The First Presidential Assassination Attempt

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On Saturday, January 30, 1835, President Andrew Jackson accompanied by his Vice-President, Martin Van Buren, and the Secretaries of Treasury and Navy, entered the portico of the Capitol. President Jackson had just attended the funeral service for Representative Warren B. Davis of South Carolina. Suddenly a man in the crowd pulled a pistol from beneath his coat, extended his arm, and levelled the pistol at Jackson's chest from a distance of 12 feet. The percussion cap exploded with a noise so great that several witnesses supposed the pistol had fired. The assassin immediately dropped the pistol from his right hand, and taking another already cocked from his left, presented and fired it at the President who had raised his walking stick and was rushing upon his attacker. The cap exploded but also failed to communicate to the charge.[1]

An examination of the pistols in open court found each to contain a full charge of powder and a ball.[2] Later that day, other percussion caps from the prisoner's shop were placed on the tube and fired. The ball passed through an inch plank at a distance of five or six yards and lodged on the opposite side of the enclosure, a distance of another six or seven yards. Using powder found in the prisoner's possession, each of the pistols was reloaded and fired several times. The discharge took effect on every trial.[3] No satisfactory explanation, other than the dampness of weather (offered by the defendant) or the intervention of Providence (offered by the Prosecutor) was found.[4]

Richard Lawrence, a housepainter of uncertain age (stated to be 35 but some said 28), thus became the first person accused of an attempt on the life of a U.S. President. His arrest, confinement, and subsequent trial reflect the prevailing public and medical attitudes toward mental illness and the legal practices of early nineteenth century America with regard to the insanity defense. Although the McNaghten rule was quickly adopted in this country following its introduction in 1843 by the English judges, the insanity defense had already shown signs of evolution from the extreme "wild beast" test and standards, which required total, raving lunacy as an excuse from criminal responsibility. This article explores this evolution and those questions upon which psychiatry and law interface: competence to stand trial, insanity defense standards, and expert testimony in the pre-McNaghten period.

Upon his arrest, Lawrence was immediately taken before Judge William Cranch.[5] Judge Cranch was a Federalist, a nephew of former President John Adams, and perhaps best known by legal librarians as Reporter of the U.S. Supreme Court Reports.[6,7] Judge Cranch ruled that since there was no actual battery (in those days a miss was as good as a mile), the assault did not fall under the recently passed criminal statutes of 1831.[8] It was merely a misdemeanor under the common law, a bailable offense.[9]

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The District Attorney, a Jackson appointee, was Francis Scott Key (composer of the national anthem). Key argued that the $1,000 suggested bail was too low and that the order of the court should include "that the prisoner should keep the peace." Judge Cranch increased the bond to $1,500 but noted that the Constitution said that excessive bail should not be demanded and that he had taken into consideration the circumstances of the prisoner's ability to give bail and the atrocity of the offense in reaching his decision.[10] Cranch was severely criticized by people who feared that such a low bond might result in the prisoner's release.

Background — Richard Lawrence

It was quickly learned from his sisters and brothers-in-law that Richard Lawrence was a native of England who came to this country with his parents when only twelve or thirteen years old. His father died in Georgetown some eight to twelve years later. As a boy he was apprenticed to two housepainters (one of whom was now a leech doctor). He was described as reserved and was never known to drink to excess. A few years before, he formed an attachment to a woman and began to work to save money for a house. He had saved $800 when it became clear that the attachment was not reciprocated. His reaction to this was to "become extremely pensive, quit all employment — standing for hours in a little parlor, gazing upon the spot which he had selected for his future residence." In the fall of 1832, he left Washington with the intention of going to England, saying that something of great importance demanded his presence. During the winter he returned from New York, saying that the weather was too cold. In the spring he started again, but got no further than Philadelphia. Upon his return, he claimed that "people would not let him go, that this government opposed his going; that his brother-in-law and others had prevented him; and that he should not be able to go until he got a ship and captain of his own."[11] When he arrived in Philadelphia, he found all the newspapers so filled with notices about him and his reason for going, that he was obliged to come back to Washington once more. At that time, he became very quarrelsome with his sister and said that the servant girl laughed at him and that he would kill her. He began to strike members of his family and once took up a four pound weight to throw at the sister with whom he was living. He would go about the house without speaking for days, but would talk and laugh to himself continuously in his own room, according to his brother-in-law, Mr. Redfern. A newspaper reported that following the assault on his sister, Lawrence was jailed and the case carried to the grand jury. After an examination of witnesses who knew him, the grand jury refused to find a bill against him, on the grounds of his insanity.[12]

He lived with another sister for a while, and when his family could no longer tolerate him, he moved into a boarding house for eight weeks. There, he told the proprietor he would have millions shortly, Congress owed him a large sum, he had large estates in England and was related to the crown. One afternoon he threatened to blow the head off or cut the throat of the proprietor's wife. To show that they were not to be intimidated, they took out a warrant for the money that he owed them.[13]

