Narrating Nymphomania between Psychiatry and the Law

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The Case of Marion Taylor, 1916

The setting was a courtroom, the issue was mental competency, the defendant was Marion Taylor, a twenty-two-year-old single woman charged by her grandmother—her parents were deceased—with being a nymphomaniac. Mustering as evidence the fact that she is "infatuated with a married man with whom it is suspected she has illicit relations" and, further, that he is apparently trying to "get control of her property," Taylor's grandmother had successfully petitioned a state policeman as well as a physician in Hyannis, Massachusetts, where Taylor had lived for going on a year, for her temporary commitment to the Boston Psychopathic Hospital for observation and diagnosis, hoping to have her declared insane, incompetent to manage her quite considerable estate.[1]

Hospital psychiatrists found Taylor "a model patient," cooperative and well-mannered, although, in the estimation of one, Anna Wellington, very outspoken and "rather more talkative than the average individual." Taylor was slightly nervous and apprehensive while under observation (she was subjected to extensive mental, physical, and psychological examinations, including an assessment of her mastery of the upper ranges of the multiplication tables and a probe into her understanding of the workings of mortgages and insurance) but was, in the end, deemed possessed of a clear head and found free of delusions and false beliefs—"virtually normal," another psychiatrist testified, from the alienist's point of view. Her arithmetical interest and skills—relevant to the question of her ability to administer her estate—were

judged seriously lacking, "odd for a person having so much money," but it was not clear to psychiatrists if her deficiencies were innate or a matter of inadequate education. More problematic, she was found to be impulsive as well as gullible and oversuggestible, which, the same psychiatrist explained, meant she "takes suggestions from the first person that she puts confidence in over-much."

The main problem with Marion Taylor, however, was that "she has not very wide interests. Her interests seem chiefly to be sexual." As the psychiatrist E. E. Southard, director of the Psychopathic Hospital, explained to the court, "she has a tendency to succumb to sexual temptation," adding that, "of course, there is evidence she has succumbed" or, quickly backtracking, "at least, at any rate, she has the tendency." As evidence, he adduced the fact that she had admitted to one instance of sexual intercourse with an insurance agent in Montrose, Pennsylvania, that she had seriously entertained though apparently not carried through on "improper proposals" from a young man that they meet illicitly, and that, "rather as an experiment," she had drunk beer with and kissed a certain Mr. Phinney, a close male confidant of hers whose own reputation was not above reproach. Daringly, Taylor had consulted Phinney concerning how to respond to the other man's suggestions, feeling she ought to accede to them. Southard made it clear he quite liked Taylor. He considered her a special case and told the court she and her difficulties "excited a great deal of human interest." When he started in on "it is a pitiable thing she has lived," however, he was abruptly cut off by her attorney, a Mr. Morse, who was trying to prove her competent and sane.

What was it that led Southard to believe Taylor would readily yield sexually? Asked this by Morse, under cross-examination, Southard explained that while her conduct while hospitalized was exemplary, there were "items in the history as we got them," referring to the great many stories "for and against her" that had been told "by a variety of persons on all sides of the case" that formed the basis of his judgment. These stories about her "previous method of living, her conduct," were gathered from informants, written down, and were now part of her hospital record. What do you do with these stories if they are untrue? Morse asked, noting correctly that the untrue stories, like the true ones, were incorporated into the hospital case history. "Do you investigate the truth of them before taking them into account?" After objecting to what he considered an unfair charge—"What you are trying to get me

to say is that we take stories that are untrue and put them into the history," Southard said, "The idea of charging the Psychopathic Hospital with doing that!"—Southard replied that the hospital had an elaborate mechanism for investigating the truth of stories, which consisted in sending out social workers. In this case they had been sent to Hyannis to investigate Taylor's "past reputation." Was there any particular story they attempted to ascertain the truth of? "I fancy it was the Phinney episode," Southard replied, following which Morse poked extended fun at his use of the word "fancy," stating, soliciting Southard's assent, "There is a good deal of fancy about this." Admitted Southard: "A little over-imagination on several sides."

As it turned out, Taylor was found not insane but also not normal; she was, the two psychiatrists, Wellington and Southard, told the court, a psychopathic personality. "What is the meaning of the word 'psychopathic'?" Morse asked Wellington. "I am not a Greek scholar," she replied, following which the two sparred over her inability to define the term, with her unable to say whether it was of Greek or Latin derivation—"I am not a philologist," she pleaded at one point—and finally settling on it referring to "a person of more or less deviation from the normal." Morse homed right in on this. "Is there any person who is not to a greater or less extent more or less of a psychopathic personality?"—a clever challenge for which she had no answer. Was Taylor not "a bright, capable girl?" Morse asked Southard, who replied it depended "on the word 'capable'; it is a thing that has degrees." Was it not true that even "a great many people" who were not well versed in the multiplication table could be considered capable? Answered Southard, "It surely is, even the monkeys." Testily, Morse asked in several different ways whether the psychiatrist thought it necessary to make such a remark in a courtroom, and Southard dug in, rather preposterously defending his initial statement, offhandedly made in a moment of frustration at the lawyer's apparent inability to comprehend what seemed so clear to the psychiatrist—that the deficits encompassed under the rubric *psychopathic* were not intellectual and, furthermore, had nothing to do with the determination of sanity or insanity on which the legal question turned.

This was but the most heated of several such moments that marked this courtroom clash of legal and psychiatric epistemologies. The question of Taylor's nymphomania brought the differences between these sharply into view, focused in particular around two issues. The first of

these was the unfamiliar and, to the lawyers, quite problematic diagnosis of psychopathic personality, which confusingly denoted at once sanity and nonnormality. Psychiatrists at the time were eager to abandon the distinction between sanity and insanity that had structured nineteenth-century psychiatry and to consign it to the realm of the legal while, at the same time, elaborating a much more complex, and to the legal mind, incomprehensible, nosological scheme organized around normality and deviations therefrom. The personality disorders in general, and the psychopathic personality in particular, were the categories around which they effected a reconceptualization of their discipline, a reconceptualization that resulted in clashes, over the course of the twentieth century, between a legal system that demanded certainty and discretely bounded categorical terms and a psychiatric worldview that was organized around gradations, deviations, assets, and deficits, and that rejects as meaningless the simple determination of sanity. Indeed, the landmark "insanity defense" decisions of the past fifty years—*Holloway v. United States, Durham v. United States,* and *Washington v. United States*—all involved one or another of the personality disorders.

The other issue Taylor's case brings sharply into view is that of truth—its meaning, its singularity. In the exchange between lawyer and psychiatrist we can see an exemplary clash between the legal demand for a singular truth—was or was not Taylor a psychopathic nymphomaniac and by virtue thereof rendered incapable of managing her affairs?—and the psychiatric tolerance for, indeed reliance on, a plethora of stories, the truth status of which was in many respects immaterial. As Southard knew but recoiled from stating bluntly, even "untrue" stories were part of the "truth" of a case. That stories, whether or not strictly "true," swirled around one was of diagnostic significance in assessing reputation, which was, in the case of women but not men, central to the determination of psychopathic personality. From the psychiatric perspective, all stories were thus in some sense true. The contrast between this stance and that of a Texas appellate court judge, ruling in 1911 on a case of rape in which the defendant had unsuccessfully attempted to portray the prosecutrix as a nymphomaniac, could not have been more stark. The appellant's lawyer had charged the girl was a nymphomaniac, arguing in support of this, in a hereditarian vein, that the reputations of her mother and sister "were bad for chastity." "Reputation is one thing and the facts another," the judge declared. "A person may have a reputation for one thing, but that would not establish

the existence of a fact."[2] To the psychiatrist, reputation was fact. That legal and psychiatric facts were not of the same order—that, as one psychiatrist put it, the law assumed that "fact" was "a phenomenon in reality," while psychiatry made no such assumption, some facts being "not always realistic in nature"[3]—is a difficulty that was threaded through many cases subsequent to Marion Taylor's.

