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Acquitted by Reason of Paroxysmal Insanity?

Science and Gender in the Nineteenth-Century Murder Trial of Mary Harris

An honors thesis presented to the  
Department of History,  
University at Albany, State University of New York  
in partial fulfillment of the requirements  
for graduation with Honors in History  
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## **Abstract**

The acquittal of Mary Harris in 1865 demonstrates the culmination of new social and scientific ideologies through the strategy of her defense counsel and the utilization of expert medical witnesses. While at the same time, the prosecutorial strategy embodied the opinions of gender and insanity that were being phased out.

The aim of this project is to demonstrate the overlap and reciprocal influence of science, law, and society, with narratives of gender acting as consistent undertones in these three realms. The trial and acquittal seem to fall in line with the idea that the insanity plea is a sham — a tool to permit socially disapproved behavior. However, analysis of the case reveals the use of relevant popular science to support Harris's insanity. The jury may have been inclined to acquit given the social context and sore heartstrings, yet I argue that the influence of the science of phrenology and the use of expert witnesses presented in litigation swayed the jury against the prosecution's pressure to appeal to the established laws on murder and insanity. The access the jury had to this knowledge of science set their verdict apart from the opinion pushed by the media following the trial.

The separation of popular science from the interpretation of insanity cases leaves scholarship with a partial view of how medical jurisprudence in the nineteenth century truly functioned. And the arguments of defense teams are often reduced to the influence of social narratives rather than the presence of gender bias in science. The Harris case is unique in that it captures a moment in history where a woman in her situation was aptly proven to be not guilty of murder, and her defense argued well enough to see her acquitted on account of either sympathy or insanity.

## **Acknowledgments**

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Thank you to my classmates in the Honors Thesis Seminar, Alex, Galilea, and Devin, for being there with insightful comments for my drafts along the way. This project not only challenged me academically, it allowed me to make lifelong connections with the most intelligent and delightful people, Brianna and Deina. I have extreme gratitude and respect for Andrew for his continued friendship, spending hours upon hours in the library with me, nearly every day, from the beginning to the very end. These three made this project possible, providing advice and support, I never felt alone, even through the hardest parts.

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I cannot possibly thank each and every person who has supported and guided me through this process. Your contributions are noticed, and I am immensely grateful for the ever-present love and support from the people dearest to me.

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## Introduction

On January 30, 1865, shortly after 4 P.M. at the United States Treasury Building, a young woman caught sight of the man she said had ruined her. She retrieved her pistol from her pocket and fired the first shot. As he fell dead to the ground, she fired another, lowered her veil and exited the building from the way she had come in, over an hour prior. Her defense team succeeded in having her acquitted, by pleading her not guilty by reason of insanity. By asserting that she was not responsible for the crime, Harris's attorneys were required to prove that point, thereby, switching the burden of proof to their side. They argued Mary Harris suffered from paroxysms of insanity caused and exacerbated by both moral and physical causes, that of which were nearly exclusive to women — disappointment in love and uterine irritability. These diagnosed conditions and causes allegedly rendered her insane and therefore irresponsible for the crime she committed.

The Harris trial presumptively falls into the category of trials that utilize the insanity defense as a pretext for an acquittal based solely on her womanhood and the supposed societal justification of her crime.<sup>1</sup> I argue this is not entirely accurate, despite being unable to definitively state the reasoning the jury gave for her acquittal. The examination of the defense strategy and their questioning of their medical witnesses reveals the legitimacy of their evidence and a high probability that her case was argued in a way that could convince the jury of her insanity with compelling and periodical accurate science. **Even still**, Harris's counsel employed manipulative strategies in order to win sympathy for their client. Yet, they demonstrated a thoroughness and awareness of multiple schools of science in questioning the medical witnesses

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<sup>1</sup> Charles E. Rosenberg refers to this characterization of the insanity defense as the “insanity dodge,” the sentiment resulting from the public's need for vengeance in response to murder. *The Trial of the Assassin Guiteau: Psychiatry and Law in the Gilded Age* (Chicago: Chicago University Press, 1989), p. 53.

which created a standard of insanity nearly exclusively employed in Harris's defense. Further, there existed an apparent understanding held by the defense that public opinion was easily swayed by utilizing lay witnesses for proof of insanity. Not only could the jury have been convinced by the fanciful jargon of Scottish common-sense medicine and phrenology from the experts, the defense's utilization of numerous laymen for her personal history, solidified the probability of insanity as the true basis for her acquittal.

Historically, trials can be settings in which societal ideas and values are exposed through the argumentation of law and its bounds. Considering of the Harris trial in the broader scope of legal history, Lawrence Friedman states, "trials...give off moral messages, about crime and punishment, good and bad, norms and values."<sup>2</sup> Though his work did not deal directly with the Harris trial, Friedman calls similar cases 'tabloid trials.' These cases are those which serve mainly as entertainment and deliver a symbolic message.<sup>3</sup> The message derives itself from the nature of the crime and the outcome of the case. Tabloid trials that involve murder, seemingly resulting from passion, are what Friedman calls 'soap opera trials,' the Mary Harris case clearly falls into this category. Friedman deduces a pattern that is demonstrated in numerous trials across United States history and is partially demonstrated within the trial of Mary Harris. The pattern reveals that a defense team is successful when they appeal to the morals and create an emotional connection between the jury and the defendant, while the prosecutorial strategy "depends on rebutting... and in many cases, admonishing the jury to follow the formal law, instead of gut instincts."<sup>4</sup> In the case of Mary Harris, the pattern is only shown in partiality because the strategy

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<sup>2</sup> Lawrence M. Friedman. *The Big Trial: Law As Public Spectacle* (Lawrence: University of Kansas Press, 2015), p. 29

<sup>3</sup> Lawrence M. Friedman *The Big Trial* p. 74

<sup>4</sup> Lawrence M. Friedman. *The Big Trial* p. 78

of the defense, sans medical experts, and that of the prosecution, fit well into Friedman's formula. It strays away from the pattern because of the use of the insanity defense. However, if the Harris case truly was an acquittal based solely on her womanhood and nineteenth-century sexism, Friedman's formula works. The defense, headed by Joseph H. Bradley, supported by other well-regarded advocates, invoked the widely held belief in the fragility of women and the sacred virtue of maidenhood. The supposed plea to the jury to follow the formal prescriptions of law, District Attorney Edward Carrington advocated for the preservation of the male gender's prerogative to police the sexual mores of society. Examination of the legal strategies of both the defense and the prosecution clearly demarcates a divide in gender perceptions in mid nineteenth-century America. However, the presence of gender bias in the science of the times, present in the case, disconnects the Harris trial from this pattern, and is a more compelling mechanism for interpretation of this case. This disconnect happens because the science of the time fundamentally separates the mental capabilities of men and women, and placed women in an inferior position to men, anatomically. The legal strategies parallel social movements prevalent in the nineteenth-century, in turn displaying how social ideas shaped the law as it was practiced, as opposed to its formal commands. Yet the analysis of the Harris case merely as one which echoed the societal standards of the mid-nineteenth century, allows only part of the story to come to light.

In terms of scholarship on the Harris trial, there are two avenues from which to interpret it — the social narratives present in the arguments of the defense and prosecution and the unprecedented use of expert medical witnesses to prove temporary insanity. However, from either perspective alone, the Harris trial and its implications are not fully encapsulated, an examination of the gender biases present in the relevant science of the nineteenth century, in



combination with those in the rhetoric and use of experts, allows for a full view of the trial. The Harris trial has been researched by a very small number of historians, all utilizing a grouping of trials to create an overarching argument from them. This method consistently produced a misrepresentation of the Harris trial; its unprecedented and singular nature is not conducive for comparing it to a group of remotely similar cases. Ann Jones categorized Mary Harris among other women who killed, and characterized their crimes as acts of feminine desperation.<sup>5</sup> Jones went further, and agreed with the prosecution's opinion that the insanity defense in that case was a pretext, she wrote "Probably he was right."<sup>6</sup> Despite Jones's mention of one of the doctors present, she makes a clear implication that Harris was likely not insane. Lee Chambers-Schiller neglected to acknowledge the two years before the killing, where Mary Harris exhibited extreme fluctuations in mood and displayed violent behaviors.<sup>7</sup> Chambers-Schiller opted for the categorization of the Harris case among crimes of passion committed by women, and examined the Civil War era belief system as the driving force of her acquittal.<sup>8</sup> A. Cheree Carlson made a similar effort to examine the implications of certain narratives in the Harris case, and only partially captured the discourse of the medical witnesses. Carlson described the prosecution as having the goal of discrediting medical witnesses, which is partially true, however, this strategy only came about after failing to utilize their medical witnesses properly.<sup>9</sup> Allen D. Spiegel

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<sup>5</sup> Ann Jones *Women Who Kill* (Boston: Beacon Press, 1996), p. 157

<sup>6</sup> Ann Jones *Women Who Kill* p. 166

<sup>7</sup> Lee Chambers-Schiller "Seduced, Betrayed and Revenged" in *Lethal Imagination*, ed. Michael A. Bellesiles (New York University Press, 1999) pp. 185-186

<sup>8</sup> Chambers-Schiller p. 202

<sup>9</sup> A. Cheree Carlson *The Crimes of Womanhood: Defining Femininity in a Court of Law* (Urbana: University of Illinois Press, 2009) p. 48

offered that this case and its use of the insanity defense could be recycled and applied to current discourses of insanity, simply by removing antebellum language.<sup>10</sup>

Every author has made strides in the interpretation of this trial, however, ignoring the presence of contemporary science consistently produced misrepresentative analyses of the case. The gaps are filled with the acknowledgement of how phrenology and science of the Victorian era functioned to categorically diminish the mental capacities of women. Yet, there must be an acknowledgment of the sexist biases present in science at the time, as sexism was much broader reaching than in the non-scientific community. Robert M. Ireland arguably came the closest to scientific inclusion, and presented other examples of insanity trials that provide medical evidence, even mentioning Harris's trial. Yet her gender and the exclusivity of the insanity of which she was assigned, in combination with the science presented to support it, went unnoticed.<sup>11</sup> Furthermore, Ireland grouped her case with those concerning honor-killings of the late nineteenth and twentieth centuries, however hers should stand apart. This grouping was nearly ignorant of Harris's status as a woman and was misrepresentative of her trial. The Harris trial is analogous with other insanity cases that utilize legitimate and accepted standards of insanity, yet these cases cannot be reversed to fit within the condition of insanity argued for Harris. The majority of the honor-killing trials that employed the defense feature male vigilantes killing the amoral victim in the name of avenging their woman, Harris's story does not fit alongside these men.