An acquaintance of the defendant, Samuel Drury, said that he had known Lawrence for twenty-five years, but that recently he had heard him declare that he should be Richard III, King of England and King of America. According to Drury, these declarations were so well known, that the local boys were in the habit of calling him "King Richard" and that Lawrence had taken to threatening them recently. On the morning of the attack, Drury described Lawrence as coming to the shop at the usual time and going to a place where he could be seen through a partition in the wall. Drury went on to describe him as sitting on a chest with a book in his hand, laughing. He then heard him say, "I'll be damned if I don't do it." Lawrence then went out and locked the door.[14]

Evaluation of Lawrence's State of Mind

By the time of the trial in mid-April of the same year (1835), Lawrence had been examined by six physicians as to his state of mind and the possibility that he might be feigning insanity. The political allegiances of the physicians seemed as important as their training or experience. Four days after the attack, on February 4, two physicians conducted a joint interview in the jail, at the request of the U.S. Marshall rather than at the request of the defense. Their report was published in the *National Intelligencer* and other papers three days later.[15] The doctors (Causin and Sewell) were described in the *Richmond Whig* and *Public Advertiser* as "one a Whig, the other a Jackson doctor."[16] Dr. Causin was a physician to the jail, while Dr. Sewell was Professor of Anatomy and Physiology at the Columbian College and soon to publish a book on phrenology, disputing its validity and claims.[17]

Lawrence spoke freely with the physicians, giving background history and stating that he was a painter by trade, but of late could not find steady employment, causing him much pecuniary embarrassment; that he generally had been temperate in his habits, using "ardent spirits" moderately at work but, for the last three to four weeks, had not taken any. Furthermore, he had never gambled, and, in other respects, had led a regular, sober life.

During the examination he unhesitatingly acknowledged that he had been deliberating on the attack for some time, and had in fact called at the President's House about a week preceding the attempt, and demanded money for passage to England. The President apparently put him off by saying he was too busy to see him then, and that he must come back at some other time. Lawrence felt that the President must have known of his intention to kill him if he did not comply with his wishes, as the President was Lawrence's "clerk" and had control over his money and his bank. The doctors concluded after two hours of questioning that Lawrence's reasoning was

> collected and pointed as to the leading subject of his delusion, which was his absolute right to the Crown of England and the right to the sword and the purse whenever he desired them. . . The expression of this countenance and of his eye — the clamminess of his mouth and his delivery is that of hypochondriasm." They concluded "we do not hesitate to state as our own opinion that this unfortunate man is laboring under extensive mental hallucination upon some subjects.

Jackson was not satisfied with this evaluation[18] and asked Dr. Benjamin Bohrer to perform his own evaluation and write a report. On February 26 Dr. Bohrer's report was sent to the President. Although initially commenting on the difficulties posed by simulation, Dr. Bohrer found little difficulty in concluding Lawrence insane. The nature of his examination and views of mental illness can be gauged from his report:

> I found the physical condition of Lawrence to exhibit morbid symptoms — the pupil of the eye was dilated, pulse was slightly tense to febrile, his tongue furred and to a practiced eye, a morbid physiognomy, or peculiar cast of countenance was manifest. His utterance was natural and without precipitation or hurry. At the time of my visit, he professed a signal imperturbability of manner.
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> He also spoke in the course of conversation of his early education, of a fond and pious mother, of whose good conduct he expressed himself handsomely, and with filial regard and gratitude, and this part of his remarks led happily to the question, if he had not been instructed in the ten commandments, the sixth was impressively urged on his notice, in connection with his conduct at the Capitol. He here avowed his disbelief in a hereafter, or immortality and spoke of it as every sciolist in the school of materialism does, but without any indication of hallucination or insanity — upon that topic he stated that the president knew his claim to the Crown of Great Britain to be just, that it was only necessary for him to reach England to secure it — that he wants money to get there, where he has a large body of friends to support him — that General Jackson having control over the Bank of the United States ought to furnish him with the money, and not having done so, was the cause of his attack upon him — that in the interview at the President's house, he saw from the President's eye he would not grant it, and of course he must shoot him. If General Jackson was out of the way, the next President might make an arrangement to afford him the money, and if he did not, he must also die. In this act he does not appear to possess the least sense of moral or civil responsibility. No attempt at cross-examination, no attempt at discussion or reasoning on the subject could make him waiver or depart from the hallucinated idea that he is the rightful heir to the Crown of Great Britain, that he has but to reach England to establish his claim, that the President has explicit knowledge of the fact, and entire control over the bank of the United States, and his not consenting to give him a check on that Institution authorized his attempted destruction of him. . . . I cannot learn that there is any hereditary tendency in his family to insanity, nor that any external injury to the head was ever excessive or that the brain suffered any injury from internal or febrile diseases; he has sometimes been heard to complain of headache but not so as to be a striking circumstance. His trade has been that of a painter which exposed him to the action of lead and also the rays of the sun. As for example, he was employed upon the front of Gadsby's Hotel. His sister mentions his complaining of a weight or heaviness about the region of the stomach. The painter's colic and paralysis from lead, are familiar to the Profession and how far they may have influenced the nervous system, or brain would not be an uninteresting query to the physician. About the time that these changes and caprices of conduct first discovered themselves, he had also perceived a serious disappointment in a manner in which his feelings were deeply interested, and to this source his sister — a very sensible and respectable woman, imputes much of his subsequent condition. I have learned satisfactorily that previous to this period he had an excellent character

