

‘Am I Mad?’: The Windham Case and Victorian Resistance to Psychiatry

Dan Degerman

Accepted manuscript of an article forthcoming in History of Psychiatry

Abstract

This article revisits the notorious trial of William Windham, a wealthy young man accused of lunacy. Taking place between 1861 and 1862, the trial saw the country’s foremost experts on psychological medicine very publicly debate the concepts, symptoms, and diagnosis of insanity. I begin by surveying the trial and the testimonies of medical experts. Their disparate assessments of Windham evoked heated reactions in the press and Parliament; these reactions are the focus of the second section. I then proceed to examine criticism of psychiatry in the newspapers more generally in the 1860s, outlining the political resistance to psychiatry and the responses of some leading psychiatrists. In conclusion, I consider what this says about the politics of medicalization at the time.

Keywords: law, insanity, expert testimony, medicalization, anti-psychiatry, newspapers, 19th century

Introduction

Court cases involving allegedly insane defendants attracted tremendous popular interest in the 1860s. The British press covered such cases in great detail, and it seems likely that this was where members of the public would have learned whatever they knew about insanity, including its impact and relevance to rights and politics.¹ These cases and the coverage of them hence offer a rich resource for understanding contemporary public reactions to and political consequences of medicalization.

In this article, I will focus on a case that was particularly famous at the time, involving one William Fredrick Windham, a 21-year-old man in possession of a great fortune, who had been accused of lunacy. The Windham family had a distinguished reputation. Windham’s great-uncle had been Home Secretary in the government of William Pitt at the turn of the century, and his uncle was a famous general and hero of the Crimean War. The trouble for the young Windham apparently began shortly after he met and married Agnes Willoughby, a well-known, high-society prostitute. In exchange for marriage, he promised her a sizeable yearly allowance and lavished her with expensive gifts. This, in combination with some very bad business decisions, led his uncle and other members of his extended family to request a legal inquiry into the young Windham’s sanity, with the purpose of declaring him insane and unfit to manage

¹ A keyword search in *Primary Sources* for the string <insanity OR madness> between 1 January 1860 and 31 December 1869 finds 901 documents categorized as news. A search within these documents for <trial OR court OR crime OR murder> yields 542 documents. This suggests that a large majority of the news articles that mentioned madness also had to do with the legal issues. Term cluster analysis of “insanity” corroborates this conclusion; “murder”, “doctor”, “plea”, and “cases” were the four words most closely associated with insanity, with “murder” topping the list.

his wealth. Adding to the drama was the fact that this would put his uncle rather than the young Windham first in line to inherit a valuable estate. The subsequent trial generated a huge amount of attention from the press. Newspapers across the country provided detailed coverage of the proceedings, many of them reporting every day of the trial. This case is not only interesting because of the amount of popular attention it received. It also attracted some of the most famous psychiatrists of the time as expert witnesses, including John Conolly, Thomas Harrington Tuke, Thomas Mayo, and Forbes Winslow. Each of them interviewed and assessed Windham's state of mind, but they came to opposing conclusions. Conolly and Tuke both vouched for the young man's sanity, while Mayo and Winslow declared that he was insane – with some caveats, as we shall see. The trial saw the nation's foremost experts on madness debate, not only the sanity of one man, but also the concepts of insanity, what counted as a symptom, and the practice of diagnosis.

Moreover, the Windham trial has been a subject of several works in the history of psychiatry. Kingsley Jones (1971) has provided the most comprehensive account of the proceedings to-date, but he has little to say about its contemporary psychiatric or political implications. Other, briefer treatments like those of Peter McCandless (1978) and Clive Unsworth (1993) offer more interesting insights in this regard. McCandless suggests that the Windham trial was representative of a common public suspicion towards psychiatrists role in the legal system. Unsworth meanwhile observes that the trial and cases like it turned 'into celebrated or notorious cases in which medicine's definitions of insanity were subjected to highly public and supremely intensive investigation', which provided the basis for activist challenges to the authority of psychiatrists. Along similar lines, I will here seek to illustrate the public suspicions of the growing authority of psychiatrists and the influence of their ideas on the legal and political arenas, especially with regard to experts assertions that common emotions and eccentric behaviours could be symptoms of insanity.

