# "What's in a Name?": A Brief Foray into the History of Insanity in England and the United States

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**J Am Acad Psychiatry Law 33:252–8, 2005**

It is a pleasure to celebrate the inauguration of the Sadoff Library of Forensic Psychiatry and Legal Medicine. As a historian who has spent many hours in the College of Physicians of Philadelphia library making extensive use of its rich collections in the history of medicine, public health, and forensic practice, I see Dr. Sadoff's decision to share his marvelous library with the college in very personal terms and look forward to spending time with its treasures. It is equally gratifying to contribute to this conference and exchange views with professionals engaged in an activity that I find fascinating: ensuring that law and courtroom decision making are informed by scientific and medical knowledge.

Nonetheless, I faced the task assigned by Dr. Sadoff with some trepidation. The history of insanity, even if confined to the Anglo-American world, is an enormous topic with a voluminous literature, in which there are more than a few contested issues. Because most of you are actively engaged in deploying scientific and medical knowledge in legal situations, I was looking forward to getting right to the heart of my interests and drawing on your familiarity with such basic terms and figures as *mens rea* and David Bazelon. In talking with Dr. Sadoff about what he had in mind when he spoke about the history of insanity, I knew we did not see the topic in the same way. Dr. Sadoff focused on a chronology of famous court cases and legal rulings. His list included the usual suspects from the early British cases, like *Arnold* and *Hadfield*, to *McNaghten* and the famous set of rules it produced, through American trials such as *Guiteau*, *Leopold* and *Loeb*, and *Durham*, to the American Law Institute rules, to the *Hinckley* case and the present.[1–5]

Intertwined with this list of legal phenomena was another list, a list of what Dr. Sadoff called concepts of mental illness or insanity associated with these cases, including: delusions, lucid intervals, moral insanity, schizophrenia, and psychosis. However, I am not sure that these cases and disease definitions really work as a kind of underlying genealogical structure for the history of insanity, or even the history of the insanity defense. There is too much discontinuity between the reasoning in the cases, and the influence of individual circumstances is too powerful to make them a persuasive list of ancestral "begats."

While I share Dr. Sadoff's interest in the historical long view, the more I thought about his request for such a big-picture synopsis about insanity, the more I was convinced that we should look elsewhere for the threads that hold this story together over time. My own work on medical and legal textbooks, various insanity defense and expert testimony reform schemes, educational efforts, and popular responses to these professional endeavors has convinced me that legal cases and related disease concepts, while vitally important, are only one piece of a much larger puzzle.[6–10]

Thus, I am going to work on only one little corner of that puzzle. As a professional historian, this technique of intense focus on a specific, tightly circumscribed element is a conscious choice. For, while I share Dr. Sadoff's interest in a broad synthesis, I have my own occupational biases about how to get it.

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Historians, or at least this one, have a penchant for the specific, the detailed, and the heavily nuanced. Our goal is a deep understanding of a past moment in time—to see that moment in time as much as possible on its own terms. Change over time is only clear when each moment is understood in its own context.

Unlike Dr. Sadoff and most of you, my drive as a historian is not to use the past to solve today's problems. I am happy to contribute to the enterprise of contemporary problem-solving and policy-making, but this is not my primary focus. My goal is to clarify and illuminate yesterday's problems and solutions, as yesterday's actors saw them. I am seeking an understanding of the past that highlights the differences, as much as the similarities, between the ideas and practices of today and those of other eras. I believe we can learn from the past, but first we have to take the past on its own terms—even when, as is often the case, it is quite difficult to get at those terms. To give you an example of what I am talking about, I would like to focus your attention on one word and its changing definition in the Anglo-American medicolegal world.