Yet another problematic dimension of the truth question—the subject's capacity for and investment in telling the truth—was touched on in the Taylor case. Southard told the court that Taylor "had been charged with untruthfulness by a good many persons" and that while under observation she made "a variety of statements sometimes inconsistent with each other," though, he added as qualification, "this degree of inconsistency is perhaps not infrequent among persons that we meet." The charge that the nymphomaniac played loose with the truth, that, as the court put it in a case from 1929, "her mind was so warped by sexual contemplation and desires so as to lead her to accept the imagined as real,"[4] followed her into the courtroom from the turn of the century through the 1960s. The nymphomaniac was, in the estimation of the law, incapable of distinguishing fact from fantasy. The ever-increasing certainty with which this claim was advanced, in trial after trial, was premised on both legal and psychiatric foundations. That the testimony of a woman was enough to convict a man of rape[5] was the lawyer's concern, intensified by the findings of psychiatrists who limned the erotic liar's deep and hidden motives. Yet however much the two perspectives were merged in the fact of her essential untruthfulness, the practical consequences resulting from them differed. In the court, her lies might mean no man was safe. In the clinic and consulting room however, her lies were symptoms, part of her neurosis. As such, they were of diagnostic but not of "real" significance. Indeed, in the realm of psychoanalysis, which, through the 1960s, was in language and concepts indistinguishable from much of mainstream dynamic psychiatry, her lies were even less at issue. As John Forrester has aptly observed, "the analyst behaves as an epistemological radical, by ignoring the difference between truth and lies, between truth and fiction."[6] The fantasies that the lawyers found so dangerous were the very stuff of the analytic process; what matters, Forrester observes, is the fact they are articulated, not whether they are true or not.[7] Reflecting, for example, on the contemporary commonplace that hysterics were nothing but exceptionally skilled liars, an analyst—a colleague of Southard's—

voiced precisely this stance in his assertion that "all hysterics tell untruths; some hysterics lie." Truth, he maintained, consisted in "the agreement of our ideas with reality," which was not to be opposed to unreality but considered as "a matter of immediate experience." It was enough for him, he wrote, that "the patient fully believed what she said."[8]

Focusing on the diagnosis of psychopathic personality and, in particular, on nymphomania, this essay examines differences between legal and psychiatric understandings of human behavior as they were highlighted in court. It suggests that, in general, lawyers demanded clear boundaries and sharp distinctions, while psychiatrists saw everything in shades of gray, a disciplinary cast of mind that was even more marked in these cases because the diagnoses in question were personality disorders. As well, the essay traces the ways in which psychiatric and psychoanalytic understandings of nymphomania, over the course of the twentieth century, reflected deeply embedded cultural narratives of female sexuality. It shows how remarkably contingent these narratives proved, first imperiled by the sexual revolution of the 1960s and then swiftly overturned in both the psychiatric and legal arenas when subjected to second-wave feminist scrutiny. With the delineation of rape trauma syndrome and its nearly instantaneous judicial acceptance, the legal and psychiatric edifice that had sustained three-quarters of a century's worth of practice crumbled, leaving nymphomania as a thin and largely outdated category. Through all, the differing status of truth in the legal and psychiatric realms remained.

Southard closed his testimony to the court in the case of Marion Taylor saying he'd "rather enjoyed this passage at arms, thank you." Morse shot back: "Considering its effect on the life and future of a young girl, I should think you would," reminding him, and us, that what had transpired in court was both more and less than a clash between legal and psychiatric epistemologies.

The Personality Disorders before the Law

The vexing incompatibilities of legal and psychiatric points of view are perhaps best observed around the personality disorders. This is so in part because so many of the landmark twentieth-century insanity defense cases have involved defendants diagnosed as psychopathic or sociopathic personalities, and in the back and forth between lawyer

and psychiatrist the fundamental irreconcilability of their stances was thoroughly explored and thus, usefully for the historian, highlighted. But it is also the case because in the personality disorders, as psychiatrists constituted them, the divide between simple bad behavior and behavior indicative of mental disease was deliberately stretched so thin as to appear nonexistent at times.[9]

It is important to emphasize that this confusion between bad and mad—or, put differently, between lay and scientific judgments—was constitutive of the category, located not at the margins but at the core of the diagnosis. Psychiatrists' repeated efforts to tidy up the margins in service of buttressing the validity of the diagnosis were thus destined to prove futile. Consider the 1976 case of *Washington v. United States,* a case marked by Judge David Bazelon's impassioned abandonment of the psychiatrist-friendly position he had famously put forth in the 1954 *Durham* decision: that the psychiatrist's role as expert witness was "to inform the jury of the character of the (accused's) mental disease (or defect)."[10] Bazelon complained bitterly in *Washington* that the testimony of the several court-appointed psychiatrists was useless, that the jury had been "subjected to a confusing mass of abstract philosophical discussion and fruitless disputation" about the meaning of such terms as "a 'personality defect,' a 'personality problem,' a 'personality disorder,' a 'disease,' an 'illness,' or simply a 'type of personality.'" He might have had in mind the following exchanges from the case. Was the defendant normal?, one psychiatrist, who had used the term "sociopathic symptomology" in reference to him, was asked. "Well, a lot depends, if you mean by 'normal' that he has no mental illness, then he would be normal in my opinion. However, if you mean normal by his behavior, being socially acceptable, then he would not be normal." Or this: Wasn't the defendant's behavior "directly caused by this personality problem which is of a sociopathic nature?" No, the psychiatrist replied, adding, "Look, anything that any of us do is caused by our personality, by our character. I would not know whether you want to call this illness or not."[11] All this quibbling over the meaning of the word *normal* and refusing certainty on the distinction between personality and illness constituted, in the eyes of the judge, needless obscurantism. Yet the offending psychiatrists were not being obstructionist or perverse. They were simply voicing the ambiguities inherent in the diagnosis.

If these ambiguities were not altogether intentional, they were at the

very least exceptionally useful. The diagnosis of psychopathic personality was first adumbrated, in the early years of the century, as an altogether new type of category, one that would be, psychiatrists asserted, especially abhorrent to alienists, specialists who testified in court on questions of sanity and its lack and who were charged with being overly wedded to their narrowly legalistic vision. Chafing at what they argued were the limitations of a specialty organized around insanity, progressive psychiatrists advanced an ambitious agenda for the reform of their discipline. By 1915 or so, they had situated psychopathic personality at the center of their vision and practice. The diagnosis at its simplest, they explained, referred to the many apparently normal individuals whom their rapidly evolving science was proving dangerously defective. Unstable, irritable, and impulsive; eccentric, peculiar, and odd, these persons had long, and wrongly, been tolerated by a generous but misguided laity. Psychopaths were iconoclasts incarnate, lacking in common decency and reckless flouters of social convention. Criminals and delinquents, sex perverts and prostitutes, lazy men and promiscuous women filled their ranks. Setting the parameters of the diagnosis broadly, psychiatrists regularly chronicled the exploits of exemplary psychopaths in support of their contention that what appeared to the layperson to be social issues were in fact properly psychiatric concerns.

The liabilities of this strategy were twofold. First, psychiatrists would prove better able to identify psychopaths than to define psychopathy. They never settled on a satisfactory definition of the category, vacillating between conceiving of it as, on the one hand, a discrete disease and, on the other, a diffusely defined abnormality that anyone might manifest. The earliest of the German psychiatrists who, from the 1880s on, outlined the concept in its modern form conceived of it as both, splitting over whether it was constitutional or acquired, a weakness of the will or simply bad behavior. They, and the American and British psychiatrists who adopted and refashioned the concept, were able to agree only that psychopathy, whatever it was, flourished in the space that lay between psychic health on the one extreme and mental disease at the other; this was as close to a consensus as they got. The second liability, the category's indeterminacy—its capacity to shelter such diverse types—meant it was in constant danger of unraveling altogether. Among themselves, psychiatrists admitted that psycho-

pathy was not a well-defined entity and that it could mean little more than that the individual in question was not normal. Further, that every psychopath might be sui generis called the very existence of the category into question. Psychiatrists chided themselves for employing so imprecise a term, even as they branded growing numbers of persons with it.

