The Court Archive:
Elizabeth Packard and Mental Health Laws

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Just months before Illinois soldiers fought for the preservation of the union in a war that ultimately resulted in the death of slavery and "a new birth of freedom," Elizabeth Packard was stripped of her freedom in full compliance with Illinois law and taken to the state's insane asylum. Her husband Theophilus, a Calvinist minister, believed that she was insane because she had become outspoken on abolitionism and women's rights, and insisted on sharing many unorthodox religious ideas with her Bible study group, several of which contradicted the doctrine her husband preached to his congregation.

Illinois mental health law began taking shape shortly after statehood with an 1823 law that required a jury trial to anyone accused of insanity. In 1847, the legislature established the Illinois State Asylum and Hospital for the Insane in Jacksonville, making Illinois just one of three states in the country to have a state-operated facility for the mentally ill. In 1851, Illinois revised its 1823 law and deprived married women accused of insanity the right to a jury trial. To expedite the commitment process, married women could be placed in the state hospital "on the request of the husband." Married women like Elizabeth Packard had no legal recourse to protest their commitment or the length of their confinement in the Jacksonville asylum.

Inside the asylum, Elizabeth never wavered from her belief that she was not insane and challenged the superintendent, Dr. Andrew McFarland, to prove otherwise. While incarcerated, Packard documented the inhumane conditions inside the asylum and the mistreatment of her fellow patients, causing Dr. McFarland a great deal of aggravation. After 42 long months, a frustrated Dr. McFarland labeled Packard "incurably insane" and recommended her discharge from the asylum.

Theophilus took charge of his wife and began preparations to have her committed for life to an asylum in Massachusetts. While awaiting her committal, he locked her in a room inside their house, boarded up the windows, and restricted her access to the outside world. Though she was trapped inside her husband's makeshift prison, Elizabeth and her supporters recognized she was momentarily free of the asylum, and within reach of the Illinois court system.

Elizabeth Packard's friends brought legal proceedings in 1864 against Theophilus with a writ of habeas corpus. The court ordered both Packards to appear before Judge Charles R. Starr at the Kankakee courthouse. The habeas corpus case *Packard v. Packard* was unlike any most legal observers had ever witnessed. Theophilus's lawyers presented a certificate issued by Dr. McFarland declaring her insane, arguing that she was merely being restrained until her husband could find more appropriate accommodations for her.

Judge Starr observed that Elizabeth Packard did not appear to be insane. The judge told Theophilus and his lawyers that they needed to prove their allegation of Elizabeth's insanity. In an unusual move, Judge Starr empaneled a jury to decide if Mrs. Packard was insane.

Theophilus's lawyers called witnesses who testified to Mrs. Packard's unorthodox religious views, as well as her repeated refusals to obey her husband's demands. Both were considered evidence of her insanity. Elizabeth Packard's lawyers introduced her religious views to the court in the form of an essay she had written and delivered to her Bible study group in 1860. The judge allowed Packard herself to read the essay to the court. When she concluded, her rational explanation of her views and charismatic delivery elicited a round of applause from the full courtroom. The final witness called by Mrs. Packard's lawyers, Dr. Alexander Duncanson, was both a physician and a theologian. He told the jury he spoke with Mrs. Packard for three hours about her religious views. "I did not agree with her on many things," he admitted to the jury, "but I do not call people insane because they differ with me." "I pronounce her a sane woman and wish we had a nation of such women," he concluded.

When the trial ended on January 18, 1864, it took the jury just seven minutes to deliberate before it declared Elizabeth Packard "sane."

Though the Packards never divorced, they never again lived as husband and wife. Instead, Elizabeth Packard devoted the rest of her life to changing both mental health law and the coverture laws that had stripped her and other married women of their liberty. She documented her harrowing experiences in the asylum and in front of legislatures in a series of books, beginning with *Marital Power Exemplified, or Three years Imprisonment for Religious Belief* (1864).

In 1867, Packard successfully lobbied politicians in Illinois to enact a new law, "An Act for the Protection of Personal Liberty" that guaranteed everyone accused of insanity, including married women, a jury trial. The law became known as "Mrs. Packard's Personal Liberty Law." Abraham Lincoln's widow, Mary Todd Lincoln, received a jury trial in 1875 under this law when her son Robert petitioned the court to declare her insane. Packard is credited with influencing 34 bills in various state legislatures, as well as success on the national stage, including an 1875 law allowing asylum inmates mail access.