> for industry, goodness of heart and prudence in the affairs of life, and free from intemperance of any kind and that up to this time he has not abused intoxicating drinks.
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> The undersigned having strictly sought and adhered to facts in the case before him, avoiding purposely all recondite disquisitions or speculations on the subject, and having solely truth and justice to govern him, begs leave to state that in his opinion the case of Lawrence is one of true insanity and belonging to that species termed Monomania and believing further that if he had not taken up the present maniacal hallucinations, he might have fastened upon one equally dangerous and that upon every presumption of science and humanity, the community should be protected from mischief — and himself treated in the manner which our advanced civilization and laws enjoin in such cases.[19]

Two other physicians examined him for the first time one week prior to the trial. One felt that Lawrence fit into Dr. Rush's classification of astromania — where the notions of the patient are all of an elevated character. Most agreed that one of the symptoms of mania was an insensitivity to the cold and that the state of the prisoner's mind was indicated by the general expression of his countenance, but especially of his eye; there is a particular appearance "which a medical man can at once perceive, although he may not be able well to describe it."[20]

Grand Jury Indictment

Before Lawrence could be brought to trial, he first had to be indicted by a grand jury.[21] On March 30, 1835, the grand jury met to consider the indictment of Lawrence. They requested that Key summon the four physicians who had examined Lawrence as to his insanity. Judge Cranch would not allow them to testify on the ground that the insanity was a defense. He affirmed that every person was presumed to be sound of mind until the contrary was proved and the only function of the grand jury was to decide whether there was sufficient evidence to bring him to trial.[22]

Despite this clear and reasoned decision, many states continued to allow grand juries to dismiss indictments on the ground of insanity. As late as 1933, eleven states had statutes providing that if a grand jury fails to return an indictment against a person charged with a crime on the ground of "insanity," the fact shall be certified to the court, which may (and in some states, must) initiate proceedings to have the person committed to an institution. Most of the statutes were not clear as to whether the "insanity," for which the grand jury may fail to indict, meant a lack of responsibility at the time of the offense or mental disorder at the time of the grand jury hearing. In the other seven jurisdictions, which had no statutes, it seemed that if not indicted, the accused must be allowed to go at liberty, unless proceedings were started to have him civilly committed.[23]

The Trial

On April 11, 1835, the trial began in the United States Circuit Court in Washington, DC.[24] As soon as Key rose to address the court Lawrence started up from his chair and said he wished to know if it was correct to bring him there. He

claimed the Crown of Great Britain and also that of the United States. His attorney requested that since the charge was a misdemeanor, Lawrence's presence could be dispensed with. Although Lawrence continued to interject his claims to the Crown as the jury was called, the court felt that his presence was necessary and so ruled. Later, Judge Cranch, who was one of the three trial judges, was called as a witness to describe Lawrence's behavior at the time of the arrest. During this testimony, the defendant rose again addressing himself "wildly" to the judges proclaiming what he had done to Jackson "was on account of money which he owed him. . . he considered all in that court as under him; the U.S. Bank owed him money ever since 1802, and he wanted his money. . . You are under me gentlemen. It is for me, to pass upon you, and not you upon me."

Prosecutor Francis Scott Key, in his opening address to the jury, noted that the charges against the prisoner, in contrast to other parts of the world, were a misdemeanor and punishable by fine and imprisonment:

> The station, or office of the object of this crime was to be left entirely out of the question; and it was to be considered in the same light as though committed on the most humble individual in the country. The framers of our Constitution had not thought it necessary to surround the chief magistrate with additional protection than those laws which were deemed sufficient for the citizen holding the most obscure station. . . ."

The defense, he suggested, would argue that Lawrence was a lunatic and, therefore, he summarized the law of insanity as it related to those who were not totally insane. He pointed to the case of James Hadfield (tried in 1800), which he presented as having settled the law in such cases, although earlier American cases usually quoted the capacity to discern "good from evil" or "right from wrong" as the appropriate standard.[25,26,27] These latter standards were used interchangeably and synonymously during the first part of the nineteenth century.

Key interpreted Hadfield to mean that if they thought he was laboring under only partial insanity,

> they were then to examine into the character of the delusion under which the prisoner was laboring; to ascertain the connection between the act committed and that delusion; and to see whether it was delusion and delusion alone, which had induced the act, if so, he was certainly not guilty.