Both of these liabilities would haunt the category through the course of the century. Psychiatrists' inability to define the condition would spawn protests against its deployment, particularly in the spate of sexual psychopath laws that were passed in the United States from 1937 through 1957 and in Britain in 1959. These laws were uniformly directed against male sexual offenders and provided for psychiatric examinations of and indeterminate sentences for sex offenders, even those not charged with any criminal offenses.[12] Commenting on the terms *psychopath* and *sexual psychopath,* which were written into the Mental Health Act of 1959, the legal scholar Tony Honore asked whether the terms were descriptive of anything more than the fact that some people break the society's rules about sexual behavior. The act defined *psychopathic disorder* as "a persistent disorder or disability of mind which results in abnormally aggressive or seriously irresponsible conduct on the part of the patient" that required or was susceptible to medical treatment; simple immoral conduct and promiscuity alone were specifically excluded. But to what, precisely, did "seriously irresponsible" refer, if not conduct that was in some way immoral? And how was one to distinguish "between mental disease and ordinary rule-breaking"?[13] American commentators on the sexual psychopath laws voiced misgivings similar to Honore's, noting that the laws failed miserably in their intended task of distinguishing mentally normal (minor criminals, for example) from mentally abnormal sex offenders. Under the rubric *mentally abnormal* were classed emotionally unstable and impulsive individuals who could not understand the consequences of their acts—traits, one commentator noted, "found in millions of people." No objective criteria could reliably identify who manifested these traits in abnormal quantities.[14] The category was elusive, critics charged, even to psychiatrists, a charge to which some psychiatrists halfheartedly assented, with one prominent figure on the one hand admitting, in a roundabout way, that the term *sexual psychopath* had "no clear psychiatric significance," referring at bottom to social

maladjustment, and on the other defending the laws' necessity, given that there were persons who fell in the middle ground between sanity and insanity.[15]

Critics thus homed in on the conceptual confusions that were constitutive of the category of psychopathy. But psychopathy's expansive indeterminacy was also its strength. The signal symptoms of psychopathy were, as critics realized, comparative, slight variations on traits displayed by everyone: too much of this, too little of that—honesty, reliability, self-control. They were not, that is, discrete and bounded, like the symptoms indicative of psychosis (the hallucinations and delusions associated with schizophrenia, for example) but, rather, quantitative deviations from what was considered normal. The category was thus an unstable amalgam of a disease and a metric model; as such it provided psychiatrists a framework within which to refashion a new psychiatry, applicable to virtually everyone, from aspects of the old. Around it, they laid the conceptual groundwork for the personality disorders that have assumed increasing importance in psychiatry over the course of the century. And around it, they articulated what would come to be seen as a characteristically psychiatric perspective on the relationship between the normal and abnormal, the mentally healthy and ill—that they were arrayed on a continuum, the abnormal but a variation on the normal, in degree rather than kind.

It would prove difficult for the law to assimilate this new perspective. The law was organized around a sharp distinction between sanity and insanity; as a decision from 1945 put it, "to the psychiatrist mental cases are a series of imperceptible gradations from the mild psychopath to the extreme psychotic, whereas the criminal law allows no gradations."[16] The test of criminal responsibility at that time rested on whether a defendant could tell right from wrong, an inheritance of the early-nineteenth-century *M'Naghten* decision, rendered when faculty psychology—which, simply put, conceived of the mind as a congeries of separate and separately acting faculties or capabilities—was in vogue.[17] The new psychiatry represented a firm repudiation of this, instead conceiving of the person as an integrated whole. As Judge Thurman Arnold put it, modern psychology "does not conceive that there is a separate little man in the top of one's head called reason whose function it is to guide another unruly little man called instinct, emotion, or impulse in the way he should go."[18] The courts in the 1940s and 1950s were at first deferential to the new psychiatry. This is espe-

cially evident in Bazelon's decision in *Durham,* rendered at what was perhaps the high point of twentieth-century psychiatry's credibility and influence. *Durham* marked the replacement of the traditional test of criminal responsibility, which rested on the ability to distinguish right from wrong, with a new standard, holding the accused "not criminally responsible if his unlawful act was the product of mental disease or mental defect."[19] In *Durham,* the notion that man was an integrated personality, not a collection of separate faculties governed by reason, was put into law.

Over the course of his life, numerous psychiatrists had diagnosed Monte Durham as a psychopath. He had been in and out of prisons and mental hospitals for years, charged with auto theft, passing bad checks, parole violation, and housebreaking. The second time he was discharged from St. Elizabeth's, a government hospital for the insane in Washington, D.C. (to which he was committed a total of three times), he was given the diagnosis "without mental disorder, psychopathic personality," a diagnosis that neatly captures the ambiguities at the heart of psychopathy.[20] These ambiguities—not insane but not normal—would figure prominently in Bazelon's opinion, twenty years later, in *Washington,* in which he announced that the standard he had set in *Durham* had not fulfilled its promise. Bazelon's hope was that the psychiatrist in court would portray the "inner man"—his "mental and emotional makeup"—straightforwardly and factually. Instead, he or she bandied labels about, confusing juries with their arguments over, for example, whether a defendant had a sociopathic personality, a "'personality disorder,' or merely 'personality problems.'" With all their obfuscating labels, which substituted for the "facts and analysis" that Bazelon argued it was the psychiatrist's role to provide, they had conveyed a misleading and false impression of their discipline's "scientific exactness." They had also trailed their personal views into court, too often acting as thirteenth jurors as they assessed defendants' blameworthiness. As Bazelon saw it, the psychiatrist as expert witness was to provide "down-to-earth concrete explanation[s]," leaving questions of morality to juries to decide.[21]

When psychopathy was at issue, this proved impossible. Morality and moral judgments were constitutive of the concept; as many commentators both within and beyond psychiatry recognized, the diagnosis and its symptoms simply fell apart without a moral referent. Many psychiatrists thus opposed the sexual psychopath statutes on the

grounds that they were not themselves sufficiently in accord on the meaning of the diagnosis. Furthermore, they recognized that the statutes did not differentiate clearly enough between serious (such as rape) and not-serious (such as public masturbation without indecent exposure) sexual misbehavior. The first fourteen defendants found to be sexual psychopaths in New Jersey, for example, were all guilty of what were in the eyes of the law minor offenses: a man who felt the breast of a woman in a department store, a man who had sex with an "experienced" young woman, and three men who engaged in homosexual relations with younger men.[22]

The prominent psychiatrist Winfred Overholser raised another objection to the laws, an objection that goes to the heart of the issue around nymphomania before the law: that charges such as rape were, in the three-hundred-year-old and endlessly reiterated words of Lord Hale, "easily to be made and hard to be proved and harder to be defended by the party accused, though never so innocent." Overholser outlined several cases in which men had been convicted of rape on the basis of girls' uncorroborated and, as courts later ruled, false testimony, which he argued might be motivated by revenge or, more problematically, result from fantasy or even psychosis. The falsely accusing witness, he wrote, should be subjected to psychiatric examination, for only the psychiatrist could reliably discern the personality disturbance that lay at the root of her lurid, attention-grabbing lies.[23]

Overholser thus subtly but unequivocally shifted the burden of psychopathy from accused to accuser, and heaped on the tale-telling woman all the depravity that the laws originally associated with rampant, out-of-control masculinity. The figure of the oversexed woman who levels damning and altogether fantastic accusations against innocent men runs through the twentieth-century medical and legal literature on sex and, in particular, on rape and other sex crimes. That her chastity, not the alleged rapist's, was at issue, and that it was linked to her credibility, would become a particular sticking point for feminists working for rape law reform, which was effected in the 1970s and 1980s. From the early years of the century until such reforms were implemented, it was widely assumed that complaining witnesses in rape trials were liars, their fantastic accusations symptoms of their nymphomania.