That word, of course, is "insanity." I am sure it would come as no surprise to most of you that, in 2004, insanity is considered a legal term. *The Concise Medical Dictionary* declares that insanity refers to, "A degree of mental illness such that the affected individual is not responsible for his actions or is not capable of entering into a legal contract. The term is a legal rather than a medical one."[11] Similar definitions can be found in other standard medical dictionaries as well as in dictionaries that are compiled for the general public. The more scholarly of these publications occasionally mention that the term once had a medical meaning, but quickly point out that such usage is obsolete. Legal dictionaries contain no such disclaimer. They embrace the word with little or no comment about its origins and often provide voluminous lists of cases and legislative pronouncements in which the meaning of insanity is made manifest.[12–14]

Hinted at in these definitions is an intriguing story of a transformed cultural landscape and a very complex interprofessional relationship. What is intriguing about this story is that the transformation of insanity from a creature of medicine into a creature of the law did not occur overnight and was, in fact, the object of considerable intellectual debate in the Anglo-American medical-legal world. By looking behind the dictionary and encyclopedia entries that serve as signposts to this change in language, it becomes evident that this was not inadvertent. Rather, it was a complicated negotiation that at least one group of American psychiatrists, 1920s era devotees of psychobiology and dynamic psychiatry, saw as a deliberate action on the part of medical science to rid itself of unwanted historical baggage. Today, I would like you to help me explore what psychiatry's "gifting" (to use an anthropological term) of insanity to the law might mean.[15,16]

The first important thing to understand to put this language shift into historical perspective is how shocked several generations of medical and legal practitioners, not to mention the general public, would have been to be told that insanity is a legal term. Until well into the 19th century the word insanity was ubiquitous, not only in medical writing, but in that of the legal and lay world as well. It was the general term used by both professions and the public to refer, in the words of the 1851 *Webster's Dictionary*, to the "state of being unsound in mind" and "applicable to any degree of mental derangement from slight delirium or wandering, to distraction."[17]

Use of the term appears to have been relatively unproblematic for members of the legal and medical profession. Law texts, legislation, and cases are littered with it, as are medical texts in which the term is used interchangeably with unsound mind, deranged, crazy, *non compos mentis*, lunacy, madness, and alienation. The asylums that arose at the end of the 18th and beginning of the 19th century in the United States and Great Britain, and that mark the beginning of modern medical attention to mental illness, often proudly bore the title of "insane asylum." Even the first bodies of nationally organized medical professionals in the United States and Great Britain, the asylum superintendents, proudly used the word, or its variant, insane, in the name of their organizations (e.g., the Association of Medical Superintendents of American Institutions for the Insane) and in their journal titles, such as the *American Journal of Insanity* (which is the parent of the *American Journal of Psychiatry*[18–22]). Even Isaac Ray, the American physician who can lay claim to being the father of forensic psychiatry in the United States and campaigned vigorously for the law to pay more heed to medical thinking, used the term insanity in the title of his seminal text, *A Treatise on the Medical Jurisprudence of Insanity*.[21,23–28]

Ray and his book provide us with another important set of markers in the history of the word insanity. First published in 1838, the book came into existence when the use of the term insanity was not problematic. Last revised in the early 1880s, the book and its author would retire badly scarred from fierce inter- and intraprofessional battles over the meaning of the word insanity. Initially taking for granted the shared language of insanity, Ray and many others interested in the topic, including legal scholars such as Francis Wharton, saw this sharing as a good thing. The first versions of both Ray's text and Wharton's (which did not appear until 1853), underlined the need to have the law, medicine, and the public all speaking the same language.[29] That they could find situations in which this was not the case, particularly in the courtroom, dismayed both of them and inspired their efforts to educate and reform the insanity defense.