Lawrence's defense presented a succession of lay and professional witnesses, who were able to describe in detail the development and evolution of his delusional system. Two physicians had examined Lawrence prior to the attack on the President; six examined him subsequently. The extent of the medical examinations varied from one or two interviews a week prior to trial to twenty interviews beginning immediately after the attack. The defense believed the evidence spoke for itself and made no summary statement to the jury. The court handed to the jury the verdict given in the case of Hadfield. The jury returned after five minutes. "We find him not guilty, he having been under the influence of insanity at the time he committed the act." The court then ordered Lawrence remanded and

treated "as well as his situation would permit, until some further provision could be made to prevent him from doing further mischief."

Lawrence was soon transferred to the Maryland Hospital for the Insane, which occupied the site where The Johns Hopkins Hospital now stands. In 1855, some twenty years later, he was moved to the newly opened Government Hospital for the Insane in Washington. He was listed as Patient No. 7 at the hospital, now known as St. Elizabeth's. Diagnosed as chronic monomania, he remained there until his death on June 13, 1861.

Discussion

While the assault upon Jackson was the first armed attack upon a U.S. President, violence was not something foreign to the streets of Washington. Only three years before, Francis Scott Key defended Sam Houston. Houston was tried by the House of Representatives for attacking a congressman with a hickory cane, when he was accused of fraudulently obtaining a government contract to provide Indian rations. In an interesting parallel, the congressman drew a pistol, cocked it, and aimed at Houston's chest and pulled the trigger. The flint struck particles of fire, but the charge did not explode.[28] Evidently guns frequently malfunctioned in Washington during the 1830s.

The Lawrence case raises several questions.

1. How was it possible that a blatant assault with intent to kill a President was considered merely a misdemeanor and not a felony or treason?
2. How could a trial be allowed to proceed when Lawrence appeared obviously incompetent to stand trial?
3. Did Key fail to vigorously oppose an insanity defense for humanitarian reasons or merely because it was the way to keep Lawrence confined for the longest possible period of time?
4. What were the social or the medicolegal implications of the case?

Question of Misdemeanor

The answer to the first question involves the legal theory of criminal attempts. Both English and American law was conspicuous in its late development. Most crimes were defined in terms of the ultimate harm produced: a life taken, property stolen or burned. In contrast, offenses such as possessing a gun or burglar's tools, conspiring to commit a crime, or assault itself, are inchoate or anterior in the sense that no harm or injury had yet occurred. However, how far the law may intrude into a person's life before any attack has been committed has long been a subject of intense debate, for example, is merely looking suspicious enough to justify a search?

During the eighteenth century, the one area in which the law on attempts and conspiracy was well formulated was on the concept of treason. Under English law the mere "compassing and imagining the death of the king" was considered high treason and punishable by death. In fact, the trial of James Hadfield in England, so frequently quoted during Lawrence's trial, was precisely such a case. But as Key noted, the Constitutional drafters had not adopted this concept of

treason for the protection of the President. Americans were fearful of the abuses of power exercised by the English Crown.[29]

The legal history of the development of liability for criminal attempts has been well summarized by Curren, Hall, and Dershowitz.[30,31,32] For our purposes, it is sufficient to note that American law in the 1830s,[33,34] although still relying on the common law and English cases for precedent, was beginning the process of making statutory law the predominant guide. The "no-harm, no-crime" disposition changed gradually, and it was not until 1865 (30 years after the Lawrence assassination attempt) that Washington, DC law was amended to make assault with intent to kill a felony.[35]

Question of Competence to Stand Trial

When we consider Lawrence's behavior during the trial and the nature of his outbursts, it seems clear that by current standards (ability to understand the proceedings and aid in the preparation of a defense), he would have been found incompetent to stand trial. Lawrence's sanity was clearly an issue the grand jury focused on when they debated whether to bring an indictment against him. Although the concept of "competence to stand trial" did exist in common law, the criteria used to determine competence were vague.

Sir William Blackstone said

> If a man, in his sound memory, commits a capital offense, and before arraignment for it he becomes mad, he ought not to be arraigned for it, because he is not able to plead to it with that advice and caution that he ought. And if, after he has pleaded, the prisoner becomes mad, he should not be tried: for how can he make his defense? If, after he be tried and found guilty, he loses his sense before judgment, judgment shall not be pronounced. . . .[36]

Blackstone's declaration is vague, in the sense that madness is used globally, without any criteria for what capacities are minimally required; a source of much confusion for the nineteenth century courts. It also refers only to capital offenses and not to misdemeanors. This was quite significant in England prior to 1836, as defendants accused of all felonies but treason were not allowed to have an attorney represent them in court.

Thus, even at that time, there was some understanding that one could be found incompetent to stand trial. However, because of public outrage at the attempt on the President's life, there was pressure that this not be done. Cranch seemed to search for exceptions so that Lawrence could be tried. Although no formal competence motion or request for a trial of present insanity was ever made by defense attorneys, a habeus corpus petition was made on the ground that Lawrence was insane. It requested that "he may be discharged from imprisonment" for humanitarian reasons, but "secure the public peace by proper restraints." His confinement as dangerously insane would have been in essence the same as finding him incompetent to stand trial. Judge Cranch gave several cogent reasons for refusing the habeus corpus petition. The first, a practical one, noted that "in absence of any secure hospital facilities the only manner in which I could secure the public

peace (or rather the public safety) would be, to remand him to the prison where he is now."