Before turning to examine this, it is worth pointing out that the stereotype of the female sexual psychopath—the hypersexual or

nymphomaniac—predates her male counterpart by at least two decades.[24] From the start, the stock psychopath of the psychiatric literature was a man, but the psychopath who actually came to psychiatrists' attention was a young, attractive, and willfully passionate woman who purportedly could not control her desire for sexual pleasure. Psychiatrists confronted her, in the second decade of the century, in the midst of a widely commented upon revolution in sexual mores; they blamed her, and her boundless sexual desires, for corrupting and ruining otherwise innocent men. In professional journals and in books, they related tales of her forthright approach to sexual fulfillment as well as of her more general assumption of male prerogative—claiming the right to earn and spend as she pleased, to live on her own, free of parental supervision in the nation's burgeoning cities, and to engage in a variety of behaviors long deemed fatal to a woman's reputation, from drinking publicly in bars to exchanging sexual favors for men's treats to money, clothing, and nights on the town. Her gender-inappropriate independence was as much at issue as her forthright sexuality, but psychiatrists focused almost completely on the latter, in the process making it familiar and known. In the 1920s, as the sexual revolution spread and as behavior that psychiatrists labeled psychopathic became more prevalent and less easily ascribed to a deviant minority, psychiatrists' interest in the condition flagged. The sexual psychopath of the late 1920s and beyond was male, and a rapist, child molester, or homosexual; it was this figure the sexual psychopath laws were meant to target.

The Nymphomaniac as "Mythomaniac"

The most salient fact about the nymphomaniac, in the eyes of the law, was that she was a fabulist or "mythomaniac."[25] Given that most accusations of rape or other sexual crime pitted a woman's word against a man's, and that, in many states, no corroborating evidence was necessary for conviction, near-unanimity reigned on the proposition that her credibility was especially at issue. The meeting of psychiatry and the law was often contentious; but around sex crimes it was—in spirit if not in practice—amiable. Lawyers were happy to defer to psychiatric testimony that whittled away at the reality of rape.[26] Indeed, in the estimation of many medico-legal authorities, rape was the rarest of crimes, it being nearly impossible, they held, for a man to rape a woman of "good health and vigor."[27]

Jenkins v. State, a case of statutory rape from Texas dating to 1910, is perhaps the earliest to feature the lying nymphomaniac.[28] She was one Eunice Hudspeth, a thirteen-year-old who told the court she'd had sex with the defendant of her own will—they'd known each other for three years, had met at a party and agreed to meet later for sex, which they did, down in a field in a cottonseed house—and that furthermore she'd "copulated with a great many persons" and had been doing so since the age of nine. Jenkins, the twenty-two-year-old defendant, first confessed to raping Hudspeth, then, later, claimed that she was a nymphomaniac; such a woman, a physician explained to the court, "would conceive in her mind a fact, and . . . she would go into court or anywhere and testify and assert that a certain individual had copulated with her when such would not be the fact." The four physicians who offered testimony in the case suggested no inner motivation for her lying; rather, they straightforwardly asserted it as simple fact.

Twenty years later, in *People v. Cowles,* another case of statutory rape, the nymphomaniac was not only a "pathological falsifier" but also a "sexual pervert." Further, it was not only her observed behavior—her "lascivious conduct"—but also her inner state that was at issue; the former consisted in her exposing herself to boys at school, the later in the "sexual contemplation" that warped her mind and resulted in her purportedly fabricating a sexual act.[29] In a number of cases from the 1930s through the 1960s, the roots of the nymphomaniac's propensity to lie were located in this taste for abnormal sexual contemplation. The erotic liar emerged from the interweaving of a legal tradition wary of the power of women's words and a psychiatric tradition evolving in an ever more dynamic direction, focused on the unconscious and inner drives. This merging of traditions was effected with little dissent. In Lawrence Cowles's original trial, the two physicians who had argued that the complaining young woman was a nymphomaniac and thus a fabricator of the charge of rape were subjected by the prosecution to race- and gender-laden invective and ridicule. Addressing the jury, the prosecutor derided them as "so-called experts" and compared their testimony to a stunt in a vaudeville show. "And I tell you that these two doctors are worse than the Indian medicine men or Negro voodoos. How any professional man can so prostitute his profession," he argued, "is beyond me." The appellate judge hearing the case dissented, condemning the prosecution's antics and pronouncing, "the term nymphomaniac is a standard one in medical practice." From this point on, it is

difficult to find any objections at all to the term and its referents.

Threaded through cases subsequent to *Cowles* are claims that the nymphomaniac lies because her mental condition "transforms into wish a powerful biological urge,"[30] that her narration of imaginary sex events is but the direct expression of her unchaste mentality,[31] that her "psychic complexes" result in tales "of imaginary sex incidents" that feature the narrator as heroine.[32] In cases of incest or with very young complainants, physicians and prosecutors sometimes accounted for girls' lies by locating them in webs of depravity and deceit at the heart of the family. Thus, a promiscuous girl bristling under the tutelage of an overly strict father might, in revenge or to distract from her own lapse from virtue, advance false charges against him,[33] or a girl who was angry at her mother's "running around with" a man might accuse him of raping her.[34] In most cases, however, it is remarkable how little such contextualization is featured; revenge and jealousy as motives are not even hinted at. The focus is almost entirely on the liar's inner life and "deep-seated personality disturbances."[35]

The locus classicus for this construction of the erotic liar is Wigmore's treatise on evidence. Weaving together legal precedent, in which she was already assuming substance, and psychoanalytically inflected psychiatric testimony on the connection between female eroticism and lying, Wigmore portrayed her as unchaste and perverted, a contriver of false charges against men, rendered all the more dangerous by her otherwise normal mentality.[36] Among the authorities he cited at great length, in presenting what some would later characterize as a Freudian perspective,[37] were William and Mary Healy on pathological lying, presenting five vignettes of immoral lying girls; a German authority on hussy types who shamelessly spun falsities; and the psychoanalyst Karl Menninger, arguing that "fantasies of being raped are exceedingly common in women, indeed one may almost say that they are probably universal."[38] Wigmore's contention that "no judge should ever let a sex offense charge go to the jury unless the female complainant's social history and mental makeup have been examined and testified to by a qualified physician"[39] served to underwrite as standard practice in sex offense cases the attempt to impeach the credibility of the female witness.

It is worth noting that the intimate relationship between eroticism and lying held only in women. Wignore held that in general—that is, in men—courts rightly considered truthfulness independent of general

character. He settled the question of whether men's, or only women's, sexual reputations were relevant by reference to case law, ventriloquizing what was no doubt his own opinion in quoting at length from an 1895 case. Invoking common knowledge, the court had argued that "the bad character of a man for chastity does not even in the remotest degree affect his character for truth, when based on that alone, while it does that of a woman." Yet, as if aware that common knowledge was not in itself sufficient to establish this principle, the court buttressed it with observation and testimony that was hardly "common." First, it asserted, many eminent and "otherwise honorable" jurists in both England and America openly committed adultery while adhering to their oaths of office. Then it invoked Dr. Johnson discoursing on the gender of lewdness, quoting him as having said "that he would not receive back a daughter because her husband, in the mere wantonness of appetite, had gone into the servant girl." Finally it presented Macaulay who, with respect to Byron's weakness for sexual pleasure, had written "that it was an infirmity he shared with many great and noble men—Lord Somers, Charles James Fox, and others." Thus, in men, eminence, probity, and sexual wantonness—perhaps even nobility—were of a piece.[40] Even the ignoble could share in the prerogatives of manhood, however. In *Anderson,* for example, the court noted that the fact that the defendant was a bigamist was of little account, his record showing no other history reflecting on his character.[41] Similarly, James Smallwood attempted to defend himself against his daughter's charge of rape by arguing he'd been having sex with his housekeeper four or five times a week and was therefore unlikely to have had "any unnatural desires." In a singular departure from normative practice, the judge rejected this argument, interpreting it as evidence of his lack of credibility.[42]