This is not to say that Ray and Wharton had identical views of insanity or simplistic views of how to foster shared understandings, because they did not, as their increasingly elaborate discussions of the subject bear out. What they and most of their counterparts in the mid-19th century had 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. Filled with ever more elaborate explanations and clarifications of meaning, the publications of the mid-19th century are surprisingly hopeful and conciliatory.[6]

It is not until the 1860s and 1870s that the tone becomes more strident and the first doubts about the possibility of sharing a language become clear. These doubts were fed by a variety of factors that historians such as Bonnie Blustein,[30] Gerald Grob,[19,20] John Hughes,[21] Charles Rosenberg,[31] Andrew Scull,[32] Roger Smith,[33] and David Rothman[34] have done a masterful job of explicating. Although I can only allude to such forces as the rising doubts about the efficacy of the asylum and moral treatment, the intense infighting between the superintendents and the newly created specialty of neurology, and the general structural changes that were part of the reorganization of the medical profession at the end of the 19th century, it is important to note their effect on thinking about insanity.

In the last third of the 19th century in both the United States and Great Britain, the word insanity was still used with great abandon by a wide array of figures, but it was increasingly hemmed in and modified by an ever more dense thicket of adjectives and modifiers such as adolescent, circular, climacteric, degenerative, homicidal, impulsive, puerperal, religious, moral, and delusional.[35,36] It was also smack in the middle of one of the nastiest and most public debates about a medical concept that has occurred in the Anglo-American world, with the possible exception of the 20th century debate over homosexuality.

The debate was over the legitimacy of a concept that had been percolating among those caring for the mentally ill since the end of the 18th century, especially in France. In 1835, British alienist J. C. Prichard gave this concept a name that would vex several generations of mental illness experts. That name was "moral insanity."[37] Discussions of this concept disrupted meetings of medical professionals almost from Prichard's first introduction of it in the mid-1830s. The disagreements between the relatively small set of American asylum superintendents were so intense that by the early 1860s, members were pleading with each other not to bring the subject up at any more meetings.

The object of a seemingly endless number of journal articles in both medical and legal publications, introduced into both British and American court cases, and subsequently splashed across the pages of popular newspapers and magazines, as a stimulus to "status-damaging battles between medical experts," moral insanity had a powerful impact on medical-legal relations. The moral insanity debate was the most visible sign of an intense Anglo-American cultural struggle to understand and respond to individuals with mental illnesses who had not deteriorated intellectually and who experienced periods of partial or total remission of symptoms. Clinical observation had led psychiatric pioneers, first in France and then elsewhere, to expand traditional definitions of insanity and create a new class of nonintellectual, partial insanities—*folie raisonnée*, *manie sans délire*, monomania, and such impulse disorders as kleptomania and erotomania—and a related class of mental disorders affecting emotional or volitional capacities, rather than reason or intellect (Ref. 2, pp 48–51).[31,38–45]

Language, particularly the term moral insanity, was the major weapon used in this battle within and between medical groups claiming expertise over the field of mental illness. During the years that wit-

nessed such international sensations as the insanity trial of the assassin of a United States President (Charles Guiteau, who assassinated James Garfield in 1881), the term insanity, for physicians, slowly but surely became tainted with a host of undesirable associations (Ref. 6, pp 261–92).[31] For some the term insanity was not scientific enough, for neurologists it smacked too much of their professional rivals the superintendents, and for others in medicine it was far too firmly associated with such loathsome legal practices as the McNaghten test, the hypothetical question, and vicious cross-examinations of physicians testifying as expert witnesses. Repeated attempts to resolve problems of naming by various groups of practitioners in the superintendents' association, the neurologist organization, and even the first multiprofession forensic group, the New York Medico-Legal Society, came to naught.

Clark Bell, the editor of the first nationally distributed forensic journal, *The Medico-Legal Journal*, put things quite succinctly when he lamented in the 1890s that his Nomenclature and Classification Committee was drowning in a sea of disease conditions and diagnostic categories (Ref. 6, pp 181–99; Ref. 9, pp 231–43).[46] Firmly embedded in both the legal and the popular vernacular and protected somewhat by the inability of the disparate group of medical specialists in the field of mental illness to agree on a meaningful replacement term, insanity limped into the 20th century.