Cranch's second point was one that the Supreme Court just recently addressed in 1972 in the *Jackson vs. Indiana* case.[37] "His imprisonment would be interminable; he would have no day in court, no means to compel a trial, no right to apply for discharge for want of trial, and no right to bail."[38] Thus, a finding of incompetence for a chronic condition would mean lifelong confinement without ever being brought to trial on the facts of the case. Judge Cranch went on to cite Lord Hale[39] who also included a similar incompetence provision as Blackstone for those who commit crimes during insanity. Hale, however, added what appears to be a waiver in those cases that "accidentally" proceeded to trial. . . *"If there be pregnant evidence to prove his insanity at the time of the fact committed,* then upon the same favor of life and liberty, it is fit it should be proceeded in the trial, in order to his acquittal and enlargement."

These arguments, coupled with the insinuations of political conspiracy to kill the President and public pressure for information, led to the trial of Lawrence even though he was undoubtedly incompetent to stand trial at the time. Whether it was fundamentally fair to try him is debatable. The U.S. Supreme Court in 1972 ruled that trials should not proceed under these circumstances.

The Insanity Defense: Which Standard and What Motive?

In his opening statement to the jury, Key acknowledged insanity as the most likely defense. In fact, he offered the Hadfield standard as the model to follow. Legal and forensic scholars have had difficulty in deciding exactly what constituted the Hadfield test. One English reviewer interpreted the case as an interesting example of flowery rhetoric but one which had little effect, either in saving defendants who otherwise would have been precluded from an insanity defense or in increasing the frequency of its use.[40]

In brief, James Hadfield in 1800 fired a pistol at George III as the King entered the royal box at Drury Lane Theatre. The ball passed about a foot above the King's head. The charge was high treason. Lord Erskine, his attorney, had no difficulty establishing prior insanity or current delusions, with both medical and lay witnesses. Hadfield recently had attempted to kill his own child because he believed God had ordered him to do it. His attack on the King was planned with the clear objective that he would be hung for treason and thereby save mankind. Hadfield clearly "knew" that the attempt was unlawful. Erskine, in Hadfield's defense, argued that partial insanity with compelling delusions could negate criminal responsibility.[41] The judge, Lord Kenyon, merely charged the jury with the question "whether you will not find that the prisoner, at the time he committed the act, was not so under the guidance of reason, as to be answerable for this act enormous and atrocious as it appeared to be."[42]

The decision did not make clear whether the delusion test supplanted the ability to know the right-from-wrong standard. Most courts and legal commentators believed it did not.[43] Joseph Chitty, whose legal treatises were accepted as standard texts and cited by Judge Cranch in Lawrence's pretrial hearings, also had

published in 1836 a book on medical jurisprudence.[44] In this volume he combines Erskine's test of insanity with the right v. wrong standard. After accepting Erskine's definition of delusion as a correct test, he states that the question for the jury in criminal cases is

> simple, and adapted to the comprehension of every juryman; viz., "whether at the time the act was committed, the prisoner was incapable of judging between right and wrong, and did not know that the particular act was an offense against the law of God and nature."

Judging from the questions and answers of the medical experts, this combination was the standard followed during Lawrence's trial. Every physician answered the ultimate question in terms of his ability to distinguish or judge "betwixt" right and wrong, rather than just whether the delusion and the delusion alone induced the act, as Key had suggested in his opening statement.[45]

Much has been made of Key's motivation in prosecuting Lawrence. Some historians have attributed humanitarian motives and a sense of justice to his lack of vigor in contesting the proffered insanity defense.[46,47,48] Professor Dershowitz has advanced the theory that Key's motives were only utilitarian. The insanity defense allowed Lawrence to be confined for the rest of his life whereas a conviction on the misdemeanor charge could have led to only a short-term imprisonment of a year or two.[49] In his words, "The rhetoric of liberty is loudly proclaimed, but the reality of preventive confinement is silently enforced."[50]

This intriguing notion is difficult to verify. It certainly represents a significant twentieth century question but clearly not one of concern in 1835. The alternatives were never commented on or editorialized in any of the newspapers or legal journals of the period. Public and Presidential reactions primarily were concerned with the question of a political conspiracy. A review of Jackson's letters and Key's correspondence showed no mention of their views on the outcome. If this was so obvious, one question occurs. Why did Lawrence's attorneys, William and James Brent, raise the insanity defense in the first place? They could have recommended a plea of guilty. Certainly, present-day attorneys carefully weigh the consequences of a defense in terms of the total time of incarceration, whether in jail or hospital.