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<sup>10</sup> Allen D. Spiegel "Not Guilty of Murder by Reason of Paroxysmal Insanity: The 'Mad' Doctor vs. 'Common-Sense' Doctors in an 1865 Trial." *Psychiatric Quarterly* 1991 p. 51

<sup>11</sup> Robert M. Ireland "Insanity and the Unwritten Law," *The American Journal of Legal History* 32, no. 2, (1988) pp. 157-172

A pattern emerges upon examination of insanity cases: the manifestly insane tend to not benefit from employing the insanity defense as reason for their crimes, while the socially accepted killer does. From a scholarly standpoint, the Harris trial is lumped in with these cases of acquittal by insanity merely as a pretext for social narratives, which is not entirely untrue, many social narratives come to the foreground in the defense's argument. While it is uncertain, it is a viable possibility that enough compelling scientific evidence was presented to the jury and convinced them of her insanity. The scholarly assumption of the acquittal's illegitimacy aligns well with the opinion and central point of the prosecution's argument — she was likely to be acquitted solely because she was a woman.

While the case is a demonstration of a convergence of social ideologies in the courtroom, it served as an early example of the implementation of the insanity defense in American courts. In scholarly literature the Mary Harris Trial is credited as an early example of successfully using expert medical witnesses to prove temporary insanity of the defendant.<sup>12</sup> The majority of scholarly work done on this trial was written before historians utilized gender as an independent historical fact worthy of exploration. Adjacently, historically popular science has long been separated from this case, reintroduction of the 'common-sense' and phrenological basis of the medical expert opinions. My goal in conducting this research has been to combine these truncated threads of scholarship in order to create an accurate picture of the Harris trial. An image that demonstrates the underlining jurisdiction of gender within the reciprocally influential zones of science and society, and the subsequent manifestation of this complex relationship in the courtroom.

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<sup>12</sup> Allen D. Spiegel and Merrill S. Spiegel. "Not Guilty of Murder by Reason of Paroxysmal Insanity: The 'Mad' Doctor vs. 'Common-Sense' Doctors in an 1865 Trial." *Psychiatric Quarterly* 62, no. 1, (1991) p. 51.

The separation of popular science, phrenology in particular, from the interpretation of insanity cases leaves scholarship with a partial view of how medical jurisprudence in the nineteenth century truly functioned. Phrenology was a new way of interpreting the human character in relation to the brain and functioning of the mind. Phrenologists did so by dividing the brain into organs, or ‘faculties,’ that existed in relation to the other and their impact on the individual depending on the proportion and size of each organ. Phrenology provided a justification for the view of women as inferior. Relating their position in society to the smaller size of their brain as a whole and their proportional predisposition to functioning better in the inferior roles which society delegated to them.<sup>13</sup> Leaving science out of the interpretation often reduces the defense’s argument to social narratives rather than examining the presence of gender bias in science. Studying the insanity defense and including an analysis of how the prevalent sciences of the mind influenced the information presented in expert testimony should be standard in legal history and its scholarship. The sciences present in the Harris case, Scottish common-sense and phrenology, were the precursor to the modern field of psychiatry, and their inclusion in analysis of the case is necessary.<sup>14</sup>

Upon re-examination of the case, her defense team’s evidence illustrated a condition of insanity exclusive to women, and well-supported by both mainline and popular science, Scottish common-sense and phrenology. Both schools of science dealt particularly with psychiatry and had overlapping views among those that differed. ‘Common-sense’ dealt largely with somatic causes of insanity, where diseased organs caused diseased minds. Whereas phrenology ventured

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<sup>13</sup> “Article III: Woman in Her Social and Domestic Character” *The American Phrenological Journal and Miscellany* 1, no. 9, pp. 316-324 (1839).

<sup>14</sup> Phrenology in particular, paved the way for psychiatry, and Isaac Ray, a well-known American Phrenologist was one of the founders of the predecessor to the *American Psychiatric Association* in 1892. *Treatise on the Medical Jurisprudence of Insanity* - Editor’s Note.

into accepting moral causes and gave emotional ‘injuries’ entrance as causes for a diseased brain.<sup>15</sup> While the defense seemingly garnered enough sympathy from the jury to acquit her on either basis — sympathy or insanity — the reaction to the verdict in the media demonstrated a discontented public, scared of the wicked murderess.

Using the Official Report of the trial and a handful of secondary literature which aided in the understanding of such a rich source, I will start with the life story of Mary Harris and her relationship with Burroughs. The next part is key in the illustrative design of my project: the defense strategy. It is here that I will discuss the men who graciously advocated for Mary Harris, pro bono. I look to demonstrate that their well-rounded awareness of the psychiatric and legal discourse surrounding insanity, murder, and gender shaped their strategy to defend Harris. They employed societal narratives and their defense strategy at the start, seemed to focus on the primacy of the exploitation of the fear of disgracing the virtue of maidenhood held by society. As well as supported the sympathetic killer with irrefutable medical evidence that appealed to coexisting and contrasting schools of science. Harris’s lawyers structured their argument in a way that pushed social narratives to the forefront, which has led to continual misconstruction of the case in historical study. By purposefully separating the science from their defense the misconstruction of the case’s implications by scholarship is understood. The narratives and non-scientific biases they present, created an acquittal that seemed socially charged at the surface. The defense section will rely heavily on the opening statement as delivered by Joseph Bradley, and lead into the use of the medical witnesses by the defense and prosecution.

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<sup>15</sup> The term ‘diseased’ when referencing the brain is being used within the context of two antiquated schools of science associated with the determination of sanity and psychiatry/study of the mind overall. Terminology used in regard to Scottish common-sense philosophy and phrenology should be interpreted with the assumption that modern science has since forced their findings into obsolescence.

Discussing the psychiatry of the case, will focus on the intricacy of the questioning of the medical witnesses called by both the defense and prosecution. This section sheds light on the language of the sciences of the mid-nineteenth century and will move the interpretation of the Harris case beyond its one-dimensional legacy. The defense called mainly upon phrenologists, while the prosecution relied on doctors of ‘common-sense.’ The phrenologists called to the stand, particularly Dr. Charles H. Nichols, assessed and affirmed Harris’s insanity with near undeniable evidence, relevant to their science. The failure of the District Attorney to push for more than inconclusive answers from the common-sense doctors, left room for the skilled defense team to uproot witnesses from the other side. The section focuses largely on questioning by the defense, while demonstrating ineffectual questioning and cross-examination by the District Attorney and his assistant.

Next, the focus will turn to the prosecutorial strategy, shepherded by the District Attorney of the District of Columbia, Edward C. Carrington. His argumentation is characterized as a noble duty to protect the functioning of law as it is intended and the dissolution of psychiatry as a guard for criminals. In other words, Carrington created the illusion that his aim with this case was to convince the jury to convict in order to maintain the formal commands of the law. However, in reality, Carrington resorted to insulting and discrediting the witnesses, the defense team, and Mary Harris. By the end of the trial, upon delivery of his closing statement, Edward Carrington was left with only straws of an argument to grasp onto. He showed that his reliance on the reputation of the insanity defense as a ploy had no basis, aside from an incessant need to convict Harris.

The public and the media were not as easily convinced. In two particular articles, published by the *New York Times* and *The Adams Sentinel*, distaste for the verdict was clear.

However, the jury had ruled Harris as not guilty, following the closing statement of Daniel Voorhees. What is demonstrated by analyzing the reaction of the media in tandem with the final stand by the defense and the subsequent verdict, is that the defense and the jury seem to be out of step with the immediate reaction from the public. The rhetoric in the articles analyzed echo the argument of Edward Carrington, that Harris was acquitted for her womanhood and her insanity is invalid. They warn the men of society to be delicate in their dealings with women, since this verdict would allow any insulted woman to kill the man whose fault she felt it was.

While past literature on this case has functioned to perpetuate Carrington's opinion of her acquittal, the argument I make is found in context as well. Dr. Isaac Ray known to be one of the few proprietors of literature in American psychiatry at the time, published an article in the *American Journal of Insanity*, titled "The Insanity of Women Produced by Desertion or Seduction." The article commends the medical testimony as delivered by one of the doctors called for the defense and credited the science of the testimony delivered by the experts. This source from Ray is particularly interesting because it is the argument that is made in this paper, within the context of the trial and its aftermath.

### **Mary Harris and Adoniram J. Burroughs<sup>16</sup>**

In 1845, Mary Harris, was born to a poor Irish-Catholic family in a small town near Burlington, Iowa.<sup>17</sup> Her family's poverty pushed her to work at a milliner's shop by age nine.

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<sup>16</sup> The retelling of the lives and relationship of Mary Harris, Adoniram J. Burroughs, and other relevant individuals, including but not limited to their age, religious affiliations, and employment is derived from *The Official Report of the Trial of Mary Harris*. This is the standard account of their lives, separately and otherwise, as delivered mainly by the counsel of the defendant. Specified quotes from the oratory will be noted accordingly.

<sup>17</sup> Mary's exact birth year is hard to say concretely, however most age estimations point to 1845 as the most likely candidate. See *Official Report* pp. 10, 28, 148, as well as "J.H. Bradley Marries Mary Harris," *New York Times*, Nov. 4, 1883. Definitively, I can say she most likely was born somewhere in the time frame of 1844-1846.

Adoniram Judson Burroughs, a former member of the local Baptist church, and “a man of some thirty-two years,” owned a shop down the street. He frequented the shop where she worked and quickly became fond of Harris.<sup>18</sup> When his business failed two or three years after making acquaintance with Mary, he relocated to Chicago, and correspondence between the pair began.