The taint on insanity that is so evident at the end of the 19th century would only deepen in the early years of the 20th century. Changes in psychiatric theory, particularly the continued development of neurological knowledge and the importation from Europe of more clinically informed disease definitions such as Kraepelin's and Bleuler's, as well as early psychoanalytic thinking, would lead British and American physicians interested in mental illness into whole new conceptual frameworks.[47–52]

Increasing disillusionment with and desire to distance theory and practice from the field's asylum-dominated past provided further impetus for physicians to leave 19th century traditions behind. More general structural changes in the identity of the physician and his relationship with the state, particularly in the United States, that are associated with such developments as the passage of new and stronger licensing laws, medical education reform, and malpractice-induced concern with standards of care also contributed to the search by many physicians for a new language in which to describe themselves and their field of expertise.

This search for new language would take many forms, from physicians calling themselves alienists and neuropsychiatrists, rather than superintendents and neurologists, to embracing such exotic new terminology from Germany as *dementia praecox* and schizophrenia. These forces combined to lead slowly but surely to psychiatry's abandonment of the term insanity. This change in language was gradual and halting at first, marked by some ill-fated efforts to revive the term and permit law and medicine to speak the same language.[8,53,54] It is worth noting that the disparate group of physicians who dealt with the mentally ill had only just begun to refer to the general field as psychiatry and themselves as psychiatrists at about this same time.

One of the most poignant of these efforts to rehabilitate the language of insanity and bring legal and medical practitioners together for a collaborative reform effort was set up by the American Institute of Criminal Law and Criminology (AICLC) in 1909. The AICLC's energetic committee on Insanity and Criminal Responsibility—which included such illustrious medical members as William A. White, Adolf Meyer, and Morton Prince—worked for over 10 years to craft a set of reform proposals on the insanity defense and expert testimony. Over and over again, their efforts broke down as the lawyers, led by committee chairman Edwin Keedy, and the physicians tried to explain to each other what they meant by insanity. Ultimately agreeing to disagree, the committee drafted model legislation, which all the physicians felt was woefully inadequate.[6,8] Just how inadequate was made clear in a 1923 book entitled *Insanity and the Criminal Law* by William White,[55] who was superintendent of the prestigious St. Elizabeth's federal mental hospital in Washington, D.C. For White and many others in his generation, "Insanity is purely a legal concept and means irresponsibility, or incapacity for making a will, or for entering a contractual relationship. . ." that the law hopelessly confuses with disease, which is the business of medicopsychology/neuropsychiatry to define.

Like many crucial turning points in history, we cannot mark the date and time of psychiatry's abandonment of the term insanity, but occur it did, as White's pronouncement suggests. You need only

look at the dictionaries, textbooks, and encyclopedias of the 1920s and 1930s to see the evidence. The professional organization for physicians working with the mentally ill made the most public gesture of abandonment when in 1921 it changed its own name to the American Psychiatric Association and that of its journal from the *American Journal of Insanity* to the *American Journal of Psychiatry*.[18] Many of the leading textbooks of both psychiatry and psychology followed suit and included such advice to students as the following, found in a 1927 teaching text:

> It is desirable at the outset to become familiar with the present use of certain more or less technical terms. The term insanity, for instance is one over which the student new to psychopathology is prone to stumble. As a scientific term it is being rapidly dropped, and some think that it will soon become obsolete. It designates not a medical but a legal and sociological meaning [Ref. 56, p 78–9].

What makes this change in insanity's ownership so interesting is that the psychiatrists who, like White and Meyer, came to power in the first quarter of the 20th century were not content to let the term simply fall into disuse. They wanted to stamp out its medical and psychiatric existence. Not only did they embrace theoretical perspectives antithetical to the traditional understandings of mental illness with which the term insanity was intertwined, but they pushed relentlessly for new—what they considered more scientific—language in which to express their ideas.