Commitment and release practices following a successful insanity defense varied considerably in this country during the first part of the nineteenth century. Neither the common law nor U.S. statutes provided clear guidelines for what was to be done following an insanity acquittal even though Judge Cranch seemed to have no difficulty ordering Lawrence's confinement. Clearly, not all insanity acquittees were confined for life, in view of the number of crimes committed by persons previously found not guilty by reason of insanity. In 1842, New York passed a new model commitment statute that authorized confinement of all persons who have "escaped indictments" or have been acquitted on the grounds of insanity. The state provided that such persons must be confined if their "insanity in any degree continues." Earlier New York laws authorized confinement only when "it would be dangerous to permit such lunatics to go at large."[51]

English law at the time was equally vague. In 1800 at the time of the Hadfield trial in England, there was no formal mechanism; a special statute was immediately passed with a retroactive clause to cover Hadfield. This act "for the safe custody of insane persons" charged with offenses provided that juries could not bring in a simple verdict of not guilty but had to state specifically that he was acquitted on account of insanity. Such a verdict would then authorize his confinement "until his Majesty's pleasure shall be known." This act was defective in that insanity acquittals for misdemeanors were specifically excluded.[52] This loophole was corrected in 1840 with the passage of a new statute,[53] which extended the special verdict and its consequences to misdemeanors. Most misdemeanor crimes involving insane defendants probably never proceeded beyond the indictment or arraignment stage.

Social and Medicolegal Implications of the Case

Every social era has its own idea of malevolent attractions that the public views as influencing behavior. In our time, television violence has been depicted as a leading culprit. In the 1830s speeches made on the floor of Congress were seen as causes of violence. The two then-recent examples were the attacks by Sam Houston and Major Heard on Representatives following remarks made on the floor of Congress in 1832. Major Heard, in fact, directly informed his victim in the local newspaper that he was to be attacked. A few days later the assault took place, and Representative Arnold was shot in the arm.[54] The disarray of appropriate legal procedure was made abundantly clear by the fact that Sam Houston was tried for contempt by the House of Representatives while Major Heard, the other attacker, was referred to the local circuit court for disposition but was never tried.[55] Because these attacks had been precipitated by statements made in Congress, Lawrence was closely questioned as to the effect of Congressional speeches on his mind!

The conspiracy theory initially promulgated by Jackson himself, and later elaborated by his supporters, has a modern ring to it, to the extent that conspiratorial theories seem to abound following such attempts. Then, as now, there seems to be little difficulty finding individuals who are willing to swear to affidavits supporting these theories.

In relation to the insanity defense, the case illustrates at least three points: (1) legal procedures were vague and not yet well defined by statute; (2) physicians were heavily employed as expert witnesses, although psychiatrists in 1835 were not yet seen as essential expert witnesses in cases involving insanity. The absence of a state hospital for the mentally ill in Washington may have had more to do with this than any other factor. (3) The Hadfield decision did not sink so quickly into obscurity as a review of English cases alone has led historians to believe.[56,57,58] Hadfield symbolized the acceptance of both partial insanity and delusions as significant and compelling enough to exculpate criminal responsibility. In Lawrence, the Hadfield standard did not totally supplant the knowledge of "right-versus-wrong" test but rather was combined with it.

The trial also indicates that the concrete interpretation of words in the prevail-

ing standard was not given the attention it later received. The witnesses freely substituted capacity to "judge" and "distinguish" right and wrong for the more cognitive "know" right from wrong. This, on an informal basis, seems akin to later attempts to substitute the word "appreciate" for "know" in order to expand the purely cognitive interpretation of the standard.

In summary, this trial in 1835 represents the first use of an insanity defense in the United States for a crime of national political significance. Richard Lawrence was given a more sympathetic hearing partly because no physical harm was inflicted. There were no cries of outrage from the press or public following the special verdict. The insanity defense was not yet viewed as an abuse of justice, despite the fact that a liberal definition of insanity was accepted in this trial. Also, lifelong confinement was not seen as unduly harsh in an era that saw the abolition of execution as the predominant mode of punishment for most crimes.

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8. Acts of Congress in Relation to the District of Columbia, approved on March 2, 1831, published by William A. Davis, 1831.

   Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that from and after the passage of this act, every person who shall be convicted, in any court of the District of Columbia, any of the following offenses, to wit, manslaughter, assault *and* battery with intent to kill, arson, rape, assault and battery to commit a rape, burglary, robbery, horse stealing, mayhem, bigamy, perjury or subordination of perjury, larceny, if the property stolen is of the value of five dollars or upwards, forgery, obtaining by false pretences any good or chattels, money bank note, promissory note, or any other instrument in writing for the payment or delivery of money or other valuable thing, or of keeping a faro bank or other common gambling table, petty larceny upon a second conviction, committed after the passage of this act, shall be sentenced to suffer punishment by imprisonment and labor, for the time and times hereinafter prescribed, in the penitentiary for the District of Columbia.