On November 1st of 1858, when Harris was no older than thirteen, Burroughs wrote and posted the first letter between the two. Over the course of the next five years, while Adoniram Burroughs was in Chicago and Mary Harris still in Burlington, they exchanged a total of 92 letters. In the correspondence, Burroughs expressed his romantic interest in the young girl, and began to attempt to convince her to move away from her parents and join him in Chicago. He frequently expressed to her his endearment; his response to receiving her picture in the post read, “O Mollie, Mollie! You have turned my dry, sterile, old bachelor’s heart into a gushing fountain of glad emotion.”<sup>19</sup> Harris’s father disapproved of his daughter’s connection to Burroughs and of their correspondence, since he disliked Burroughs as a result of their opposing religious affiliations. Despite his efforts, her father was unsuccessful in keeping the two apart. After continued correspondence, Burroughs succeeded in persuading Harris to move to Chicago with him by the Spring of 1863, Harris lived and worked for two sisters, Louisa and Jane Devlin, in their boutique.

Within their relationship there were multiple instances where marriage was discussed and subsequently postponed. Burroughs made numerous excuses for delays in their engagement, one such instance involved a supposed leg injury that Burroughs sustained. Initially, Burroughs had established that they would marry after the “formation of a military company to go into the

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<sup>18</sup> *Official Report* p. 28

<sup>19</sup> Letter from Aug. 22, 1859, *Official Report* p. 35



service of the United States.”<sup>20</sup> After this prospect failed for him, the marriage was postponed and tentatively set for June of 1863. They were seen in public, Mary Harris sitting on his knee, while he played with her curls; “a position...as could only be excused or justified by the relations then subsisting between them of an actual engagement of marriage within a short time.”<sup>21</sup>

Burroughs then sought employment in the District of Columbia. In a letter to Harris during his stint in Washington, he made no mention of marriage, instead proposing she follow his lead and find a job in the district. This instance is cited as the first point at which Harris felt doubt in her connection to Burroughs. Spring of 1863 came and went, without a wedding. Harris received a letter from Burroughs, dated August 7, 1863, inquiring about when they could meet, she set a date, which he missed and called upon her a few days later. Until August 24th, she received no letters from him. On this day she acquired a letter from Burroughs, in which he apologized to her for “his failure to fulfill their engagements by reason of his want of means.”<sup>22</sup>

Harris’s concern with Burroughs’s character grew when she received a letter on September 8th of 1863, in handwriting that Louisa Devlin confirmed to be his. The letter proposed a meeting at 94 Quincy Street Chicago, and the writer claimed to be a stranger to Harris. The sender of the letter signed under the name of ‘J.P. Greenwood,’ therefore this incident was referred to as the *Greenwood Letters*.<sup>23</sup> Upon investigation of the house at the address, the women found that the house was “an assignation house of the worst character in town.”<sup>24</sup> Louisa Devlin inquired at the post office about the person who had posted the letter, the employee confirmed the author wore a ring gifted to Burroughs by Harris. As the defense framed

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<sup>20</sup> *Official Report* p. 11

<sup>21</sup> Oratory from Joseph H. Bradley, *Official Report* p. 11

<sup>22</sup> *Official Report* p. 12

<sup>23</sup> References to the *Greenwood Letters* throughout the report *Official Report* pp. 145-150, 169, 174, 175, 179.

<sup>24</sup> *Official Report* p. 12

it, the writer of the letter, most likely Burroughs writing with an alias, was attempting to send Mary Harris to a brothel. The implication of Harris being seen at such an establishment was supposed to have detrimental effects on her reputation as a virtuous young woman. After visiting 94 Quincy again, the woman who kept it confirmed the identity of the man who made the appointment as Burroughs. This shocked Mary into seeking out Burroughs's brother, Reverend Doctor John Burroughs, to ask if Adoniram had been in town.<sup>25</sup> Upon her visit, Dr. Burroughs met her with hostility and asserted his brother had not been in town. In fact, he facilitated his brother's wedding only a few hours later. Harris learned of his marriage days later from a Chicago newspaper and according to her lawyers, "was seized with an attack of physical disease with which she had never before been disturbed."<sup>26</sup>

The news rocked Mary Harris, leaving her heartbroken and distraught on most accounts of her behavior. From the time of this first 'attack' of her disease, and for the next two years, she experienced repeated attacks of 'excitement,' as well as strange impulsive behaviors, and instances in which she was overcome by violent urges. Outside of these episodic attacks, according to those most closely engaged with Harris, she underwent an extreme emotional shift, "the light of her existence had gone out."<sup>27</sup> Her behavior was described as mechanical, while her mental state grew "moody, melancholy, depressed and exceedingly quiet."<sup>28</sup> The first series of attacks of the 'physical disease' found Harris plagued with the urge to leave her bed in the intensely cold weather of Chicago winters, and lay on the floor of the next room in nothing but

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<sup>25</sup> Minimal references to John Burroughs are made in this paper, however, in the *Report*, the victim and his brother are often differentiated by title. Therefore, the Adoniram and John are referred to by Burroughs and Dr. Burroughs, respectively.

<sup>26</sup> *Official Report* pp. 14

<sup>27</sup> *Ibid.* p. 14

<sup>28</sup> *Ibid.* p. 14

her night clothes.<sup>29</sup> At another instance, one of the Devlins, with whom Harris slept, was awoken by Harris dressing during the wee hours of the morning. Miss Devlin decided to lay still, pretending to be asleep, at which point Harris approached her bedside, saying “I would kiss you, but I must leave you.”<sup>30</sup> Devlin restrained Harris from leaving, with difficulty. Then, upon multiple occasions, Harris attacked the Devlin sisters, mainly Jane Devlin, the younger of the pair. On one such occasion, the trio were sitting at the table when Harris retrieved letters from Burroughs and offered them to Jane to read them aloud. Jane refused, and insulted Burroughs, calling him a “contemptible fellow.” Likely offended by this assault on the character of the man she loved, Harris sprang from her seat and armed herself with a carving knife and lunged at Jane Devlin. After being restrained and disarmed by Louisa Devlin, Harris bolted for the door, when she found that it was locked, she attempted to jump from the window. After a struggle, Louisa Devlin permitted Harris to leave; she returned much later that night “clothed in her right mind.”<sup>31</sup> Harris’s outbursts were sporadic, unpredictable, and repetitive.

In an effort to cure herself of her suffering and vindicate her disgraced character, in July 1864, Harris hired a lawyer in order to sue Burroughs for “breach of promise of marriage.”<sup>32</sup> Subsequently, it appeared Burroughs intended on evading the suit, which led Harris to take direct action in seeing he was served. She attempted to convince her lawyer to accompany her to Washington D.C. in an effort to locate him and serve him there. When he refused, she sought the help of the older Devlin sister, Louisa, who agreed to fund the trip; she later claimed that she thought it would finally clear Harris’s head. Harris boarded a train to Washington, located

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<sup>29</sup> *Official Report* p. 14

<sup>30</sup> In the telling of this incident the *Report* failed to mention the specific sister by name, the Miss Devlin being referenced is most likely Louisa Devlin.

<sup>31</sup> *Official Report* p. 14-15

<sup>32</sup> *Ibid* p. 15

Burroughs within the Treasury Building and returned to Chicago the same day. Her luggage on her first trip to find Burroughs contained past letters from him and a gun, an 1859 Sharpe's four-barrel revolver. She armed herself roughly a year prior, in 1863, out of fear of the possibility that "Dr. Burroughs and his brother would snatch her up on the street and carry her off to some place where she would never be heard of again."<sup>33</sup>

In the month of July of 1864, the Devlins and Mary Harris relocated to Janesville, Wisconsin, where they opened and operated a shop. Upon moving, Mary Harris committed one of, if not the only, cited instance of violence against someone outside of the Devlin family. While the trio was dealing with a female customer of their shop, Harris grabbed a weighted pincushion from a nearby counter, and struck the customer repeatedly with the makeshift weapon. From this incident, until December of the same year, Harris suffered mildly from whatever possessed her, with comparable episodes. Until, a sister of the two known Devlins visited, wearing expensive silks. Harris greeted their visitor and charged at her, in an attempt to cut and hack at her clothing. The Devlins promptly locked her in a bedroom, where she made charges at the door, and eventually resorted to defacing the carpet.<sup>34</sup> Louisa Devlin realized the only remedy she saw fit was the actualization of a suit against Burroughs, from this, she agreed to fund a second trip to Washington for this purpose. The second trip was longer than her first and at one point, Harris fell ill and was stopped in Baltimore for roughly three weeks. The women with whom she stayed were told the story Mary Harris's life and the tragedy that was her relationship. She spoke to these women about her belief in her character, that it had been

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<sup>33</sup> *Official Report* p. 15

<sup>34</sup> *Official Report* p. 15

“stained,” and that her purpose in D.C. was “to vindicate in [the] courts that character.”<sup>35</sup> When her illness passed, she made the plan for her return trip to Janesville.

It was decided that she would take the train back on Monday the 30th of January, no later than four o’clock. Harris went to D.C. to serve Burroughs, she entered the West Wing of the Treasury Building, with a heavy pocket. She located Burroughs in the room she knew he would be in, approached and opened the door wide enough to be seen by a woman employed there, then closed the door and walked away. An hour later, Burroughs passed Harris in the hallway, at which point, she retrieved the pistol from her pocket and fired a shot at her former lover. In an appropriate state of disbelief, Burroughs turned and noticed his shooter, exclaimed “Oh, my god,” and ran for the stairs. While he tried to make his escape, another shot rang out. It missed, as Burroughs had already fallen dead to the ground.<sup>36</sup> Harris lowered her veil and calmly retreated to the door from which she entered the building.