My main source of materials for this study has been Gale's *Primary Sources*, an online search tool that permits users to search through the major newspaper archives hosted by Gale, including: the 17th and 18th Century Burney Collection; 19th Century UK Periodicals; British Library Newspapers (1600-1950); Eighteenth Century Collections Online; The Financial Times Historical Archive, 1888-2010; and, The Times Digital Archive (1785-2007). In addition to a providing a variety of common search functions – such as basic word searches, keyword searches, titles searches, etc. – the database also enables users to visualise terms clusters, as well as to track how term frequency and popularity has changed over time. Frequency here refers to the total number of documents that contain a given search term, and popularity refers to the proportion of documents in a year that contain a given term. I have taken advantage of all of these functions. Generally, I have limited my analysis to the primary materials I have found through *Primary Sources*. However, when an article or review has cited another publication or a particular literary work, I have on occasion reached beyond these archives to examine the work in question more closely. For example, when I found a review in *The Standard* of an issue of the *The Medical Critic and Psychological Journal*, I searched out and reviewed the issue myself – much as a contemporary reader might have done.

I begin by surveying the trial and the testimonies of the medical experts. The disparate assessments of Windham and the contradictory medical theories offered by the experts became a subject of intense discussion and even ridicule in the press as well as in parliament. These reactions are the focus of the second section. I then proceed to examine criticism of psychiatry

in the newspapers more generally, outlining the political resistance to psychiatry at the time, and consider how some leading psychiatrists responded to this criticism.

Windham and the psychiatrists

The formal accusation against Windham was that he was a lunatic, and the *Commission de Lunatico Inquirendo* had been called to determine the veracity of this claim. The psychiatrists² on the side of the prosecution asserted that Windham was not technically suffering from insanity, but from imbecility, a condition that they further distinguished from ‘idiotcy’. The clinical term for imbecility, according to Winslow, was *amentia*. Winslow explained to the court that: ‘*Amentia* is not downright idiotcy, but something intermediate between idiotcy and lunacy’. Being a milder form of disorder, it did not require institutionalisation, but did demand close supervision. Nevertheless, Windham’s – alleged – imbecility meant that he was unable to manage his own affairs (The Times 1862a). Although Winslow insisted on the difference between idiotcy, imbecility (or *amentia*), and lunacy (or insanity), his testimony was a conceptual muddle. Take, for example, the following statement:

Insanity is a disease very difficult to define. ... Mental unsoundness may be appreciated; it is easily recognized; but it cannot be defined. I cannot better describe my idea of the legal term “unsoundness of mind” than [as] “a condition or state of intellect between actual lunacy and idiotcy, or such a degree of mental deficiency as would incapacitate a person for the management of his affairs.” (The Times 1862a)

This definition of legal unsoundness of mind was, rather conveniently, more or less identical to Winslow’s definition of imbecility. While these distinctions and definitions seem circular, they were perhaps sufficiently convoluted to suggest to the listener that psychiatry was a very complex field, and to navigate it required considerable expertise. The importance of psychiatric expertise in detecting the almost invisible, generally mundane, and often counterintuitive symptoms of insanity was repeatedly suggested in the psychiatric testimonies of the prosecution (The Times 1862a). We should take special note of the claim that insanity ‘is easily recognized’. In later statements, Winslow qualified this remark. But it reflect what appears to have been the rather widespread idea that insanity was a conspicuous state.

One of the central symptoms, and key proofs, of Windham’s insanity according to the prosecution’s expert witnesses, was his ‘utter and entire shamelessness’. During his interviews with Winslow and Mayo, the two confronted Windham with his indiscretions, which included marrying a well-known prostitute, befriending one of her former clients,³ and having once ‘been in bed with three women at one time’. When confronted with these claims, Windham

² I am aware that ‘psychiatry’ and ‘psychiatrist’ are anachronistic terms in this context. The academic literature often speaks of alienists of course, but this has been an extremely rare term in the primary sources I have reviewed for this article. When the pejorative ‘mad doctor’ was not used, newspapers usually spoke of physicians or medical experts. From the perspective of the twenty-first century reader, however, these latter terms seem to be liable to obscure the fact that were are talking about a certain kind of expert and expertise. For the sake of clarity, I have, therefore, described the expert witnesses as psychiatrists and their field as psychiatry.