   Sec. 2. And be it further enacted, that every person duly convicted of manslaughter, or of any assault *and* battery with intent to kill, shall be sentenced to suffer imprisonment and labor, for the first offense, for a period not less than six nor more than fifteen years.
9. United States v. Lawrence, 26 Fed. Cas. 887-88
10. Id
11. Washington Telegraph, February 2, 1835
12. Washington Telegraph, February 2, 1835
13. Niles Register, April 18:122, 1835
14. Ibid
15. Niles Register, February 14:418-19, 1835
16. Richmond Whig and Public Advertiser, February 13, 1835
17. Sewell T: An Examination of Phrenology: Boston, D.S. King, 1839
18. Immediately after the first report of the pistol, Jackson, the old Indian fighter, raised his cane and charged toward Lawrence. His friends tried to hold him back. "Let me alone!" he shouted. "I know where this comes from." He suspected a conspiracy and felt that Senator George Poindexter was behind the attempt. (Parton J: Life of Andrew Jackson, Vol III: 585, 1860. Boston, Houghton-Mifflin, 1883)

   The conspiratorial flames were fanned when the editor of the *Globe*, Francis Blair, continued to make insinuations in the newspaper. During this period newspapers were openly partisan, and the *Globe* was

regarded as the official newspaper and "voice" of the President. Poindexter, immediately advised of the President's words, sent a note to the White House formally inquiring if in fact Jackson had made charges that a conspiracy was behind the attack. His letter was returned without comment. Within three weeks, two sworn depositions were published in the *Globe*, stating that, just prior to the attack, Lawrence had been seen at Senator Poindexter's house and in conversation with him. The Mississippi Senator immediately demanded a Senate investigation and refused to take his seat until he was exonerated. (Niles Register, February 28:448, 1835 and March 14:33-37, 1835.) A committee was selected by ballot on February 21 and by February 26 issued a unanimous report stating that "not a shade of suspicion rests upon the character of the Honorable George Poindexter" in connection with the charges of conspiracy. The hearing found that the witnesses had been eager to implicate Poindexter for personal reasons and money.

19. Report by Dr. Benjamin Bohrer, dated February 26, 1835, Andrew Jackson Papers (microfilm publ, reel 45, series I), Library of Congress
20. Niles Register, April 18:124, 1835
21. The function of the grand jury is to decide whether the accused shall be brought to trial: this serves to protect an individual against unfounded charges provoked by public outrage or private malice. The role of the grand jury as a protection against governmental intrusion is less appreciated today than at the time of the Constitutional Convention. The drafters, concerned by English abuse, provided that "no person shall be held to answer for a capital, or otherwise infamous crime, unless a presentment or indictment of a Grand Jury."
22. United States v. Lawrence, Case #15,576, 26 Fed. Cas. 886

    It is the duty of the grand jury to inquire into the nature and probable grounds of the charge; but it is the exclusive province of the petit jury to hear and determine, with the assistance and direction of the court upon points of law, whether the defendant is or is not guilty on the whole evidence for, as well as against, him; you will therefore readily perceive that if you examine the witnesses on both sides, you do not confine your consideration to the probable grounds of the charge, but engage completely in the trial of the cause; and your return must, consequently, be tantamount to a verdict of acquittal or condemnation. But this would involve us in another difficulty; for, by the law, it is declared that no man shall be twice put in jeopardy for the same offense; and yet it is certain that the inquiry now proposed by the grand jury would necessarily introduce the oppression of a double trial.

23. Weihofen H: Insanity as a defense in criminal law. New York, The Commonwealth Fund, 1933
24. Three transcripts of the trial have been published separately. The most complete was published in the National Intelligencer and reprinted in the Niles Register of April 18, 1835. The pamphlet, Shooting at the President, The Remarkable Trial of Richard Lawrence, by a Washington reporter, was printed and published by W. Mitchell in 1835. The third is in III American State Trials, 524-41
25. 1 City Hall Records of New York 176, 1816
26. 2 City Hall Records of New York, 86, 1817
27. Platt A and Diamond B: The origins of the "right and wrong" test of criminal responsibility and its subsequent development in the United States: An historical survey 54 California Law Rev 1227, 1966
28. The United States Weekly Telegraph. Saturday, April 14:13-26, 1832
29. Baker L and Marshall J: A Life in Law. New York, McMillan, 1974 Luther Martin (considered to be one of the greatest trial lawyers of the time) stated in his defense of Aaron Burr in 1807 on charges of treason,

    It has been repeatedly declared in our courts that the decisions in Great Britain respecting treason, as appears from the history of their jurisprudence, have been such, that their judges have in the most arbitrary manner carried into execution the most wicked wishes of the persons who held the crown. Even after the revolution of the year 1688, this has been the case, though not so much as formerly; they have extended the rules of evidence, with respect to treason, so as to shock humane judges.