Upon her arrest at the steps of the building, she complied in robotic fashion, and with a dry eye was escorted to a room by Edwin G. Handy, a justice of the peace, to whom she willingly relinquished her weapon. Present in the room were Policeman George Walker, and Secretary of Treasury McCullough. The men questioned Harris on her motive, this triggered her “paroxysm of despair,” she replied excitedly, “Why did I do it? Oh God, how I loved him. I loved him better than life itself.”<sup>37</sup> During their questioning, Harris was said to have delivered contradicting stories to both Walker and McCullough.<sup>38</sup> Reportedly, she had told Walker she effectively threatened Burroughs with an impending revenge if he decided to not follow through

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<sup>35</sup> *Official Report* p. 15

<sup>36</sup> *Official Report* p. 16

<sup>37</sup> *Official Report* p. 16-17

<sup>38</sup> *Official Report* p. 17

with his promises.<sup>39</sup> The story as presented to McCullough is minimally described in the report, however, he noted that “her agony was too great for tears,” and he had “never witnessed an instance of greater excitement from moral or mental affection of the mind.”<sup>40</sup>

Harris was arrested and sent to prison, where in the months leading to her trial in July, she would be visited by physicians and various guests. She would be attended to by Doctor Nichols, an expert called for the defense, and the physician of the jail at the time, Doctor Young. Secretary McCullough on one occasion shortly after her arrest, visited her with his wife, to see if Harris needed anything. In his testimony, McCullough recalled his wife had felt very interested in Mary Harris.<sup>41</sup> Harris received another pair of visitors, Eunice and Charles Phelps, both had known her for about ten years. Charles recounted a “wild look” in her eye, while Eunice felt Harris exhibited such strange behavior and was “so changed she would not have known her.”<sup>42</sup> Harris’s lawyer also visited her almost daily and attended the meetings with Dr. Nichols as well. Most notably, during this period, Harris received a bouquet from “the noblest and purest of her own sex...from the loftiest station in the world.”<sup>43</sup> According to the reporter’s note, Mary Todd Lincoln had sent a bouquet of flowers, and in the center, was a flower that botanically communicated ‘trust in me.’<sup>44</sup> Harris earned sympathy from the people who she had known for years, and the First Lady of the United States, weeks or months before her trial began, signifying a belief in her innocence.

## **The Trial**

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<sup>39</sup> *Official Report* p. 24

<sup>40</sup> *Official Report* p. 25

<sup>41</sup> *Official Report* p. 25

<sup>42</sup> *Official Report* p. 29

<sup>43</sup> *Official Report* p. 162

<sup>44</sup> *Official Report* p. 162

Mary Harris's case was heard by the Supreme Court of the District of Columbia, acting as a criminal court, with presiding Judge Andrew Wylie. Harris would be represented by Joseph Bradley, Daniel Voorhees, an unnamed Judge Mason, William Fendall, and James Hughes. Appearing on behalf of the government was District Attorney Edward C. Carrington and his assistant Nathaniel Wilson. The case opened on Monday July 3, 1865, and concluded fifteen days later. Mary Harris's star-studded team was headed by Joseph H. Bradley and the Honorable Daniel W. Voorhees. Bradley delivered the opening statement of the defense and was primary in questioning the witnesses, while Voorhees concluded the trial with their losing statement. Overall, the oratory and questioning cultivated a supposed emotional agenda of the defense by degrading the victim's character and calling for pity on the behalf of a killer. The argument of the defense was delivered by Joseph Bradley as follows: "A pure, virtuous, chaste, delicate little girl...whose frame is wasting and whose spirits are gone, whose heart is broken, in a paroxysm of insanity has slain the man who has brought upon her all this suffering."<sup>45</sup> The sentimental appeal to protect female virtue and punish predatory men was held together by the legal glue of the insanity defense. Bradley disclosed that the evidence brought to prove her insanity would be the testimony of Doctors Fitch and Nichols, and yet his word choice prioritizes creating a sense of sympathy for the defendant and understates their use of compelling scientific evidence. The first step of their strategy was creating an intimate, emotional connection between the jury and the virtuous killer. This connection was achieved through the use of dignified, emotionally charged prose, and advanced by the presentation of the letters from the deceased to the defendant.

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<sup>45</sup> *Official Report* p. 17-18

The appeal the defense was making was reflected in society and was exemplified by the reform work of evangelical women in the mid nineteenth century. The mid-nineteenth century saw a changing social landscape, with women beginning to enjoy more autonomy in their social spaces. With this new freedom came a change in perspective, with mainstream Protestant women as the main catalysts, men started to be viewed as predators that sexually exploited young women. The crux of their developing beliefs was the perception of womanhood and femininity as fragile and in need of protection. The “wolf in gentleman’s garb” narrative was extremely relevant in the beliefs of the society that acquitted Mary Harris.<sup>46</sup> The moral reformers of the period rejected the view that women were lust-ridden temptresses set on seducing a man to his ruin; they were among the first to view the cause of prostitution and exploitation as the aggressiveness of male sexuality. They were not feminists; the women of the subsequent reform groups viewed their unfortunate fellow women as lacking protection, in need of sheltering, and of no station to gain equal rights or opportunities for power.

The reformers laid the blame of the production of fallen girls on men and developed formulas by which the fall into destitution took place, the leading example being ‘seduction and betrayal.’<sup>47</sup> This formula took root in the trial of Mary Harris as an explanation for her insanity rooted disappointment in love. The relevance to the trial of Mary Harris is in the existence of an increasing fear of the destitution of women and the lack of protection the virtues of maidenhood. Women were delicate, and men were aggressive; women were ‘passionless,’ while men were

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<sup>46</sup> Hobson, Barbara Meil. “Predator and Prey,” In *Uneasy Virtue* (New York: Basic Books, Inc., 1987) pp. 49-76.

<sup>47</sup> Mary E. Odem *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States, 1885-1920* (Chapel Hill: University of North Carolina Press, 1995), p. 3.



lust-filled fiends.<sup>48</sup> The growth of this reform demonstrates the need for a response to a changing society, women's sexual and personal purity needed protecting. Additionally, the defense tried to portray Burroughs as the older and established man he was, and Harris as a young child, innocent to his alleged manipulation and ill-will.

When speaking of Harris's episodic outbursts and damaged character, the defense used language meant to invoke pity on her behalf. For instance, Joseph Bradley's opening remarks emphasized the positivity of her spirits before the tragedy. In multiple instances Harris was referred to as a child, a little girl, and her age, relative to Burroughs, was mentioned as often as possible. Additionally, Bradley took every opportunity to portray Mary Harris as the standard of beauty, virtue, and femininity in the minds and hearts of the jury. Bradley called her appearance fleshy and her color was pure, healthy, and attractive.<sup>49</sup> Harris emerged as the model of feminine devotion, "her life was spent in her correspondence and looking forward to the fruits of that correspondence — a union with the deceased."<sup>50</sup> It was Bradley's imperative to demonstrate her high spirits before the time of her devastation, calling her "bird-like" and utilizing Louisa Devlin as a witness for affirming the cause of her change in temperament. In her testimony, Bradley showed that Harris's suffering started immediately following the receipt of the knowledge of Burroughs being the one to lure her to the brothel at 94 Quincy Street. According to Devlin, after receiving the letter and knowing he had sent it, Harris became frantic, and cried constantly for

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<sup>48</sup> For more on Passionless Women and the perception of feminine sexuality in the reform era see Barbara Meil Hobson "Predator and Prey" In *Uneasy Virtue* (Chicago: University of Chicago Press, 1990) and Mary E. Odem "The Age-of-Consent Campaign" In *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States 1885-1920*, (Chapel Hill: University of North Carolina Press, 1995).

<sup>49</sup> *Official Report* p. 12

<sup>50</sup> *Official Report* p. 12

the next two to three days.<sup>51</sup> While the defense called upon handfuls of lay witnesses, their case hinged the testimony of the experts and the science they demonstrated to prove Harris's insanity.

### **The Case for Womanly Insanity**

Two doctrines of law are evidently necessary in understanding and interpreting the Mary Harris case and its use of the insanity plea. The legal standard of excusable homicide as detailed by Carrington, was when an individual kills another to protect their own life, or when the circumstances justify the belief of the jury that there was a necessity to kill. Excusable homicide by reason of insanity is when the individual's mind is affected, and their reason has been "dethroned." The District Attorney stated to the jury that, in order to acquit by reason of insanity, they must determine either "that the mind was so affected as to render the party incapable of distinguishing between right and wrong as to the act committed" or that the person's mind was so affected that they had lost their free will and the act was committed entirely involuntarily.<sup>52</sup> Though not explicitly stated, Carrington charged the jury with two concepts of insanity, the M'Naghten standard and the "insane impulse" doctrine.

The M'Naghten<sup>53</sup> test derived from English law, from the 1843 case of Daniel McNaughtan, which featured medical testimony in the proof of mental derangement of a killer, and which trial ended in a not guilty verdict by reason of insanity. Medical witness testimony on behalf of M'Naghten from Edward T. Monro argued that a person could be deluded and still understand that murder and thievery is wrong. Monro stated that over-immersion in one's mental

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<sup>51</sup> *Official Report* p. 39

<sup>52</sup> *Official Report* p. 7

<sup>53</sup> There are numerous spellings of this name — Joel Peter Eigen opts for 'McNaughtan' as the accepted version of the name. Many American sources spell it M'Naghten. Charles Rosenberg notes at least four variant spellings of the name, with M'Naghten being his spelling of choice, as it is the adopted variant of the Journal of the APA. *The Trial of the Assassin Guiteau*, p. 54n

delusion can lead to the inability to distinguish right from wrong.<sup>54</sup> The M’Naghten case was heard at a time where it was outside of the norm to utilize expert witnesses, and most cases of insanity following were supported with evidence from laymen witnesses.<sup>55</sup> Following this case, the United States adopted the test as the standard for determining the criminal responsibility of the insane.

The standardization in the American courts diluted the test to establish that a defendant is considered to be sane until it is proven they were unaware of their action at the time of committing an act, or that awareness of the act was present yet they did not understand it was wrong.<sup>56</sup> One of the first instances in which the rule was used in the United States was in the case of *The People v. William Freeman* in 1847, though it was unsuccessfully proven in his first trial, the case was appealed and unfortunately Freeman died before his appellate trial.<sup>57</sup> The consensus among scholars of legal history stands that the M’Naghten test is vulnerable to misinterpretation, yet allowed for an increase in the use of the insanity defense and led to its legitimacy as a plea of not guilty. Despite its general acceptance into the American courts, the test and its popularity among judges varied, some often opted to use their own interpretation of the rule and the criteria for insanity.