To the psychoanalyst, the fact that the nymphomaniac, despite her overt and public sexuality, was more likely than not frigid constituted a larger offense against the truth than did her lies. It was not that she told lies but that she lived a lie. If the lawyer focused on observed behavior in identifying nymphomania, narrating "revolting" tales featuring her lascivious acts,[43] the psychoanalyst's terrain was her troubled inner state, in which anxiety was expressed under the cover of pleasure, and from which hate emerged in the guise of love. The nymphomaniac's rather meager reality was eclipsed by her florid fantasies. Her "sexual madness" consisted in her "relentless drive for sexual activity" in tandem with her inability to obtain satisfaction.[44]

Otto Fenichel's 1933 portrait of the nymphomaniac highlights her main features. A woman who gave the impression she possessed "extremely intense and genuinely strong" sexual instincts, she was actually not all that easily aroused sexually and did not readily reach orgasm. She was demanding, even sadistic, in her relations with men, often filled with an unconscious hate toward her sexual partners, whom she attempted to coerce into giving her the satisfaction she was never able to attain. Repeating an infantile Oedipal situation in which, as a girl, she had avidly desired her unavailable father, as an adult she vindictively tried to take the penis her father would not yield. "If you do not give me it of your own accord, I shall take it," was her unconscious thought. Her passion was driven by the desire to have a child and by penis-envy, her sexual fantasy organized around "depriving the man of his penis or biting it off." What appeared as genitality was thus a pseudogenital desire to incorporate; in the nymphomaniac, the vagina was essentially a mouth she used to "fulfill her oral sadistic wishes."[45] In sum, the nymphomaniac's sexuality was a lie: compulsive, sadistic, and driven by nongenital needs.

Elements of this portrait—particularly its highlighting of hostility—appear in virtually every subsequent analytic portrayal of the nymphomaniac.[46] Traces of it are also visible in the less rarefied genre of articles addressed to physicians and lawyers, explaining the new phenomenon of the nymphomaniac. An inability to see reality clearly, surface rationalizations covering deeply unconscious motives, and unresolved Oedipal crises are featured in this literature, enlivened by colorful sketches of pseudohypersexual—because frigid—nymphomaniacs indulging their insatiable desire for sex with little regard for their benighted partners;[47] girls, awash in incestuous fantasies, acting out Oedipal dramas as they accuse innocent fathers of rape;[48] and the ever-increasing numbers of adult women who "simply do not say no" who used sex improperly, not for pleasure but to secure power over men.[49]

Psychoanalytic theory and common sense were merged in this popular construction of the nymphomaniac as the *echt* deceitful woman, her lies a matter encompassing body and psyche, overt and covert behavior. She is Wigmore's complaining witness, sending untold numbers of innocent men to prison. Her psychology is plausible less because of the cultural authority of a popularized psychoanalytic perspective than because she was easily situated within narratives with which men were already familiar. One physician, upon hearing a pre-

sentation featuring three cases of men unfairly imprisoned on the basis of women's erotically motivated lies, announced he now found it "easy to understand why a high proportion of sex complaints are rooted in fantasy." He found the cases and the explanations given credible, he said, adding that in order to do so, "one need not be an analyst." What he called "more homely explanations" would suffice,[50] the distinction he drew underscoring how little the specifics of the psychoanalytic account mattered when the story into which it was conscripted already made cultural sense. Another authority's warning that nymphomaniacs, so "adept at stimulating passion," could not deliver on the "deeply satisfying sex" they constantly had on offer to men was premised on the same culturally resonant narrative of women's sexual duplicity. In conquering such women, we flatter ourselves they "can not resist our male prowess and charm" and "we preen ourselves over the passionate experiences we have enjoyed" with them. His acerbic "let us not kid ourselves" when dealing with such Messalinas spoke to the frustrations of every man who'd ever felt himself duped by a woman.[51]

First-person accounts such as these testify to the sexual antagonism that underwrote the nymphomaniac as hard-bitten and self-willed exploiter of men. In the courtroom, she was necessary as protection against the ever-present threat of the jury slipping into an outmoded, and sentimental, view of the relations between the sexes. The problem was that in cases of rape or incest, as the court put it in *Anderson* (1965), "it is human nature to incline to the story of the female, especially if a young girl."[52] Incest in particular offended the public's moral sensibilities—and, the court emphasized, juries were drawn from that public—and nurtured sympathy for young girls. If the girl was attractive, she was all the more sympathetic as a witness, men being notoriously susceptible to the charms of defective but pretty women.[53] Literary critics have suggested that sentimental narratives persuade by forging bonds of "compassion and identification" between listeners and victims/heroines.[54] That the young girl subjected to the "complete moral depravity" of her father could elicit such sentimental compassion can be seen in the Supreme Court of Minnesota's reversal of Anderson's conviction on the grounds that the fact that the court clerk had wept openly in front of the jury had prejudiced them against the defendant. In such a tear-soaked world, no man was safe. Portraying women as mentally disturbed nymphomaniacs raised the bar to identification high enough to safeguard men's rights.

As sexual mores have changed, the nymphomaniac has been for the most part normalized, her excessive sexual desire no longer a sign of pathology but of an enviable normality. The psychoanalyst Martin Grotjahn captured this shift in his observation that, before World War II, he considered patients who had daily sexual intercourse hypersexuals, driven by "feelings of sexual inferiority, doubts about sexual competence, or feelings of general alienation and unrelatedness," but that from the vantage point of the 1970s he could consider them normal and see in them a healthy acceptance of sexual expression. The frigid, psychopathic prostitute of Victorian times (Grotjahn's history was slightly off here; she was a product of the early years of the twentieth century) was modernized in the figure of the businesslike call girl who enjoyed sex and displayed "a keen eye for business."[55]

Grotjahn wondered whether contemporary women were not overvaluing "the power, the importance, and the joy of sexual activity," whether they wouldn't ultimately seek the meaning, intimacy, and romance that contemporary mores had drained from sex. He declared the age one of unisex, but his portrayal of it hinted less at the obliteration of gender than of its inversion, an age in which sexually apathetic men were withdrawing, "perhaps to enjoy a rest," while swinging women were "in the forefront of sexual discovery."

Here we have the enduring theme of the hypersexual's gender-inappropriate assumption of male prerogative expressed with a peculiarly 1970s twist. Yet, however much Grotjahn wanted, intellectually, to approve of the new sexual order, his plangent lament that sex was easier for women than for men—a woman was "always ready . . . and soon after fulfillment she can continue," while not only did a man have "to face the test of a visible performance," but he had to go through the whole cycle of "excitement, fulfillment, quiescence, rest" before he was ready again—suggests that the whole phenomenon could be puzzling, disturbing, and even deflating for men.[56]

Case reports from the 1960s on unwittingly portray the nymphomaniac as a gender-offending "andromaniac"—a woman, that is, possessed of a maniacal desire to be a man.[57] Her forthright pursuit of sexual fulfillment is all the more difficult for commentators to comprehend now that she is no longer uniformly presumed to be frigid. The frigid nymphomaniac was insatiable by definition. The nymphomaniac who was insatiable despite her enjoyment of sex was an altogether different phenomenon that men found both alluring and terrifying. As a "pas-

sionate, sensuous, highly responsive 'creature,'" lacking in modesty and inhibitions, she was the perfect fantasy object.[58] Yet she also roused the fears of men, hinted at by Grotjahn and stimulated by the publication of the feminist psychiatrist Mary Jane Sherfey's findings that the normal woman was insatiable, her capacity for orgasm limited only by fatigue.

