a period of mental turmoil, distress, and morbidity, ranging from 1 month to 2 years, preceding the delusional period, which Theophilus experienced.

Course of insanity. Of the three possible outcomes of insanity (remission, dementia, death; Prichard, 1837/1973), it was evident that Theophilus was neither demented nor dead in 1844. He lived to an advanced age, which suggests that no real malignant disorder underlined his physical complaints. However, did Theophilus recover from his insanity in 1844?

Although a change for the better took place as Theophilus stated that he was not afraid anymore (at trial, presumably even in July 1844), he still was depressed a great deal of the time. Theophilus himself mentioned that even if the delusion concerning injuries by his brother and others passed in the winter of 1844, he still considered his case to resemble “hypochondriasis” (Anonymous, 1848, p. 229) and maintained those ideas concerning his physical health mentioned at trial, presumably in July 1844. At that time, hypochondriasis was thought by many to be a form of insanity (Anonymous, 1845b). Frequently melancholia and hypochondriasis alternated complicated by suicide or terminated by mental alienation (Galt, 1856). Both were considered maladies (Esquirol, 1845). Therefore, Theophilus apparently would not have met the criteria for a “diagnosis of recovery” (Bucknill & Tuke, 1879, p. 479).

Prognosis. For Ray (1839) the circumstances favorable to recovery included constitution, good moral and intellectual education, hereditary predisposition for insanity, and early medical treatment. Other factors favoring recovery would be the occurrence of certain moral or physical impressions (e.g., intense fright, attack of fever).

Were there factors that would predict favorable prognosis? While good moral and intellectual education, lack of hereditary predisposition for insanity (other than hypochondriasis/dyspepsia), and absence of an exciting moral or physical cause might be assumed as favorable circumstances, there are doubts concerning the issues of constitution and appropriate early treatment. Theophilus’s frail constitution has already been discussed. As for early treatment, he was subjected to the prevailing home/community management, however not exposed to the applauded asylum moral treatment (Moran, 1998). We know that he was prescribed leeching and bleeding by Dr. Gridley in July 1843 and again after his return from Worcester, but it might have been for the dyspepsia, as Gridley saw nothing indicating insanity (Anonymous, 1847, 1848; Boyden, 1847 [HeinOnline 2008]). Woodward treated Theophilus with medications at Worcester. He was considered an expert in therapy (Anonymous, 1844, 1845a) and relied, perhaps too heavily, on opiates and stimulants as remedies (Grob, 1962; McGovern, 1985). Gridley discontinued Woodwards’s “too stimulating” (Boyden, 1847 [HeinOnline 2008], p. 24) prescriptions.

Discussion

The “Oliver Smith will case” turned on the legal competency of one of the attesting witnesses to the will. The alienists involved were primarily questioned as to his insanity at the time of attestation. Based on the available material, we conclude that three out of the four alienists took a restricted view of insanity, equating it with the presence of delusions. The evidence, however, indicated that Theophilus experienced morbid phenomena characteristic of insanity even before he manifested delusions, and there were several indicators to doubt his complete recovery from insanity in July 1844. Woodward took a broader view. However, even for him, the nondelusional phenomena were not crucial.

Present day practitioners have at their disposition a broad definition of “mental disorder” (“a clinically significant behavioral or psychological syndrome or pattern”; American Psychiatric Association, 1994, p. xxi), under which categories, criteria, and textual descriptions are prescribed. As for Theophilus, in modern eyes, a mental disorder consisting of a prodromal period, followed by an active stage with prominent delusions and terminating in a residual phase, would be understood as probably belonging to the schizophrenia category (American Psychiatric Association, 1994). However,
the clinician is cautioned as to the use of the clinical diagnosis in forensic settings where additional information beyond that contained in the diagnosis is needed in determining “whether an individual meets a specified legal standards” (American Psychiatric Association, 1994, p. xxiii).

Theoretically speaking, the trial represented an opportunity for these influential alienists to present to the court all the broad natural phenomena of insanity as reflected in this case, and which formed part of a contemporaneous broad view of insanity, especially vis-à-vis criminal responsibility (Weiss, 2007). Moreover, Ray (1838/1962), much ahead of his time, advocated that incompetence to testify is not necessarily connected with insanity. He felt it would be appropriate to consider the former an independent fact to be established by a distinct order of proofs. After the German jurist Hoffbauer, he maintained that even a subject with lower degrees of inbecility, partial intellectual mania, or partial moral mania, and old men in the early stages of dementia, under some restrictions, can still testify if (a) senses are sufficiently sound to take cognizance of the facts to which he testifies, (b) the impressions are really what he believes they are, (c) testimony coincides with his belief, and (d) he is able to convey to others his own ideas without fear of being misinterpreted. These criteria established a distinction between diagnosis and its symptoms on one hand and the capacities necessary for the appropriate completion of a specific legal task on the other hand. Consistent with Ray’s reasoning, Theophilus could be broadly defined as insane however still a competent witness.