A different standard was also demonstrated in American courts: the Irresistible Impulse doctrine. Under this test the defendant was required to suffer from a mental defect or disease

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<sup>54</sup> Joel Peter Eigen. *Witnessing Insanity* p. 153

<sup>55</sup> Charles Rosenberg, in analyzing the trial of assassin Charles Guiteau, discussed the pattern of using lay witnesses in testimony for insanity and the lack of status assigned to expert witnesses, even by 1881. *The Trial of the Assassin Guiteau* (Chicago: Chicago University Press, 1989),p. 67

<sup>56</sup> “M’Naghten Rule” *Cornell Law School* [https://www.law.cornell.edu/wex/m%27naghten\\_rule](https://www.law.cornell.edu/wex/m%27naghten_rule)

<sup>57</sup> See Andrew Arpey *The William Freeman Murder Trial: Insanity, Politics, and Race* (Syracuse: Syracuse University Press, 2003).

causing an overall lack of self-control.<sup>58</sup> These standards for insanity were coexistent at the time of the Mary Harris trial and seeds of their influence are found throughout the transcript. However, a definitive statement of which rule was charged or accepted is unknown, given the failure of the court reporter to state how Judge Wylie instructed the jury on the law. The discrepancy between the correct method for determining insanity was further complicated by psychiatry and its practitioners' self-appointed claim to the issue.

Since the implementation of the insanity defense coincided with the development of the field of psychiatry, the gap between the legal and medical professions became more apparent. The middle-ground was medical jurisprudence; the jurisdiction of medicine and science in the courtroom was a deeply convoluted relationship which concerned one of America's first psychiatrists, Isaac Ray. He was weary of a lack of development the legal rights of the insane and in 1838, he published the first edition of his most notable work, *A Treatise on the Medical Jurisprudence of Insanity*. In the preface, Ray expressed the discrepancy in research, he credited the national efforts to establish public accommodations and the consistent publication of periodicals by physicians who proposed cures for disorders. Ray criticized the complacency with which the legal professions regarding insanity, for which he blamed medical men, for not examining the way in which their research applied to the law of insanity. His main concern was the discrepancy in regard to the knowledge of insanity used in law and the state of psychiatric theory at the time.<sup>59</sup> Ray had a unique connection to the Mary Harris case, despite not having appeared as a witness. Ray was a prominent figure in the field of phrenology, and his work is mentioned throughout the trial by the defense, indicating a likelihood that their medical witnesses were familiar with his work.

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<sup>58</sup> "Irresistible Impulse test" [https://www.law.cornell.edu/wex/irresistible\\_impulse\\_test](https://www.law.cornell.edu/wex/irresistible_impulse_test)

<sup>59</sup> Ray, Isaac. *A Treatise on the Medical Jurisprudence of Insanity*, pp. 5 (1838).

The Mary Harris trial exhibited an unprecedented utilization of expert medical witnesses in order to attempt to prove her innocence on the basis of temporary insanity. Harris's defense team, particularly Joseph Bradley, exhibited an extreme sense of awareness of the science of the time. Via the careful selection of their own medical witnesses, as well as his ability to cross-examine those of the prosecution, Bradley procured favorable testimonies from all but one expert witness. On the other hand, District Attorney Carrington provided his experts with partial facts and settled for ambiguous answers on the question of Harris's insanity, apparently hoping that the defense would not fulfill the high burden of proof. The defense called two medical witnesses: Dr. Calvin M. Fitch and Dr. Charles H. Nichols. Their selection was likely based on the doctors' beliefs in phrenology, Nichols was indisputably a phrenologist, while Fitch demonstrated some phrenological knowledge in his testimony.

### **Phrenology's Claim to the Brain**

Established at the end of the eighteenth century, phrenology was most popular in the 1840s, but continued to be influential decades later.<sup>60</sup> Phrenologists established that since the body had organs, each with a unique function and purpose, the ability of man to have thoughts must come from an organ. They purported that the brain was the organ of the mind, and had its own organs, or 'faculties' itself. The size and relative proportion of each of these organs had a direct effect on an individual's personal psychology and behavior. Most recognizably, phrenology was practiced through the measurement of the skull. The belief was that if an individual had a faulty mental faculty, the skull would have a lump or a cavity where that organ

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<sup>60</sup> John Davies *Phrenology: Fad and Science; A Nineteenth Century American Crusade* (Hamden: Archon Books, 1971), p. 6

was located. However, the skull measurements were only the surface of this science. Phrenology featured three core beliefs: first, the division of humankind into four types; psychologically, an individual was either nervous, bilious, sanguine, or lymphatic.<sup>61</sup> Second, phrenologists theorized that the brain was indeed the organ of the mind and the seat of insanity. Theoretically, the brain consisted of roughly thirty-seven ‘faculties,’ which directly informed an individual's personal psychology and behavioral tendencies. Last, their third core belief was that these ‘sensibilities’ were organized into respective organs of the brain.<sup>62</sup>

The exact organs that the experts were concerned with in this case are not explicitly stated, but there is a strong correlation between the symptoms they recorded in Harris and those caused by the derangement of certain organs. *The American Phrenological Journal and Miscellany* was an active periodical during the mid-nineteenth century, it featured publications regarding the beliefs of phrenology and numerous defensive pieces on its legitimacy.<sup>63</sup> Countless submissions into the journal detail the brain and its proposed organs, each with a relative dominance over a certain portion of the personality, tendencies, and morality of an individual. These theories relied heavily on the implication of size and proportion upon the functioning of the separate ‘faculties.’<sup>64</sup> In most publications, the enlargement or excess development of any one organ facilitated the over-functioning of that organ and its domain, and commonly produced adverse traits or tendencies within the individual.<sup>65</sup> Additionally, the sex of an individual can change the designated/expected proportions of particular organs. Namely, the organ called

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<sup>61</sup> John Davies. *Phrenology: Fad and Science; A 19th Century American Crusade* (Hamden: Archon Books, 1971), p. 3.

<sup>62</sup> John Davies *Phrenology* p. 4

<sup>63</sup> John Davies *Phrenology* pp. 59-60

<sup>64</sup> “Article III: Woman in Her Social and Domestic Character,” *The American Phrenological Journal and Miscellany* 1, no. 9, pp. 318. (1839)

<sup>65</sup> “Article III: Woman in Her Social and Domestic Character” p. 319

‘Adhesiveness,’ that reportedly gave way to “the instinctive tendency to attachment,” was hypothesized to be generally larger in women than in men.<sup>66</sup> But, the organ in control of sexual feeling, ‘Amativeness,’ was thought to be larger in men, and was supposed to be one-seventh of the size of the brain at maturity.<sup>67</sup> Over-development and excess in size of these particular organs were suspected to lead to “attachment to worthless individuals”<sup>68</sup> and “libertinism and conjugal infidelity,”<sup>69</sup> respectively. Considering the assessment of her brain and its ‘faculties’ as “stronger and more active than the average woman,” an inference can be made about what organs the phrenologists examined in Mary Harris.<sup>70</sup> The manner by which Harris’s personality was characterized in the trial report, the phrenologists called to defend her case could have been associating the intensity of her devotion to him with her adhesiveness organ.

Naturally, the scientists of the mind in the Victorian era found themselves particularly concerned with the question of insanity, as they related it to phrenology and the organs and propensities of the brain. With the ascendancy of phrenology in the psychiatric field, there developed a legitimate and all-encompassing approach to insanity.<sup>71</sup> The phrenological view of insanity as a disease of the brain allowed for the explanation of a perceived unsoundness of only one part of the mind. According to phrenology, it was possible for a singular faculty to become diseased, while the rest remained intact. Just as common-sense doctors had, phrenologists cited a closely intertwined relationship between the brain’s organs and the body’s organs as a cause for

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<sup>66</sup> ”Article II: On the Application of Phrenology in the Formation of Marriages,” *The American Phrenological Journal and Miscellany* 2, no. 7, pp. 299.

<sup>67</sup> *Ibid* p. 298.

<sup>68</sup> ”Article VI: Elementary Principles of Phrenology” *The American Phrenological Journal and Miscellany* 1, no. 7 1839

<sup>69</sup> ”Article II: On the Application of Phrenology in the Formation of Marriages,” *The American Phrenological Journal and Miscellany* 2, no. 7, pp. 298.

<sup>70</sup> *Official Report* p. 74

<sup>71</sup> *Official Report* p. 90

insanity: diseased bodily organs, parlayed with the brain, causing derangement.<sup>72</sup> For instance, in the case of Harris, her painful periods indicated a disease of her uterus, and the disease of an organ could afflict the brain. Further, phrenology allowed for an explanation of becoming partially insane, they believed that one faculty could become deranged while the others remained intact. This singular derangement provided an explanation for instances where an individual had exhibited outbursts of insanity but were otherwise seemingly normal.

Phrenology allowed for a few ways of thinking about insanity. It accepted the validity of emotional ‘injuries’ to the moral faculties as causes for intellectual insanity.<sup>73</sup> Also, it held that excessive thought over an unfavorable subject or memory, could lead to intellectual derangement in the form of ‘monomania.’ It also provided a foundation for proving partial insanity, which accounted for Harris’s intervals of mental stability, between her violent outbursts. Phrenology held a somatic view of insanity as well, diseased bodily organs could disease the mind, causing insanity. In any combination, the existence of these conditions and causes greatly increased the likelihood of insanity, and insanity was almost certain to develop if all of these factors were at play. This coexistence is what the defense intended to demonstrate through expert testimony. They first wanted to show that Harris suffered from a physical cause before, during, and after committing the crime, which was why they used Fitch, the physician called upon to treat her for her painful dysmenorrhea, or irregular and extreme menstruation. While also demonstrating that disappointment in love was a viable and prominent moral cause of insanity, coupled with intense brooding over her heartbreak. And despite her intervals of relative normality, Harris was irrefutably insane at the time of the killing given the evidence they would present.

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<sup>72</sup> John Davies *Phrenology* p. 91

<sup>73</sup> Emotional causes of insanity cannot be confused with the controversial moral mania. For more on this controversy and the opinions of Isaac Ray set against others, see S.P. Fullinwider, “Insanity as the Loss of Self: The Moral Insanity Controversy Revisited.”



The Chicago-based physician Calvin M. Fitch treated Harris for physical ailments for roughly two years. Over the course of Harris's treatment, as Fitch recalled, from the Fall of 1863 to the spring or summer of 1864 he treated her for a supposed disturbance of the liver, or something similar.<sup>74</sup> In his testimony for the defense, Dr. Fitch explained that all he knew at the time was what he examined of her physical condition. At that time, he knew nothing of her private relations with Burroughs and was therefore unaware of any emotional that caused mental derangement.<sup>75</sup> Fitch's assessment of Harris's physical condition diagnosed her with a very seriously affected nervous system and as suffering from congestive dysmenorrhea, consequent from irritability of the uterus. In his testimony, Fitch affirmed the well-held scientific opinion that uterine irritation and this disturbance developed into insanity in some instances. According to Fitch, disturbance and irritation of the uterus was "with females, one of the most frequent causes of insanity."<sup>76</sup> Fitch cited this diagnosis along with a confirmation of her nervous character and regarded his notice of her excited nervous system, her suffering from great pain, and a wild eye as evidence for his diagnosis.