The nymphomaniac of the case literature inhabits a strangely gender-inverted world. Consider Anise, for example, a young, beautiful, and well-paid newswoman, who, when propositioned by her boss and other powerful men, "said yes to them all." Anise happily thought of herself as a "good-time girl." Choosy when selecting her "jolly bedfellows," she slept only with men possessed of both power and prestige; not only did she exploit them in ways left unexplained, but she used the fact she'd slept with them to gain an edge in the workplace over men at her own level. A woman with many partners, who used sex in the service of pleasure and power, Anise was guilty of nothing more than of acting "like a man." As if piqued by seeing this laid out so clearly, the author of the case report added that Anise's men "were not particularly virile," holding sedentary jobs, "softened up by inertia, nervousness, ulcers, alcoholism."[59]

Women who assume male prerogatives in the sexual sphere are the stock nymphomaniacs of the case literature. They engage in casual sex, group sex, and marathon sex. They dream of sex, talk incessantly of sex, and separate sex from romance and other "higher" needs. They initiate sex, brag of their sexual conquests, and are proud of their sexual athleticism, manifest in their ability both to enjoy multiple orgasms and to wear out their male partners. They treat men like men treat women, one, for example, picking up a "husky sailor" to display for a roomful of her decadent friends, "as though he were a prize bull."[60] They were better educated and more interested in careers than most women. That their identifications were inappropriately phallic was made pointedly clear in one girl's reply when asked what she would like to see changed about herself. "A cock would come in handy," she said.[61]

Cure for these women consists in domesticity and what one therapist called "the blissful, relaxing aftermath balm of marriage."[62] Love and fidelity tempered the insatiable sex desire of one woman, for example, who had been in the habit of leaving her husband after sex—he could not provide more than fifteen minutes of the "powerful pelvic thrusting" that enabled her orgasms but left her unsatisfied—to pick up

strangers for sex.[63] Authorities were nearly unanimous in the opinion that women's complete sexual fulfillment was possible only in the context of romance, commitment, and love. Yet they presented enough conflicting evidence and interpretations as to entirely undermine the certainty with which they advanced this proposition. Falling in love might be "the best aphrodisiac," but divorce was a close second, many women experiencing surges of eroticism once free.[64] Further, what all students of sex knew but only the realists among them would say was that marriages were made in heaven, but lived on earth.[65] A committed and loving relationship might be the ideal, but such were "hard to come by and maintain."[66] One eighteen-year-old's announcement that her living with two brothers, both of whom were her lovers—"One is never enough, but I don't have to run to find it the way I used to"—constituted her settling down sexually mocked psychiatrists' frantic efforts to situate oversexed women in a crumbling domestic framework.[67]

The psychopathically hypersexual woman has served as enticing but damnable foil to normative womanhood in the cultural imagination over the course of the century. She first assumed substance in the midst of an early-twentieth-century revolution in sexual mores and practices, only to be accepted in the 1920s as her forthright sexuality became the norm across class and racial lines. She quickly reemerged, however, and from 1940 through around 1960 flourished as pathological counterpoint to proper womanhood, sexually fulfilled within the bonds of marriage. A second sexual revolution marked her cultural demise, and her once outlandish behavior was again normalized. Psychiatry still has its nymphomaniacs, but the law has largely disowned her. Consider, for example, the 1967 case of *Giles et al. v. Maryland*, in which five weeks after alleging rape, the sixteen-year-old victim had sex with two men at a party and took an overdose of pills that landed her in a psychiatric ward. The defendants' story was that she had told them she'd "had relations with 16 or 17 boys that week and two or three more wouldn't make any difference" before undressing and inviting them to have sex with her. Furthermore, she prevaricated on her story, claiming two then three then two men had raped her. She was, in short, the stock erotic liar. Yet the court held that she was not a nymphomaniac and, further, that even if she were, this would not have made her "incompetent as a witness."[68] The Supreme Court sent the case back to the Maryland Court of Appeals on the grounds that evidence of her behavior had been suppressed. Still, the unlinking of women's credibility and

chastity that was attempted here was furthered in subsequent cases. By 1977, the court in *People v. Dawsey* could argue that skepticism regarding the equation of sexual activity and moral character (and, by extension, testimonial reliability) was well founded; further, it could do so in gender-neutral language, extending to women the same sexual latitude custom and law had granted men for centuries. Invoking a passage resonant of Wigmore on men's mores—"History contains the names of many highly respected persons whose honor in telling the truth would not be questioned and yet whose sex life would hardly be the model for future generations"—the court implicitly granted the nymphomaniac her andromaniacal desires.[69]

The delineation of rape trauma syndrome in the 1970s completely inverted the equation of psychic disturbance and truthfulness that underwrote the erotic liar. Psychiatric exams were now used to show that the complainant's allegations were true, not false. The fear, guilt, embarrassment, nightmares, and phobias that were the signal symptoms of the syndrome were now mobilized in proving the reality, not the insubstantiality, of the alleged rape. Judicial acceptance of rape trauma syndrome turned the psychiatric exam of the complaining witness from a powerful tool for defendants into the prosecution's trump card. The erotic liar was dead.[70]

Nymphomania in Court, 1970

The setting was again a courtroom, this time in San Francisco. The complainant was a twenty-nine-year-old woman injured in a cable car accident who claimed to have been rendered a nymphomaniac thereby. The day of the accident, she'd had sex with a man whose overtures she had previously rebuffed; soon, she'd slept with no fewer than sixty-three men. She lost her job on account of her incessant talk about her affairs, sued the city, and was awarded a disappointing $50,000 dollars in damages, a tenth of what she'd sought.[71]

The case was extensively and graphically reported in the local press, and long excerpts of the plaintiff's lawyer's cross-examination of the defense's psychiatrist, who cast doubt on her claim that the accident caused her condition, were published separately.[72] In the back and forth between lawyer and psychiatrist, little concerning her "overabundance of sex" emerged, with the psychiatrist claiming he hadn't wanted to probe too deeply on this issue—the very heart of the case—

on the grounds that "patients like to remain individuals and not have everything dug out of their past life."[73] Setting aside the rather strange claim that locates delving into the individual's past beyond the psychiatrist's metier, much of the discussion turned on the psychiatrist's brief for the patient's individuality. He repeatedly stressed he could say nothing regarding a patient without examining him or her, and refused to answer any hypotheticals. This may have been courtroom posturing. But it was also a stance deeply rooted in the psychiatric worldview. At one point, the plaintiff's lawyer, exasperated at the psychiatrist's tendency to answer questions with "yes and no"—"I can say that it can be either yes or no and I can't break it down until I have seen the patient to say yes or no"—said, "Forgetting the patient, Doctor—." The psychiatrist replied, "As a physician, I can't."[74]

However much psychiatrists and psychoanalysts participated in the legal appropriation of their specialty (Menninger had prepared a statement of his position for inclusion in Wigmore's *Evidence*), and however much they shared common ground with lawyers as they constructed the lying nymphomaniac, they were far more agnostic than lawyers on the status of truth. To the psychiatrist, truth in the courtroom might be contrasted not with untruth but, rather, analyzed in terms of "exaggerations and distortions" stemming from poor judgment, misapprehensions, and fears;[75] truth was an issue to be plumbed but perhaps not finally settled. In case after case, psychiatrists, in the role of expert witnesses, proved unable or unwilling to speak the lawyer's language of general principles and of objective, independently verifiable truths. They held fast, when pressed, to the psychiatric dictum that "mental illness is an individual affair." (As the psychiatrist in the cable car case pointed out, "as we said yesterday, no two people are alike.")[76] Understanding the patient in all the particularity of her history and symptoms was of more interest and more importance to the psychiatrist than "general descriptions of clinical syndromes."[77] In *Durham,* Bazelon cited approvingly one psychiatrist's contention that his discipline did not have "universally valid criteria" for making diagnoses, for such involved "clinical skill and experience which cannot wholly be verbalized."[78]

In a case that turned on the question of what the term *psychopathic personality* (and its variants) meant at different times and in different contexts, statutory and medical, Judge Jerome Frank famously warned lawyers not to embark "on an amateur's voyage on the fog-enshrouded sea of psychiatry." Psychiatric terms—like legal terms—were neither

clear nor precise nor stable; they could not be mastered by thumbing through psychiatric textbooks, and lawyers were easily misled by relying on quotations drawn out of context.[79] Leave psychiatry to psychiatrists, Frank argued.