³ It was unclear whether she had in fact stopped sleeping with the person in question.

responded to each with indifference and laughter, a sure sign of his ‘incapacity in regard to the management of affairs’, according to his interrogators. The testimonies of the prosecution’s non-expert witnesses apparently corroborated this picture. They described a host of more or less bizarre and childish behaviours, which had earned him the name ‘Mad Windham’ while he was a student at Eton. His moods were also of particular concern; he was known for both crying and laughing uncontrollably, as well as unexpectedly flying into violent fits of anger.⁴ Another expert on insanity, William Peter Nichols – the chief surgeon of Bethel Hospital and proprietor of Heighan Hall Private Asylum – recounted a meeting with Windham at a ball: ‘He shook hands with me and burst into an idiotic laugh, violent laughter... I said I was a friend of his father’s; he replied in a manner so incoherent as to convince me of the feebleness of his mind’ (The Standard, 1861a).

Yet, in the courtroom and according to other testimonies, Windham appeared quite calm and sensible. Neither his moods swings, nor his inability to express himself coherently, nor his shamelessness were apparent. Moreover, he had performed adequately in his studies at Eton. He had also expressed himself capably in letters he had written to his mother, which were presented to the court. Windham’s basic rationality and occasional ability to behave himself were not proof of his sanity however. Mayo told the court: ‘I should attribute his conduct rather to cunning than to a sense of self-respect or decencies of society. The reason is that I know him to be entirely destitute of such feelings’. Mayo explained that to convince him otherwise would require evidence that Windham had behaved himself appropriately in an ‘enormous’ number of instances. Similarly, Winslow told the court that he currently had patients that one could speak to an entire day without suspecting that anything was wrong with them, but ‘if I gave you the clue, you would detect their infirmity at once’ (The Times 1862a).

Heredity and physical symptoms were cited as evidence of Windham’s insanity as well. Nichols said that he had met Windham for the first time when the latter was four years old. According to Nichols, he had immediately recognized the signs of ‘congenital mental mischief’ in the boy, which would almost certainly develop into idiotcy. Windham had had a misshapen head, been unable to speak, drooled, and let his tongue hang out of his mouth. As an adult, the physical symptoms were admittedly less apparent (The Standard 1861a). Experts on both sides of the case agreed that drooling was a symptom of idiotcy. But even on the side of the prosecution there was disagreement as to whether to count this as a symptom in Windham’s case, because of his harelip. Nevertheless, Winslow insisted that the physical signs were present, even if they were difficult for the untrained eye to detect: ‘[H]is physiognomy is not very strongly marked, nor is it calculated to attract notice... But having your attention so directed, you cannot fail to observe physical signs which are unmistakable’ (The Times 1862b). In other words, recognizing insanity or ‘mental unsoundness’ is easy, but only as long as you know what to look for.

The expert witnesses of the defence disagreed with their colleague’s assessments of course. To begin with, the physical symptoms of idiotcy and imbecility, when they were present, were not subtle at all. Alexander John Sutherland, another prominent expert, told the court: ‘Imbeciles and idiots have generally small misshapen heads, and in idiots I have remarked thick knuckles’. Windham’s head was in fact a slightly larger head than the average, according to Sutherland. As regarded Windham’s mental capacity, the defence’s experts all recognized that Windham was certainly not an intelligent man. But he was far from an imbecile. While Windham occasionally drooled due to his harelip, he tried to control it – something idiots never did,

⁴ E.g. The Standard 1861a; The Caledonian Mercury 1861a; The Morning Post 1861.

apparently. He also spoke and wrote coherently, without signs of delusion or irrationality. Furthermore, ‘he was ready to submit with all due deference to the examination of medical men’. Whatever Windham lacked in ‘mental power’ was likely due to ‘improper treatment and neglect’ in youth. In so far as Windham’s choice of spouse was concerned, Conolly remarked: ‘A taste for bad company is perfectly compatible with soundness of mind’ (The Times 1862c).