The defense utilized the medical judgment of Doctor Fitch to support their strategy to demonstrate Harris as irresponsible given that she suffered from multiple causes of insanity. Bradley asked of the effect the combination of a moral cause, disappointed affection, and a physical condition with which Harris was diagnosed. Fitch replied that when ranked among the moral causes of insanity, it is known that *disappointed affection* is one of the most frequent, and among the physical causes, one of the most frequent is uterine irritation, therefore, the two in combination would produce a stronger effect than either alone.<sup>77</sup> Bradley carried the point further

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<sup>74</sup> *Official Report* p. 50

<sup>75</sup> *Official Report* p. 51

<sup>76</sup> *Official Report* p. 51

<sup>77</sup> *Official Report* p. 51

and asked if an impression that relations were cut off by insult and injury would exacerbate the likelihood of insanity. Fitch stated that an impression of this sort would affect any person. However, it would affect a nervous person, and further would “affect with especial force a person laboring under the peculiar physical disability to which I have alluded.”<sup>78</sup> The defense, through Fitch’s testimony, set the parameters for insanity that were nearly exclusively related to women. His testimony presented to the jury evidence that Harris was evaluated for a physical condition that was widely accepted as a cause for insanity. Fitch’s testimony on Harris’s mental state during her treatment and at the time of the crime acted to support the defense by Doctor Charles H. Nichols.

Dr. Fitch, as established, was not an expert on insanity or of the mind, he was a physician called upon to examine and diagnose Harris with physical conditions. Therefore, his function as a medical expert witness for the defense was precisely that: establish the presence of a predominant physical cause of insanity in women. Naturally then, according to Fitch’s qualifications, he was not called upon or expected to deliver a definitive answer upon her mental state at the time of the crime. This lack of obligation to such an assessment was evident in how Bradley asked Fitch to conclude on his findings. Fitch was presented with the evidence from the Policeman Walker and Secretary McCullough, the men that arrested Harris, information that will not have been present in the questioning of the other doctors.<sup>79</sup> He replied with great integrity that he would have to analyze it further, however, her contradicting stories to Walker and McCullough, and given the presence of the three influences previously discussed, could be evidence of mental alienation.<sup>80</sup>

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<sup>78</sup> *Official Report* pp. 51-52

<sup>79</sup> The exact evidence presented to Fitch is unclear, in the *Report* it is said that Harris gave contradictory stories to Walker and McCullough, however there is minimal detail about the stories she told.

<sup>80</sup> *Official Report* p. 52

The defense called Doctor Charles H. Nichols, the Superintendent of the Government Hospital of the Insane and specialist of the mind as a study for eighteen of his 22-year career, testified for the defense.<sup>81</sup> Nichols's testimony followed Dr. Fitch's, and was chosen to appear in court because of his notoriety in the field. His testimony was the focal point of the defense's case, as a recognized specialist of the mind, his answers held more validity and knowledge than Dr. Fitch. Fitch's testimony functioned as the foundation for Nichols, giving the medical history of the patient and supported the presence of a physical cause of insanity in Harris. In his testimony, Nichols recalled his five visits with Harris in the months after the killing, his conclusions largely affirmed the defense of her counsel. Nichols spoke of her possession of a large and active brain and nervous system with stronger and active mental faculties than the average woman.<sup>82</sup> He described her as generally energetic, yet kind, and remarked on her impressive womanly delicacy, as well as his inclination to initially doubt her insanity.<sup>83</sup>

However, in his conclusions he stated:

Both her physical constitution and health, and her mental and moral constitution are such as to render her unusually susceptible to either a physical or moral cause of insanity. She has been exposed at the same time to the physical and moral agencies which frequently cause mental derangement, and those to whose effects she was particularly susceptible. 1. *Painful dysmenorrhea* 2. Disappointment in love ... this great shock to her delicate moral sensibilities [caused] material change in her spirits and health, and she at times exhibited acts of insane violence. ... The circumstances attending the homicide by her, are much better explained by the assumption that it was an act of insanity, than that it was an act of malice or revenge.<sup>84</sup>

The proposed cause of insanity that Dr. Nichols referred to as disappointment in love became increasingly relevant under further questioning from the defense. Bradley asked Nichols whether

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<sup>81</sup> *Official Report* p. 73

<sup>82</sup> *Official Report* pp. 73-74

<sup>83</sup> *Official Report* p. 74

<sup>84</sup> *Official Report* p. 74

or not the continuous brooding upon a singular subject, particularly in combination with “violent emotions of disappointment,” had any recognized effect on the human mind, and Nichols replied that these mental habits were causal for insanity. Bradley continued, asking if there were any circumstances in which this cause would be effective in one over another, Nichols answered, saying he “was under the impression that disappointment in love is a frequent cause of insanity among women than men.”<sup>85</sup>

Nichols explicitly denounced the validity of the M’Naghten rule as a test for insanity and stated that the knowledge of right and wrong was much less considered to be a determination of sanity in the medical field, as it was in the legal profession. Instead, Nichols opted for a definition of insanity known as ‘insane impulse’ where an individual is determined to have been compelled by uncontrollable urges.<sup>86</sup> This attack on the standard was relevant because Carrington had established to the court that the standard test for insanity was the ability of the defendant to determine right from wrong. Nichols’s denunciation of the M’Naghten test is in direct opposition to the test provided by the government and was symbolic of the discrepancies of medical jurisprudence of insanity. It is reflective of the differences of opinions on insanity between legal actors and medical professionals.

### **‘Real’ Doctors in Court**

The prosecution brought to the stand their own set of medical witnesses to counter the defense’s experts. Their strategy first and foremost was to present to the jury that these five doctors were unsatisfied with determining Harris as insane based on her suffering from dysmenorrhea and hysteria. The questioning of these witnesses by the prosecution was insufficient; they failed to bolster the credibility of the experts, despite having gathered dignified

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<sup>85</sup> *Official Report* p. 75

<sup>86</sup> *Official Report* pp. 74-75

individuals from the medical field. Further, Carrington and Wilson provided partial facts of Harris's mental history via a short hypothetical case and left too many holes for a lawyer of Bradley's skill and determination. Upon cross-examination, four out of the five witnesses called on behalf of the prosecution conceded to Harris's insanity after being presented with a thorough hypothetical case. Bradley demonstrated an awareness of the separate school of science to which these men seemed to have belonged: Scottish common-sense. Bradley focused on the somatic causes of insanity, to which these men already subscribed their belief, and threaded the moral causes as agitators of her condition. The definitive diagnosis of uterine irritability and subsequent painful dysmenorrhea, as ascribed by Dr. Fitch, allowed the defense to steal the favor of the somatically subscribing common-sense doctors.

Common-sense philosophy was founded in the eighteenth century and provided its own ideas of insanity. Common-sense insanity embodied the idea that man demonstrated free-will and choice between good and evil and should be held accountable for their acts as long as their reason remained.<sup>87</sup> The philosophy also held strong in the belief that the brain became diseased as a result of a disease of another organ and discarded the unity of the mind and the brain. The separation of the mind and the brain resulted in the denunciation of moral mania, which many phrenologists held true, given the brain's existence as the organ of the mind. Common-sense believers disagreed with the validity of moral mania, given their belief that emotions coexisted with reason, and the disappointment of such emotions could not subject an individual to a loss of reason.<sup>88</sup>

The first of the five 'common-sense doctors' was Doctor John Frederick May. District Attorney Carrington asked May to address a brief and scantily detailed hypothetical situation that

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<sup>87</sup> Norman Dain, *Concepts of Insanity in the United States* p. 61

<sup>88</sup> Dain p. 80

detailed Harris's symptoms and the nature of her outbursts. He asked how frequently May had seen these symptoms in relation to hysteria and dysmenorrhea, and whether or not those symptoms were adequate to diagnose insanity of such a patient. May responded that these symptoms could have been the combination of a nervous temperament and uterine irritability, but he could not assess insanity, and highly doubted its presence based on these causes alone. Carrington followed up with a question of insanity at the time of a hypothetical killing committed by a person laboring under this physical condition, inquiring whether or not the symptoms mentioned were cause for insanity. May replied that it would be with great reluctance that he would confirm the insanity of this individual without knowing, but with the knowledge at hand, it would not satisfy him that the subject was insane.<sup>89</sup>

Cross-examination of May by Bradley revealed holes in Carrington's approach, utilizing the prosecution's ambiguous testimonies to their advantage. Bradley began by inquiring of the four classes of insanity, to which May described mania, monomania, dementia, and idiocy as such classifications. Bradley got May to admit that moral mania was a legitimate diagnosis and fit into those four divisions. May's acceptance of moral mania was indicative of a lapse in judgment on Carrington's account — true common-sense doctors largely rejected the plausibility of becoming morally deranged. Thus, May was either more ideologically progressive than his peers, or was not a true follower of common-sense. In any sense, Carrington might have misjudged May's beliefs and chose a witness ill-suited to testify for his argument. Further when Bradley inquired about May's experience with treating insanity resulting from dysmenorrhea, his testimony turned in favor of the defense. May replied that he had no recollection of having treated any such case of insanity. However, he stated he held no doubt that those with the

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<sup>89</sup> Carrington's Questioning of Doctor John Frederick May, *Official Report* pp. 96-99

condition would be most likely to develop insanity.<sup>90</sup> May's affirmation of somatic causes of insanity, particularly a 'diseased' organ that Harris was diagnosed with, tilted his testimony to support the defendant.