Even more important, many psychiatrists, but particularly Meyer and White, went out of their way to distance themselves from this term. For them it was not enough to let insanity quietly fall into oblivion. The word with its tainted associations had to be seen for the dangerous, legal creature that it was, as Meyer's article[57] on "Insanity" in the 1926 *Encyclopedia Britannica* made clear. In his encyclopedia entry and many other publications, Meyer forcefully argued that the most authoritative thinkers of the "present century" had abandoned such terms as lunacy and insanity and the inaccurate theories associated with them. "Instead," wrote Meyer, "we speak to-day of mental disorders, of psychoses and psychoneuroses, viewed as problems of adaptation of the individual to the environment."

This generation of psychiatrists may have collaborated with the law on reform of procedures dealing with mentally ill offenders, but they would not share a language. Unlike their superintendent and neurologist predecessors, this and subsequent generations of American psychiatrists could and did appeal to other sources of authority and were less disturbed by their divergence from legal and popular understandings of the term insanity.

The shift in language traced here today marks a choice that one group of professionals made to develop their own distinctive technology for dealing with mental illness. By the 1930s, the dream of a shared medical-legal language and a common object of analysis was nothing more than ceremonial rhetoric. Embedded in their very word choice was the belief that law and psychiatry were focusing on very different things. The law was developing mechanisms by which knowledge about mental illness could be introduced into a legal proceeding and used with other relevant information to make decisions about such legal categories as responsibility and competence. Psychiatry, on the other hand, was developing mechanisms for diagnosing and treating illness and disease. To confuse the two would only spell disaster, or at least more years of wasted rehabilitative opportunity and the pointless wrangling in the courtroom that psychiatrists like White and Meyer so abhorred.

What psychiatry could tell the law about an individual's development, personality structure, adaptive abilities, and so on was, in the minds of psychiatric power brokers such as Meyer and White, of vital importance to the law, but it would be done on psychiatry's own terms. The self-conscious shift in language signaled the recognition by at least a few within the psychiatric profession that diagnosis for therapeutic purposes and assessment for legal purposes were not identical activities. Although this insight would not bear fruit until after the Second World War, it was crucial to the development of forensic psychiatry's first stable intellectual and professional identity.

The acceptance of separate spheres is, I believe, what makes the psychiatrists' "gifting" of the word insanity to the law so significant. It reflects psychiatry's strong desire to break from the past and start anew in a more scientifically and medically grounded framework. As scholars such as Gerald Grob[53] and Jack Pressman[54] have made clear, early 20th century American psychiatrists wanted to redefine the nature of their relationship with patients and society as a whole, including and, very important, their relationship with the state. Gift-wrapping and presenting

insanity to the law symbolically accomplished both of these goals.

The most apt title for this presentation is "The History of Insanity in England and the United States," or "What's in a Name?" As in Shakespeare's story of thwarted love, it turns out that there was quite a bit in the choice or, in the case of insanity, of not choosing a particular name.[58]

The forceful demarcation of the differences between medical and psychiatric ideas about mental illness and legal concepts is what made the development of modern forensic psychiatry possible, at least in the United States. This action, while it certainly did not resolve all the intellectual tensions in the field, allowed future generations of forensically interested practitioners to establish a clearly identifiable body of knowledge that society finds of crucial value, at least in certain situations. By pushing the two professions apart, early 20th century medicolegal theorists created a liminal space in which a new and quite distinctive professional group could grow and develop.

And grow it did, acquiring all the accouterments of an established profession—organizations, boards of certification, journals, statements of ethical principles and research centers.[59] Judging by the contents of these journals, the mixed professional membership of these organizations, and the increasing number of dual-degree practitioners, it appears that the most effective wielders of this knowledge base and the backbone of the profession, are bilingual—speakers of both law and psychiatry. Not one shared language, but fluency in two disparate ones, is the mark of mastery in this field.

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