In spite of the common sense air of these accounts, their attempts to explain the difference between sanity, idiotcy, and imbecility were no more coherent than the opposing side’s. Tuke simply declared at the outset of his testimony that it would be unnecessary to explain the distinction between the two, since everyone in the room knew what an idiot was (The Morning Post 1862). The effort of Sutherland was more elaborate, but not much clearer (The Times 1862c). The confusing opacity and contradictions between their theories of madness was not neglected by the newspapers, as we shall soon see.

The madness of the mad doctors

After a protracted and expensive trial, the jury returned a verdict declaring Windham sane, to the wide acclaim of newspapers around the country. The outcome of the trial is of little importance in itself. Of greater relevance is the public impact and reaction to the trial. As I have mentioned, interest in the trial was tremendous. Accounts from the trial could be found in periodicals of all types, from upper-class magazines like *The Spectator* (1861) to the working class *Reynolds’s Newspaper* (1862), to expert publications such as *The Medical Critic and Psychological Journal (A Member of the Bar 1862)*. Once the trial had concluded, all the proceedings were published as a book, containing nearly 200 pages of testimonies (Anon. 1862a).

In the newspaper commentaries on the trial, there was little attempt to maintain technical distinctions between insanity, idiotcy, or any of the other categories enumerated by the expert witnesses. From the perspective of pundits and letter writers, the Windham case had been an argument over whether a young man was insane, and many newspapers had decided that he was sane long before the jury gave its verdict. The testimonies of Winslow and Mayo were derided as ‘little short of a breakdown’ (Bell’s Life in London 1862).⁵ In its commentary on the trial, for example, *The York Herald* (1862) observed that ‘in these days of theoretical madness... half the doctors who give evidence on insanity, are themselves labouring under delusions, or are the victims of fine theories of their own’. Given the convoluted theories presented to the court, it is easy to see how an editor might come to this conclusion.

Joining in the celebration of the trial’s outcome, one working class paper noted that an alternative verdict would have set a very dangerous precedent: ‘If every young man of extravagant, immoral, or eccentric habits is to be dubbed a lunatic, we fear the statistics of this kingdom, or of any other, would show a sad depreciation’ (Bell’s Life in London 1862). Indeed, what seems to have stimulated most comment and outrage in the newspapers were the behaviours of Windham that the prosecution and its witness had claimed were symptoms of insanity.⁶ In a letter to the editor of *The Morning Chronicle* (1862), entitled ‘Am I Mad?’, the author expressed incredulity at Windham’s supposed symptoms of madness. The author

⁵ This was not the last time that the editors of *Bell’s Life* singled Winslow out for criticism. Almost two years later, an opinion piece singles out Winslow as one example of ‘two mischievous extremes’ within psychiatry. It claimed that if Winslow had his way, crime itself would be considered a symptom of madness; the greater the crime the greater the madness (Bell’s Life in London 1863)

⁶ E.g. *The Caledonian Mercury* 1861b; *Punch* 1862a; *The Times* 1862d.

sardonically admitted that apart from slobbering, crying, and flaunting marital impropriety, he was guilty of the same and some even worse indiscretions than Windham. He recounted how he had on occasion jumped fences, fed women with his bare hands, imitated animals, and given his friends discounts in business deals. Was he, then, insane? Had it not been for the judicious decision of the jury, the author said he would have had reason to worry. With a note of seriousness, he added a caution: ‘A man may surely do what he will with his own. If not, and if every one who misapplies either time or money, or both, is to be considered a lunatic, our country will become a gigantic asylum’.

The reporting from the Windham case suggests several things. The testimonies of the psychiatrists demonstrated to the public the disjointedness of their field. Not only did the foremost experts on insanity of the country disagree on whether Windham’s eccentric behaviours should be considered symptoms of disease, they could not even agree on a basic definition of insanity or imbecility. As we have seen, this did not go unnoticed by the pundits. Furthermore, readers who followed the Windham trial closely would probably have detected the signs of hostility between the experts. For instance, Conolly dismissed Winslow’s use of the term *amentia* as obsolete, and criticised directly Mayo’s method of examination, calling it ‘a very severe test’. In light of this, it is unsurprising that some people perceived psychiatry as suffering from ‘theoretical madness’.