As the testimony developed into support for the defense, Bradley inquired of May what would satisfy him to ascribe paroxysmal insanity agitated by uterine irritability, May replied that he would have to understand the antecedent details of the patient's life. Bradley fulfilled the request by posing a supposed hypothetical situation in which the patient experienced life as Harris had, every detail Bradley produced to show how a poor Irish-Catholic girl turned deranged killer. The hypothetical case spanned six pages of the text of the report. When it concluded, Bradley charged the question of whether or not this presentation of detail would be enough to suggest that the patient had been, at any point, insane. May answered stating there was no hesitation that "the person labored under a deranged intellect, paroxysmally deranged, produced by moral causes, and assisted or agitated by a physical cause, derangement of the uterus."<sup>91</sup> At this point, Carrington seemed to sense his witness's testimony had begun to work against his case, he interjected asking May whether or not the homicide was a result of insanity. May's answer sealed the deal: "the patient that evinced the symptoms as detailed... who had committed that act as detailed, labored at the time under paroxysmal insanity."<sup>92</sup> Carrington followed up and asked which of the circumstances, as detailed by Bradley, most influenced his change in opinion. May replied that the union of the circumstances, not any single one, influenced his decision.

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<sup>90</sup> Cross-Examination of Doctor John Frederick May by Joseph Bradley, *Official Report* pp. 99-106

<sup>91</sup> *Official Report* p. 105

<sup>92</sup> *Official Report* p. 105

May's testimony set the tone for the rest of the expert witnesses; William P. Johnson demonstrated support for the defendant even in the questioning by the prosecution. Johnson was asked first what he saw as the prominent symptoms of hysteria. Johnson answered by explaining the invite symptoms of the complex disease, but it affected the nervous and muscular systems and often led to physical manifestations and mental derangement.<sup>93</sup> Similarly, Johnson stated dysmenorrhea manifested itself as painful periods, often resulting in instances of hysteria, convulsions, and delirium. Then, Carrington proposed the same hypothetical as he did to May and asked if Johnson could infer insanity of the patient based on this case. Johnson decided he could not answer the question as it was put, and much like May, needed a complete history of the patient, and had no knowledge of whether or not the patient was suffering from dysmenorrhea when she entered the building. Bradley interjected that her suffering from dysmenorrhea at that time was assumed, Johnson stated that there was a possibility that her sanity "might give way for a time." Carrington continued with his questioning and inquired if homicide could be the first observable symptom of a spell of relapsed sanity. Johnson answered in an unfavorable way for the government's counsel. Essentially, Johnson stated that if one had brooded upon a 'fancied' wrong for a long time and saw the person that committed that wrong after an extended period for the first time, "that an impulse to commit homicide might have seized upon her."<sup>94</sup>

Like May, cross-examination of Johnson by Bradley, went much in the favor of the defense. Bradley began by confirming the causes for diseased brains in women, especially a clearly marked change in character, temper, and habits, something the defense had demonstrated to have taken place with Harris through the questioning of her friends. The use of lay witnesses,

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<sup>93</sup> Questioning of Doctor William P. Johnson by Edward Carrington, *Official Report* pp. 106-107

<sup>94</sup> Cross-examination of Doctor William P. Johnson by Joseph Bradley, *Official Report* pp. 107-108



such as Louisa Devlin, and the utilization of medical witnesses at this point, demonstrate an awareness beheld by the defense of the principles of medicine accepted at the time. The affirmation of Louisa Devlin stating that Harris's change in character was clear and demarcated to a certain point, the receipt of one particular letter, was necessary in convincing the jury that she was mentally diseased. Concurrency with both schools of thought is a major factor in the successful argumentation of her insanity. Johnson affirmed that a change of this nature demonstrated at least some derangement of the mind.

Bradley filled in the antecedent facts for the witness and provided him with the transcription of the hypothetical case given to May the day prior. At the conclusion of reading it, Johnson stated that the patient clearly showed signs of dysmenorrhea and hysteria. Bradley questioned him about the inference, medically, upon the condition of her mind. Johnson answered that generally, physicians "consider an individual suffering from insanity as irresponsible for any act which she might commit."<sup>95</sup> With this statement, the defense had successfully reined in two out of the five doctors that were supposed to advance the argument of the prosecution. The testimony of May and Johnson demonstrated a weakness in the prosecutorial strategy, Carrington's reliance on partial evidence produced a partial and indefinite answer from the witnesses, leaving Bradley room to convince them of his case for Harris's insanity.

Next to the stand was Dr. Thomas Miller, with little to offer in terms of any extreme advancement in the case, Bradley offered his hypothetical case to Miller. To which, he succinctly stated that he fully agreed with the opinions given by John Frederick May. As far as it is detailed by the *Official Report* there is no evidence of questioning by the prosecution having taken

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<sup>95</sup> *Official Report* p. 108

place.<sup>96</sup> Dr. F Howard was called to the stand and questioned by Wilson. Similarly, Howard was questioned about the symptoms of hysteria and dysmenorrhea, to which he replied there could be many manifestations, such as mood swings and instability, and there “may be perversion of the mental faculty.”<sup>97</sup> Howard was not presented with the hypothetical case proposed to the others by the prosecution. Upon cross-examination and the hearing, the defense’s hypothetical, Howard stated that he supposed the patient was subject to mental alienation and insane impulses, specifically suicidal or homicidal. Finally, and most ineffectually, Doctor Young, the physician at the jail where Harris was held, was called to testify. Through questioning, it is revealed that Young visited Harris frequently, usually every day. During his visits, he claimed to only treat her for the examination of physical diseases, and dysmenorrhea was not one he found evidence of. Essentially, Young was the lone dissenter in regard to Harris’s insanity. However, set against the testimonies of six doctors in favor of her derangement, Young’s testimony did little to hurt the defense and just as little to support the prosecution.<sup>98</sup>

The call for these particular doctors as done so by the prosecution was based in a heavy reliance upon their reputations as subscribers to the Scottish common-sense philosophy. Carrington relied on this reputation because there was an assumption that their testimony would demonstrate that despite the presence of a physical disease, Harris’s reason remained intact when she made the decision to kill Burroughs. The counsel of the government made technical errors in their argumentation as well, their hypothetical was sparse and was falsely anticipatory of the witness’s beliefs. Carrington depended on the somatic nature of their beliefs and became

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<sup>96</sup> *Official Report* p. 108

<sup>97</sup> *Official Report* p. 108

<sup>98</sup> The testimonies of Miller, Howard, and Young are described in minimal detail compared to that of May and Johnson, subsequent analysis is therefore reflective of the amount of evidence provided by the *Report*.

satisfied with their replies of inconclusiveness, over-confidently leaving too many holes for Bradley to plug. In questioning medical witnesses, Bradley clearly demonstrated his knowledge of their respective beliefs. He played into moral mania with Fitch and Nichols, and focused his questioning of May, Young, Johnson, Miller, and Howard upon the physical condition she was supposed to be suffering from. With concurrence from both sides of the medical community's representatives in the courtroom, the defense counsel demonstrated to an extent of legitimacy, that Harris could be both morally insane and insane by the definition of 'common-sense' doctors.

### **Carrington's Last Stand**

The prosecutorial strategy is best exemplified by the closing remarks made by District Attorney Edward Carrington, in which the failure to secure a favorable opinion from their scientific witnesses is glaringly evident. In his closing statement, Carrington makes several charges to the jury, grasping at any string to convince them to follow the perceived prescriptions of the law. Carrington wanted to undercut evidence for the defendant by attacking her character fearmongering upon the implications of a not-guilty verdict, and hopelessly attempting to dismember the testimonies of the medical witnesses while invalidating the science of their defense.<sup>99</sup> Carrington called much attention to the love and care provided by a true and virtuous woman, the excellence of femininity. He appealed to the jury that during the past four years of ongoing war, they had all experienced the "noblest exhibition of female character."<sup>100</sup> Carrington stated that Harris contributed nothing to the war effort and instead was being a vengeful killer instead of "the model of female excellence." He made a show of the courtroom, comparing

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<sup>99</sup> The Closing Remarks of District Attorney Carrington, *Official Report* pp. 162-181

<sup>100</sup> *Official Report* p. 163

Harris's defense team and Judge Wylie to heroes of Ancient Greek, and Mary to Helen, the woman believed to have caused the Trojan War. Carrington compared himself to the sole defender of the law, "clothed in celestial armor."<sup>101</sup> Further, Carrington insulted the character of the Devlin house, and alleged it to be a whore house, this action was seriously reprimanded by the court.<sup>102</sup>

Having failed to secure any medical testimony in favor of the prosecution's case, Carrington opted to attempt to discredit the science of their testimony. He made the effort to demonstrate science as an excuse for the wicked; "Science ... says insanity is that state of the mind that leaves the person alright, except just when he wants to commit a crime."<sup>103</sup> Carrington moved to demonstrate to the jury that the facts upon which the hypothetical case presented by Bradley was based, were falsely or inadequately proved true. The strategy here was to pick apart the facets of Dr. Nichols's testimony, set against the testimony from lay witnesses called on behalf of the prosecution, and an attempt to generally disprove the case of insanity based on common sense. Carrington argued that Burroughs loved her, and that the deceased had been discarded by Harris, after which he had found another woman. Further, Carrington peppered in his belief that there was no concrete evidence proving Burroughs as the sender of the *Greenwood Letters*.

Carrington cited the lack of a marriage contract between Burroughs and Harris, and argued the return of Harris's letters back to her was a result of her ending the relationship. Further, on the basis of Carrington's own common sense, he inquired why, if she was melancholy and love-sick, was she playing cards and attending parties. Carrington grasped at

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<sup>101</sup> *Official Report* p. 164

<sup>102</sup> *Official Report* p. 166

<sup>103</sup> *Official Report* p. 172

straws, he claimed there was no real proof that Burroughs wrote the letters to bring Harris to the whore house on Quincy street, and further denied any evidence of a romantic relationship between the pair. It is evident when analyzing the text of Carrington's closing remarks, that he was defeated, and the case against Harris's insanity was hopeless.<sup>104</sup> Carrington's last stand against the solid body of evidence in combination with a compelling plea for sympathy stood no chance, and the verdict was reflective of this.