The judge in the cable car case might have agreed. Asked by the lawyer whether he disagreed with Freud, the psychiatrist replied, "Yes, and no," which led to a long disquisition on some of his classic papers and ended in a discussion of genital symbolism—"when I was in Boston at the time of my neurological and psychiatric residence training it had got to the point where anything that was a post or a pencil or a pen or if you dreamed about a post or a pencil or a pen or anything it was symbolic of the penis. If you dreamed about a hole or a gopher hole or a cavity or a tunnel that was symbolic of the vagina." Was this Freud or psychoanalysis, the lawyer wanted to know. Yes, the psychiatrist said to both questions; "This is Freud. This is psychoanalysis." The lawyer: "No, I asked you about Freud." The judge quickly put an end to this discussion, saying he'd had enough of this "dissertation on the beliefs of Freud," but not before invoking Jung, "his earnest disciple, who later disagreed with him on basic matters," establishing thereby his own competence on the issue. We'll be here six weeks untangling this, he said, but of course that was not the end of it, for things quickly deteriorated to the point where the lawyer could ask, "has anyone ever seen the ego?" only to have the psychiatrist reply, "you'll have to ask a psychoanalyst that. I can't answer."[80] With this absurdity, we are back to Southard and his capable monkeys.

NOTES

Many friends and colleagues have offered incisive comments on this essay. I would like to thank in particular Donna Dennis, John Forrester, Risa Golubuff, Dirk Hartog, Mark Mazower, and Norton Wise.

1. Testimonies of E. E. Southard and Anna C. Wellington before Hartford Probate Court, July 17–18, 1916, from the Papers of Elmer Ernest Southard [GA 81, box 5], Harvard Medical Library in the Francis A. Countway Library of Medicine. In this essay, the patient's name has been changed). On the Psychopathic Hospital, see Elizabeth Lunbeck, *The Psychiatric Persuasion: Knowledge, Gender, and Power in Modern America* (Princeton, 1994).

2. *Jenkins v. State,* 60 Tex. Crim. 236 (1910).

3. Leo L. Orenstein, "Examination of the Complaining Witness in a Criminal Court," *American Journal of Psychiatry* 107 (1951): 684–88, at 687.

4. *People v. Cowles,* 246 Mich. 429 (1929).

5. Michael Juviler, "Psychiatric Opinions as to Credibility of Witnesses: A Suggested Approach," *California Law Review* 48 (1960): 648–81, at 674.

6. John Forrester, *The Seductions of Psychoanalysis: Freud, Lacan, and Derrida* (Cambridge, 1990), 8. In the same volume, see "Rape, Seduction, Psychoanalysis," 62–89.

7. John Forrester, "Lying on the Couch," in *Dismantling Truth: Reality in the Post-Modern World,* ed. Hilary Lawson and Lisa Appignanesi (London, 1989): 145–65, esp. 159.

8. L. E. Emerson, "A Psychoanalytic Study of a Severe Case of Hysteria," *Journal of Abnormal Psychology* 8 (1913–14): 180–207, at 199; Emerson, "A Philosophy for Psychoanalysts," *Psychoanalytic Review* 2 (1915): 422–27, at 427; Emerson, "The Case of Miss A.," *Psychoanalytic Review* 2 (1915): 41–54, at 42.

9. On the personality disorders, see Lunbeck, *Psychiatric Persuasion,* esp. chap. 3.

10. *Durham v. United States,* 94 U.S. App. D.C. 228 (1954).

11. *Washington v. United States,* 129 U.S. App. D.C. 29 (1967).

12. On the American laws, see Estelle B. Freedman, "'Uncontrolled Desires': The Response to the Sexual Psychopath," *Journal of American History* 83 (1987): 83–106; and Deborah W. Denno, "Symposium: Life before the Modern Sex Offender Statutes," *Northwestern University Law Review* 92 (1998): 1317–1413.

13. Tony Honore, *Sex Law* (London, 1978), 164–66.

14. Morris Ploscowe, *Sex and the Law* (New York, 1951), 225–31.

15. Winfred Overholser, *The Psychiatrist and the Law* (New York, 1953), 47–51.

16. *Holloway v. United States,* 80 U.S. App. D.C. 3 (1945); opinion of Judge Thurman Arnold.

17. The *M'Naghten* test was whether the accused was "laboring under such a defect of reason, from disease of the mind, as to not know the nature and quality of what he was doing, or if he did know it, that he did not know he was doing what was wrong": cited in *Washington v. United States.*

18. *Washington v. United States.*

19. *Durham v. United States,* opinion of Judge David Bazelon.

20. His case reached the D.C. circuit court because, as Bazelon wrote in his opinion, the trial court incorrectly rejected his insanity defense and, more generally, "because existing tests of criminal responsibility are obsolete."

21. Bazelon's concern was that in providing "conclusory labels," psychiatrists were usurping the role of the jury. The psychiatrist who argued that a defendant's actions were not the "product" of mental disease or defect was, Bazelon argued, making a legal-moral, not purely medical, judgment. "Psychiatrists should not speak directly in terms of 'product,' or even 'result' or 'cause.'"

22. Ploscowe, *Sex and the Law,* 227–33.

23. Overholser, *The Psychiatrist and the Law,* 51–54.

24. On the female hypersexual, see Lunbeck, *Psychiatric Persuasion,* chap. 7.

25. John Henry Wigmore, *Evidence in Trials at Common Law* (Boston, 1970; orig. pub. 1940), vol. 3a, 743, cites a physician's testimony in *State v. Driver,* 88 W. Va. 479, 483–484, 107 S.E. 189, 190–91 (1921), on the "condition known as 'mythomania,' which comes from the word 'myth' and 'mania.' . . . I usually see nearly all of those cases in the female sex."

26. "Psychiatric Evaluation of the Mentally Abnormal Witness," 1337–38, makes this point, for example, highlighting the personality disorders and asserting that "judicial appreciation of psychiatry has been most pronounced in sex offender cases," sex being "peculiarly within the ken of psychiatrists." See also Thomas J. Feeney, "Expert Psychological Testimony on Credibility Issues," *Military Law Review* 115 (1987): 121–77: "Sexual assault cases are a major exception to the general disapproval of extrinsic psychiatric or psychological evidence" (126).

27. Ploscowe, *Sex and the Law,* 170.

28. In several rape cases prior to this, courts did not allow testimony regarding the complainant's chastity. In *People v. Mills,* 94 Mich. 630 (1893), the court ruled that "lack of chastity cannot be used to impeach the credibility of a female witness." The court ruled similarly in *People v. Connelly,* 150 Mich. 260 (1909). On this, see *People v. Dawsey.*

29. But see also *Laudo v. Laudo,* 188 A.D. 699 (1919), a divorce case in which a wife's nymphomania—she committed adultery with three men in the course of one night—was seen as coming from within her but without her active participation, almost as if against her will. The condition was laid to "the irresistible impulse of that morbid activity of the sexual propensity." In later cases, the condition was written about as if the woman was a full and willing participant. *Laudo* was decided under the sway of faculty psychology, later cases within the terms of dynamic psychiatry.

30. *Ballard v. Superior Court of San Diego County,* 64 Cal. 2d 159 (1966). The condition is also termed "pseudologia phantastica" in this opinion, "a medical condition involving a mixture of lies with imagination."

31. *State v. Anderson,* 272 Minn. 384 (1965).

32. *People v. Smallwood,* 306 Mich. 49 (1943).

33. *State v. Anderson.*

34. *People v. Hurlburt,* 166 Cal. App. 2d 334 (1958).