There was, evidently, some popular resistance to the expanding authority of psychiatry. Commentaries on the trial demonstrate a deep concern that concepts of madness could be used to deprive innocent people of their liberty and property. The notion that somewhat erratic behaviours and indiscretions – particularly among young men – could be signs of insanity was ridiculed and summarily rejected. The disjunction between the experts’ and the general public’s views on insanity, in the courtroom and beyond, thus indeed appears to have been profound, as Andrew Scull has argued. According to him, such a disconnect was to be expected, since psychiatrists had focused their efforts on converting the elites to their perspective (1993: 264). Considering, however, that even high-brow publications, such as *The Spectator* (1861) regarded the Windham trial as an illegitimate application of tenuous psychiatric ideas, it seems some members of the elite were equally keen to keep the authority of psychiatry in check.⁷

This is evidenced in part by the strong reaction that the proceedings of the Windham trial evoked in Parliament. Shortly after the trial’s conclusion, the Lord Chancellor Westbury introduced the Lunacy Regulation Bill to the House of Lords, in part and explicitly in response to the trial (HL Deb 27 February 1862). Widespread public outrage at the trial was also a factor, as one opponent of the bill, Lord Chelmsford observed: ‘The extraordinary length of the trial, the nature of the evidence, and the contradictory testimony of medical men, conspired to raise a feeling the public mind that the law was defective’ (The Times 1862e).

The bill proposed, among other things, that the use of medical evidence should be restricted in lunacy commissions, as well as in criminal trials. One way the Lord Chancellor suggested that this could be achieved was by imposing time-constraints on the evidence presented in court. The Windham trial had demonstrated the urgency of such a limit. Westbury pointed to the testimony of Nichols as a particularly appalling example. As we might recall, Nichols claimed that he had recognised the seed of congenital insanity in Windham when he was only four years old, based on a number of traits, including the shape of his head. Moreover, the Lord Chancellor

⁷ Relatedly, Crossley (2006: 68) has observed that the few individuals publicly resisted their diagnoses of insanity in the eighteenth and nineteenth century were generally appear to have been wealthy men.

reminded the peers that Nichol's had claimed that he had been able to recognise the germination of insanity by Windham's laughter. 'Now, was it reasonable to go back 20 years with such inquiries?' Westbury asked. 'Was it reasonable to have a judgment taken on an issue so framed as to depend on the shape of the head at four years old, and the laugh being that of an imbecile?' (The Times 1862e).

For our purposes, the specifics of the bill are less interesting than these kinds of remarks, which challenged the authority and legitimacy of psychiatric diagnoses as well as psychiatrists themselves – or the 'mad doctors' as critics liked to call them.⁸ Supporters of the bill mercilessly attacked psychiatrists' claims that commonplace demeanours and physical features could be symptoms of madness. Much to the amusement of other members, Westbury read from what he claimed was a book of great authority within the medical profession, according to which intense emotions, bristly hair, shrivelled ears, and ugliness could all be signs of madness.

Lord Shaftesbury, another prominent supporter of the bill, criticized what he perceived as the lack of common sense among the mad doctors. They were, according to him, often ignorant of the world around them, invoking examples in which a liberal view of Jews or keeping a weapon for self-defence had been cited as symptoms of insanity. Furthermore, Shaftesbury observed that these supposed experts could not even agree on what madness was amongst themselves (The Times 1862e). Any reasonable person could recognize madness, he claimed. Yet, according to Shaftesbury, the law as it stood denied people this right and 'forced them to adopt instead of their own moral conclusions, the speculative views of members of the medical profession' (The Times 1862f). Interestingly, similar claims about the proper scope of psychiatry would later arise in relation to the early movement for women's suffrage, when some of its opponents were claiming that politics would be harmful to the mental health of women.

Victorian anti-psychiatry?