### **Voorhees's Closing Remarks, The Verdict, and The Reaction**

Daniel W. Voorhees delivered the closing remarks on behalf of the defense, examination of his remarks in combination with the verdict and its reaction from the media and one of the leading American phrenologists, Dr. Isaac Ray, indicates the possibility that the jury's exposure to scientific information greatly influenced their decision. Voorhees's closing remarks was the final admonition of the jury by the defense on two fronts. It showed the culmination of the sentimental appeal to the hearts and morality of the jury to protect feminine virtue and rescue Mary Harris from the depths of a conviction, and the solid force of medical evidence presented in favor of her insanity. By viewing his oratory against the immediate opinions of *The New York Times* and *The Adam's Sentinel*, it is clear the social opinions of the defense, as well as the verdict, were both out of step with those of the media, who regarded it as a danger to American law and men. And yet, Dr. Isaac Ray commended the presentation of fact in this case as being of unprecedented strength, with special credit given to the testimony of Dr. Nichols, a fellow phrenologist. The reaction from the media and Dr. Ray stands as evidence in the aftermath of the verdict that the jury was in fact swayed by the scientific knowledge only accessible to those in the courtroom. Voorhees made the final appeal to the sensibilities of the jury calling against a

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<sup>104</sup> *Official Report* p. 172

conviction, which he believed would be a slander upon female virtue and a transgression of the rights of the insane. He reinforced Harris's delicacy as a young woman as well as someone of unsound mind, while simultaneously arguing against the honorable character of the deceased.

The emotional appeal was multifaceted, not only did he continue on the pattern of emphasizing Harris's young age and innocence, but he also called special attention to the strength of manhood with which Burroughs acted, and the honor with which he should have. According to Voorhees, Burroughs held superior force over Harris, given his age, and separated her from her family with this power. The emphasis on the male strength was not unmatched by the weakness of womanhood in his oratory: "If she loses, all is lost...not so with man...No single passion can so powerfully absorb him."<sup>105</sup> Voorhees diminished Burroughs's character to such a point where the deceased was being blamed for his death, because of his dishonorable conduct. Had Burroughs been faithful to the duties of manhood and honor, "then this unhappy girl would have been today his respected wife."<sup>106</sup> Most importantly, Voorhees denounced the possibility of Burroughs being a good Christian, as the prosecution had developed him to be. He told of the government officials, the churches, and the media and their "clamorous notes" about the trial and their demand for the veneration of human excellence and Christian values, via conviction. Daniel Voorhees appealed to the jury against this stance, in the name of protecting the defendant, because she acted under a condition of insanity rendering her irresponsible for her actions.

Voorhees recapitulated the defense's stance on Harris's insanity, that they had proven she experienced moral and physical causes "peculiar to women" which developed into paroxysmal insanity. He solidified the mound of evidence that was presented and called the jury's attention

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<sup>105</sup> Daniel W. Voorhees *Forty Years of Oratory* p. 408

<sup>106</sup> Daniel W. Voorhees *Forty Years of Oratory* p. 409

to the so-called ignorance and prejudice of the prosecution against the “galaxy of genius” that was phrenology. Voorhees stated that prosecution was two centuries behind in their thinking, while the defense had called upon Dr. Nichols, who would soon be ranked among the top phrenologists such as Gall, Spurzheim, Combe, Ray and others.<sup>107</sup> Voorhees remarked on the success of his team in the co-optation of the ‘common-sense’ doctors called upon by the prosecution to disprove her insanity. Five physicians, excluding Fitch from the count, declared with no hesitation that Harris was insane and that “the presence of Burroughs developed a maniacal impulse over which she had no control.”<sup>108</sup> This explicitly showed to the jury that, if the men of science purported to have different opinions, could agree upon this fact, Harris’s insanity was undeniable. Confidently, Voorhees dismissed the prosecution as powerless and entirely defeated, and challenged the court to find a defense “ perfect and conclusive.”<sup>109</sup> And in fact it must have been, following the remarks from District Attorney Carrington, the court presented the jury with the law, and after five minutes of deliberation, a not guilty verdict was returned.

The five-minute deliberation can be interpreted two ways. First, as mentioned, the defense’s case that Harris was insane and therefore irresponsible, was delivered with such clarity and compelling evidence that the jury had already made their decision. On the other hand, this short deliberation period could have been reflective of a decision based on sympathy for the wronged woman. The possibility stands that the jurors engaged in a haphazard consideration of the evidence, with the possibility that each piece was not weighed against another with the care necessary. The resultant decision thus stemming from their desire for trial to conclude.

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<sup>107</sup> Daniel W. Voorhees *Forty Years of Oratory* p. 443

<sup>108</sup> Daniel W. Voorhees *Forty Years of Oratory* p. 445

<sup>109</sup> Daniel W. Voorhees *Forty Years of Oratory* p. 445-46

Unfortunately, a lack of detail from the reporter has left the motivations of the jury's decision unaccounted for and therefore inconclusive. In the scenario that the argument I have made to this point fails, the science of the age was indisputably present in the arguments and testimonies of the case, and the jury could have followed this and produced an acquittal.

Evidence for the influence of the science is the resulting opinions of the media. The newspapers published their opinions on the verdict and were clearly out-of-step with the opinion of the defense and the jury. Therefore, it could be possible that the key to accepting Harris's innocence was the acceptance of the science presented in the courtroom. The *New York Times* took particular interest in the frenzy of the Harris trial, at one point having sent their own stenographer when they realized the popularity of the case. At the conclusion of the trial, they broadcasted their opinion to the public. They feared that the verdict would become precedent in American law: women could kill men for virtually no reason and be excused from any penalty of the law.<sup>110</sup> This rhetoric directly echoed that of District Attorney Carrington in his argumentation of the case and having made no mention of the insanity of the defendant, it demonstrates the fact that the defense and the jury acted in opposition of the public.

An article from the *Adams Sentinel* of Gettysburg, Pennsylvania, elicited the same opinion of the case. The article reads as a dramatic warning to the 'gallants' of society to heed their advice in reassessing the way in which they are to address 'impressible females.' If not, she was "at liberty to put him out of the world."<sup>111</sup> These publications shed light on the reputation of the insanity defense and its usage in murder trials in particular. Both papers ignored medical evidence employed on Harris's behalf, discarding it almost entirely from their articles, except the *Sentinel's* quoted mockery of the phrase "insane impulse." Their interpretation of the verdict was

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<sup>110</sup> "The Verdict in the Mary Harris Trial" *The New York Times* July 20, 1865, p. 4.

<sup>111</sup> "Untitled" *The Adams Sentinel and General Advertiser* Aug. 01, 1865, p. 2



that it would legally allow for reckless killings perpetuated by wicked women upon honorable men. This reaction could be reflective of the fact that the jury was fully immersed in the science of the case, surrounded by floods of compelling evidence from seven doctors. The inaccessibility of proper scientific knowledge in regard to Harris's unique condition of insanity, resulting from her womanly being, could be what set the opinion of the media apart from the jury.

In the aftermath, the verdict and the defense were supported in an article written by Dr. Isaac Ray for the *American Journal of Insanity*, titled "The Insanity of Women Produced by Desertion or Seduction." Ray's purpose in writing his *Treatise* decades prior was to combat the under-informed legal definition of insanity, a goal he believed was vindicated by the evidence presented in the Harris trial. In the article, he stated that he had no purpose to determine her insanity but wanted to commend the deliberation of such a fact. Ray complimented Dr. Nichols's credentials, regarding Nichols as well-fitted to have delivered an opinion on this case. Further, he rewarded the facts presented by Dr. Nichols who had done so "with a force and clearness seldom exhibited on the witness-stand."<sup>112</sup> Having stated that, Ray noted the lack of immediate institutionalization of Mary Harris, and feared her release upon society. This concern echoed that of the newspapers, however it derived from a different perspective. The media held that Harris was not insane and was merely a wicked killer, while Ray feared she was a woman who had no control over her urges, given her proven insanity. Ray's affirmation of the scientific evidence is a provision of credibility for my argument. Whether or not the jury acquitted Harris on the basis of insanity or sympathy, it is critically important to recognize the legitimacy of phrenology and common-sense philosophy within its historical context. The science of the times was

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<sup>112</sup> Isaac Ray, "Insanity from Desertion or Seduction" p. 265

overwhelmingly present in the testimony of expert witnesses, as proven by Isaac Ray's assessment of the trial in 1866.

## **Conclusion**

The murder trial of Mary Harris stands as a reflection of a tumultuous period in American history. The Victorian Era saw changes in law, science, and society; the opposing viewpoints of which were displayed in their coexistence in the deliberation, evidence, and outcome and reaction to the verdict of the Harris trial. The analysis of the defense and its witnesses and the prosecution with theirs, revealed there existed viable scientific evidence to prove her temporary insanity despite backlash in the court and in the media.

The consensus from the study of insanity cases across legal systems, and especially in American courts, highlight a phenomenon in which the plea was used as a pretext to acquit based on social values. In turn, its reputation among advocates, the public, as well as current scholars is stained. This opinion of the plea is not new, and in fact was showcased in the strategy of the prosecution by District Attorney Carrington and in the newspapers following the trial. The prosecution's argument was that Harris's crime was committed in a fit of vengeance and the employment of the insanity plea was a ploy to acquit a killer on account of her gender. However, this may not have been the case, as enough evidence was presented Harris was just as likely acquitted on the basis of adequate proof in regard to a condition of insanity exclusive to women. The defense counsel used a strategy that not only won sympathy for their client and delivered a closing statement which condemned a conviction as a slander upon virtue, but amidst this emotional plea brought compelling and relevant popular science as evidence. Additionally, Carrington claimed to have taken the path of the righteous, that of law and of God, and yet his argument, especially in his closing argument, centered around prevalent social narratives.

The trial acts as a snapshot of history, capturing the coexistence of evolving beliefs amidst a period of vast change, and yet, its relevance has been lost to time. Scholarship on the case falls between the cracks, making way for work on insanity cases which set legal precedents in motion. The research I have conducted will not only bring a forgotten case back into scholarship, but it has shed new light on the multitude of angles from which this case can be interpreted. There has been clear neglect to show the implication and jurisdiction gender held on law, science, and society. In the trial of a woman, gender is at the forefront, therefore, a proper analysis of the Harris trial cannot be facilitated without the consideration of gender ideas appearing in multiple facets of the case. Given the known implications of gender in innumerable aspects of history, it is of great importance that legal historians and scholars take the time to re-examine cases involving women. Refocusing the attention on this case from just the successful use of expert witnesses to prove paroxysmal insanity has allowed for a better understanding of the mid-nineteenth century.

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