35. "Psychiatric Evaluation of the Mentally Abnormal Witness," *Yale Law Journal* 59 (1949–50): 1324–41, at 1324. An exception to this is *People v. Bastian,* 330 Mich. 457 (1951), in which an attempt is made to impeach the testimony of the prosecutrix on the grounds that, as a nymphomaniac, she had made unwanted advances on the defendant, which he had rebuffed; in anger, she had then leveled the charge of rape. Other cases featuring lying nymphomaniacs and female psychopaths include *State v. Wesler,* 137 N.J.L. 311 (1948); *People v. Neely,* 228 Cal. App. 2d 16 (1964).

36. Wigmore, *Evidence,* section 934a.

37. "Note: Checking the Allure of Increased Conviction Rates: The Admis-

sibility of Expert Testimony on Rape Trauma Syndrome in Criminal Proceedings," *Virginia Law Review* 70 (1984): 1657–1704; at 1661, n. 13.

38. See also Jay Katz, Joseph Goldstein, and Alan M. Dershowitz, *Psychoanalysis, Psychiatry, and Law* (New York, 1967), 128 ff., which, after presenting an excerpt from *State v. Anderson* that includes the passage from Wigmore in which Menninger explains that all women have rape fantasies, presents Helene Deutsch (*The Psychology of Women,* 1945) on the same topic, asserting that rape fantasies are but variants of common seduction fantasies.

39. Wigmore, *Evidence,* 737.

40. Wigmore, *Evidence,* 735. The dissenting opinion, which held that a man's lack of chastity might tend "to prove a disposition to lightly regard the obligations of his oath," invoked no such authorities.

41. *Anderson v. State.*

42. *People v. Smallwood.*

43. *People v. Bastian,* for example, the prosecutrix admitted to having sex with eleven boys during the month of June 1948.

44. Natalie Shainess, "Nyphomania and Don Juanism," *Medical Trial Technique Quarterly* 19 (1972): 1–6, at 1.

45. Otto Fenichel, "Outline of Clinical Psychoanalysis. Chapter VII: Neuroses Related to Perversion," *Psychoanalytic Quarterly* 2 (1933): 562–91.

46. For more recent instances, see, for example, Robert Stoller, "Hostility and Mystery in Perversion," *International Journal of Psychoanalysis* 55 (1974): 425–34, which highlights the nymphomaniac's "need to damage, not love," her partner (428); and M. Lionells, "A Reevaluation of Hysterical Relatedness," *Contemporary Psychoanalysis* 22 (1986): 570–97, which stresses that the nymphomaniac is "concerned with exploitation of sexuality rather than with erotic enjoyment" (574).

47. Nathan Flaxman, "Nymphomania—A Symptom—Part I," *Medical Trial Technique Quarterly* 19 (1972): 183–95.

48. Orenstein, "Complaining Witness," 685.

49. Marcus S. W. McBroom, "A Clinical Appraisal of Some Sexually Promiscuous Females," *Journal of the National Medical Association* 55 (1963): 290–94, at 290.

50. Orenstein, "Complaining Witness," 687. See Laura Hanft Korobkin, *Criminal Conversations: Sentimentality and Nineteenth-Century Legal Stories of Adultery* (New York, 1998), 9, on "the suggestive equality between the stories people tell in court and the stories their listeners already know."

51. McBroom, "Some Sexually Promiscuous Females," 292–94.

52. *State v. Anderson,* citing *State v. Witmer,* 174 Neb. 449.

53. "Psychiatric Evaluation of the Mentally Abnormal Witness," 1331.

54. Korobkin, *Criminal Conversations,* 78.

55. Martin Grotjahn, "The Changing View of Sexual Pathology," *Contemporary Psychoanalysis* 10 (1974): 407–13.

56. Grotjahn, "Changing View."

57. *Jenkins v. State.*

58. Stephen B. Levine, "A Modern Perspective on Nymphomania," *Journal of Sex and Marital Therapy* 8 (1982): 316–24, at 318.

59. McBroom, "Some Sexually Promiscuous Females," 290–91.

60. The hypersexual woman who seduces the hapless sailor—in every other context arguably the most promiscuous of men—dates back at least to the early years of the century.

61. This composite is drawn from McBroom, "Some Sexually Promiscuous Females"; Flaxman, "Nymphomania—A Symptom—Part I"; Jerome D. Goodman, "The Behavior of Hypersexual Delinquent Girls," *American Journal of Psychiatry* 133 (1976): 662–68, at 665; Stephen B. Levine, "A Modern Perspective on Nymphomania"; and Robert J. Barth and Bill M. Kinder, "The Mislabeling of Sexual Impulsivity," *Journal of Sex and Marital Therapy* 13 (1987): 15–23.

62. McBroom, "Some Sexually Promiscuous Females," 292.

63. Levine, "A Modern Perspective on Nymphomania," 323–24.

64. Levine, "A Modern Perspective on Nymphomania," 321, 322.

65. Flaxman, "Nymphomania—A Symptom—Part I," 189.

66. Levine, "A Modern Perspective on Nymphomania," 323.

67. Goodman, "The Behavior of Hypersexual Delinquent Girls," 666. I have deliberately bracketed a number of issues here in order to highlight the marital script psychiatrists mobilized as frame for the findings of biological psychiatry. I am not interested here in the issue of causation, which the biological psychiatry of the past three decades has plumbed, implicating temporal lobe disorders, drug abuse, psychosis, and virilization to hypersexuality in women. See, for example, "Female Hypersexuality Treated with Cyproterone Acetate," *American Journal of Psychiatry* 145 (1988): 1037; R. Huws, A. P. W. Shubsachs, and P. J. Taylor, "Hypersexuality, Fetishism and Multiple Sclerosis," *British Journal of Psychiatry* 158 (1991): 280–81 (a case of a male); and Sara. L. Stein et al., "A 25-Year-Old Woman with Hallucinations, Hypersexuality, Nightmares, and Rashes," *American Journal of Psychiatry* 153 (1996): 545–51. I have also not examined here the issue of whether women's purported hypersexuality is experienced as pleasurable or compulsive, or of whether it is increased desire or promiscuous behavior that psychiatrists argue is at issue.

68. *Giles et al. v. Maryland,* 366 U.S. 66; 87 S. Ct. 793 (1967). The Supreme Court sent the case back to the Maryland Court of Appeals for reconsideration.

69. *People v. Dawsey,* 76 Mich. App. 741 (1977). The passage is from a law review article on credibility that appeared in 1940; it was undoubtedly written in reference to men only.

70. This paragraph draws heavily on Feeney, "Expert Psychological Testimony on Credibility Issues," 125–30. Burgess and Holstrom, "Rape Trauma Syndrome," *American Journal of Psychiatry* 131 (1974): 981–86, was the first to outline the syndrome.

71. Shainess, "Nymphomania and Don Juanism," 1–2. The case was extensively reported in the *San Francisco Chronicle.*

72. "Medical Testimony in a Case of Trauma and Nymphomania (AKA San Francisco Cable Car Case), Showing the Cross-Examination of the Defendant's

Neuropsychiatrist by the Plaintiff's Lawyers—Part I," *Medical Trial Techniques Quarterly* 19 (1972): 83–120; Part II, 18 (1973): 205–40; Part III, 19 (1973): 317–60.

73. "Medical Testimony," Part II, 220.

74. "Medical Testimony," Part I, 119.

75. *People v. Neely*, 228 Cal. 2d 16 (1964).

76. "Medical Testimony in a Case of Trauma," Part III, 341.

77. David Henderson and R. D. Gillespie, *A Text-Book of Psychiatry for Students and Practitioners,* 8th ed. (London, 1956), ix–x.

78. *Durham v. United States,* n. 34.

79. *United States v. Flores-Rodriguez,* 237 F. 2d 405 (1956).

80. "Medical Testimony in a Case of Trauma," Part I, 92, 98.