30. Proposed Code of Laws for the District of Columbia, Prepared Under the Authority of the Act of Congress, 29th of April, 1816. Introduction by Judge Cranch. Printed by Davis & Force, Pennsylvania Avenue, 1819
31. Acts of Congress in relation to the District of Columbia approved on March 2, 1831: 567. (See reference 8 above)
32. Curran J: Criminal and non-criminal attempts. 19 Georgetown Law J 185-202, 316-337, 1930-31
33. Hall J: Criminal attempt — A study of foundations of criminal liability. 49 Yale Law J 789-840, 1940
34. Dershowitz A: The origins of preventive confinement in Anglo-American Law — Part I: The English experience. 43 U of Cincinnati L Rev 1-60, 1974. Part II: The American experience. 43 U of Cincinnati L Rev 781-846, 1974
35. Revised Statutes of the United States relating to the District of Columbia 1873-74. Government Printing Office, 1874
36. Chap II, Persons capable of committing crimes. Blackstone's Commentaries on the Law. Cooley 2nd ed. Chicago, Callaghan & Cockeroft, 1873
37. Jackson v. Indiana, 406 U.S. 715, 92 S Ct 1845, 32 L Ed 2d 435 (1972)

38. U.S. v. Lawrence, Case #15,577, 26 Fed. Cas., p. 889
39. 1 Hale, P.C.35
40. Walker N: Crime and Insanity in England, Vol I, Chap IV. Edinburgh, University Press, 1968
41. Howell TB: English State Trials 1798-1800, Vol 27, p. 1314
    Erskine argued that the total deprivation of reason and understanding was rare and of little legal difficulty. In his oft-published speech quoted by Key to the jury, it was contended that:
    > In other cases, reason is not driven from her seat, but distraction sits down upon it along with her, holds her trembling, upon it, and frightens her from her propriety. Such patients are victims to delusions of the most alarming description, which so overpower the faculties, and usurp so firmly the place of realities, as not to be dislodged and shaken by the organs of perception and sense. . . . Delusion, therefore, where there is no frenzy or raving madness, is the true character of insanity. . . but to deliver a lunatic from responsibility to *criminal* justice, above all, in a case of such atrocity as the present, the relation between the disease and the act should be apparent. . . . I must convince you, not only that the unhappy prisoner was a lunatic, within my own definition of lunacy, but that the act in question was the IMMEDIATE, UNQUALIFIED OFFSPRING OF THE DISEASE.
42. Howell TB: English State Trials 1798-1800, Vol 27, p. 1355
43. State v. Pike, 49 New Hampshire 399, 434 (1869) Judge Doe said,
    > Hadfield's acquittal was not a judicial adoption of delusion as the test in the place of knowledge of right and wrong; it was probably an instance of the bewildering effect of Erskine's adroitness, rhetoric and eloquence.
44. Chitty J: Medical Jurisprudence. Chap IX, Sec V: 346. Philadelphia, 1836
45. The physicians responded to the legal question:
    Dr. Hall: "from what I have seen I believe his attack on the President was so connected (to his delusion), and that therefore he was not capable of judging right from wrong as to the act."
    Dr. Sewell: "do not consider him as possessing a judgment of right and wrong; certainly not as to anything connected with General Jackson."
    Dr. Bohrer: "believe him to be laboring under a total derangement to his supposed claims and that as to anything connected with that subject, he is incapable of distinguishing betwixt right and wrong."
    Dr. Lovell: "asked him if he was not aware that the act he committed was wrong, he said no, not if Jackson interfered with him."
    Dr. Worthington: "believe that as to every act connected in any way with the subject of his delusion he is incapable of distinguishing betwixt right and wrong."
    Dr. Causin: "I hold that if a man can discriminate betwixt right and wrong he is responsible."
46. Hastings DW: The psychiatry of presidential assassination, Part I, Jackson and Lincoln. Lancet 93-100, 1965
47. Donovan R: The Assassins. New York Harper and Brothers, 1955
48. Delaplaine E: Francis Scott Key, Life and Times. New York, Biography Press, 1937
49. Dershowitz (see reference 34 above) quoted the proposed statutes of 1819 edited by Judge Cranch. These statutes were never adopted. The 1831 statutes bear some resemblance but are quite different from the ones finally adopted although the length of punishment for misdemeanors was similar (see note 5).
50. Ibid 801
51. Ibid 808
52. 40 Georg II, Chapter 94, 1800
    > That in all cases where it shall be given in evidence upon the trial of any person charged with treason, murder or felony, that such person was insane at the time of the commission of such offense. . . the court before whom such trial shall be had, shall order such person to be kept in strict custody, in such place and in such manner as the court shall see fit, until his Majesty's pleasure shall be known; . . . And be it further enacted, that if any person indicted for any offense shall be insane, and shall upon arraignment be found to be by a jury lawfully impaneled for that purpose, so that such person cannot be tried upon full indictment, or if. . . to order such person to be kept in strict custody until his Majesty's pleasure shall be known.
53. 3 and 4 Victoriae, Chap 54, 1840
54. U.S. Weekly Telegraph, 1832, pp. 261-265
55. Niles Register, February 7 Vol XI (No. 23) 985, 1835
56. Platt and Diamond, 1236 (see reference 29 above)
57. Walker, 81 (see reference 40 above)
58. Quen J: James Hadfield and medical jurisprudence of insanity. New York J Med 1221-26 May 1, 1969□