Nonetheless, in this case, the experts gave primacy to the existence of delusions, whose presence or absence traditionally constituted the “true test” of insanity for legal purposes (Tighe, 2005; Wetmore, 1864; Winslow, 1854). This stood in contradiction with the prevailing tendency of the early alienists, including their own views (Bucknill & Tuke, 1858; Esquirol, 1845; Prichard, 1837/1973; Ray, 1838/1962; Winslow, 1854), in favor of a broad definition of insanity.

We suggest three explanatory sets of factors:

A. Available medical knowledge: The alienists thought that this case represented a short-term insanity. All the great alienists described cases of relatively short episodes of insanity (Esquirol, 1845; Prichard, 1837/1973). In addition, not only was there a general belief of a good prognosis for some recent cases of insanity as the statistics of asylum admissions and discharges demonstrated (Grob, 1962), but socially, a “cult of curability” prevailed (Luchins, 1992). Alternatively, a more specific diagnosis other than insanity was difficult to formulate. Theophilus’s case was more characteristic of hypomania/melancholia (Woodward’s diagnosis) according to Esquirol. This suggested monomania according to Prichard, and partial intellectual mania according to Ray. The period preceding the confirmed insanity and the one that followed it were difficult to classify because the appropriate terminology and concepts were still lacking (Berrios, 1996). In 1847, the lack of a longitudinal view of disease (Berrios, 2007), clear concepts of personality and personality disorders (Berrios, 1996) and recovery, would have rendered a specific diagnosis difficult. Nevertheless, they could have regarded Theophilus’s eccentricity a lifelong process complicated by insanity, a change of character indicative of insanity, or insanity resulting in “imperfect recovery” (Ray, 1871/1976).

B. Courtroom restrictions and the case itself: The medical men in the courtroom were subpoenaed by the judge, the parties involved, and their attorneys (Eigen, 1995). In court, the medical expert can be subjected to “yes” or “no” answers by experienced lawyers. Thus, they would have preferred to distinguish between solid clinical findings, the so-called “pathognomonic signs” of insanity (delusions; Mohr, 1993), as opposed to the theoretical constructs. For example, when Woodward was proceeding to append remarks to one of his replies, he was reminded that Webster did not want “a speech on a question” (Boyden, 1847 [HeinOnline 2008, p. 21]). Theophilus’s other symptoms did not constitute decisive evidence for insanity. In fact, the belief that dyspepsia was a form of insanity was disputed (Brigham, 1833/1973), and not everyone accepted that hypochondriasis was equivalent to insanity and disease of the brain (Anonymous, 1846). Theory aside, Woodward (Grob, 1962) did not find classifications of insanity useful in treating the disease as the various forms tended to blend into one another, and Bell (Bucknill & Tuke, 1879) abandoned his etiological classification. The alienists were free within the judicial arena, to make up their own minds and to pick and choose aspects of theory that were consistent with their practice and experience and appealed to them. They might not have found the courtroom as the appropriate forum to expand on “textbook” concepts and theories. The convincing testimony offered by Theophilus himself at trial might have served to strengthen this view.

C. Mid-19th-century relationship between mental medicine and the law: This period was a “golden era” (Blumenthal, 2006; Tighe, 2005) in the relationship between mental medicine and the law, although this state of affairs would soon change (Mohr, 1993; Tighe, 2005). Medical experts knew more about the manifestations and varieties of mental illness. The challenge was how the courts could be educated to the levels of understanding of experts in mental illness (Mohr, 1993). Judges and lawyers were initially receptive to these “scientific means of accounting” (Blumenthal, 2006). There was a sense that they “should and could share a definition of insanity,
if only they could clearly articulate how ‘the best’ practitioners of their respective professions understood the concept” (Tighe, 2005, p. 254). All this was presumably easier to achieve in civil cases such as a will contest (Zilboorg, 1944), especially in an uncomplicated case (short duration, small number of witnesses) where the best practitioners on both sides were involved, as was the “Oliver Smith will case.” Using a narrow definition, with a focus on the presence or absence of delusions, would seem a step in that direction of consensus on the concept of “insanity” in mid-19th century. The medical discourse would have been different if the legal question concerned Theophilus’s criminal responsibility, with its potentially serious consequences.

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