While I have focused here on a single case, sceptical assessments of psychiatry in the courtroom, and society generally, seem to have figured frequently in the newspapers of the 1860s. It seems likely that these attitudes had been shaped in part by the activism of the Alleged Lunatics' Friends Society.⁹ The Society was a civil libertarian organization that had formed in 1845 to prevent the unjust confinement of individuals declared insane. Utilizing a number of arguments similar to those raised in the wake of the Windham trial, the Society gained some notable victories before disbanding in 1863. As one historian has pointed out, however, the Society seems to have been relatively uninterested in high profile cases like that of Windham (Hervey 1986).

Reporting at the time suggests that there was a widespread sense that the insanity plea in criminal trials had grown far too common in recent years. Some even claimed that psychiatrists

⁸ Westbury's call to exclude medical evidence from the courtroom was rejected by his colleagues. The version of the bill that was eventually passed into law did impose a restriction on medical evidence, albeit much less stringent than Westbury had wanted. The act decreed that any evidence regarding the sanity of the subject of an inquiry could only extend two years back, unless the judge or master of lunacy presiding over the inquiry said otherwise (Anon. 1863).

⁹ Some scholars and activists have been keen to emphasize the continuity between the Society and latter-day movements (e.g. Hervey 1986; cf. Crossley 2006)

were inventing new forms of insanity, such as kleptomania, in order to help the rich to avoid punishment (e.g. *The Dundee Courier and Daily Argus* 1863; *Reynolds's Newspaper* 1870).

As the Windham case indicates, journalists and their readers were suspicious about the characteristics and behaviours that the psychiatrists considered symptoms of madness.¹⁰ These suspicions were sometimes stated with great intensity. In a letter to the editor of *Reynold's Newspaper*, a concerned citizen argued that the so-called 'signs of insanity' that psychiatrists recounted in the courtroom were dangerously broad and ill-defined:

[I]t appears that whatever injuries or insults a man or woman may be subjected to, he or she (for the liberty of women even more than the liberty of men, is imperilled by the new theory) must not give way to passion or excitement of any kind, on pain of being pronounced mad, and shut up in a lunatic asylum. (Northumbrian 1862)

The notion that passions and their expressions were in themselves symptoms of insanity was something that many commentators found offensive, particularly in legal contexts.

Writing in the immediate wake of the Windham trial, a journalist at *The Times* drew attention to the contradictions between the experts' theories of insanity and the principles protecting individuality that John Stuart Mill had set out in his celebrated essay *On Liberty*. Whereas Mill had called for society to tolerate and protect the eccentrics whose thinking defied the traditions of the majority, the mad doctors seemed to preach the opposite. The journalist claimed that according to the experts on insanity: 'Madness begins when the operations of the single mind begin to vary from the operations of the great mass of minds' (*The Times* 1862g). *Reynolds's Newspaper* (1862) similarly warned its readers that the psychiatrists could construe practically anything out of the ordinary as a sign of madness: 'The least deviation from ordinary behaviour – the slightest violation of the conventional customs of society – any oddity in dress – every eccentricity of speech, walk, or gesture, is construed by these sleuth-hounds of madness into a symptom of insanity'.

Diatribes against the theories of madness were often accompanied by attacks on the psychiatrists themselves, who were responsible for formulating these 'disgusting teachings' (*Reynolds's Newspaper* 1862). Several pundits challenged their expertise and questioned if it was even necessary to have any kind of medical education in order to identify insanity.¹¹ We have already seen the term 'mad doctor' applied to the experts on insanity; the term seems to have been a favoured derogative among the profession's critics, and abhorred by its members.¹²

A well-known psychiatrist and professor of medicine at Edinburgh university, Thomas Laycock, rebuked the contemporary usage of 'mad doctor' in a published lecture. Plainly

¹⁰ E.g. *Southampton Herald* 1862; *The Leeds Mercury* 1862; *Bell's Life in London* 1863; *The Blackburn Standard* 1864; S. G. O. 1864; *The Birmingham Daily Post* 1865; *The Examiner* 1865; *The Liverpool Mercury* 1866; Berry 1869

¹¹ E.g. *The Times* 1862g; *Saturday Review* 1865; *The Glasgow Daily Herald* 1865

¹² Notably, there are very few mentions of mad doctors in the newspapers before 1830. A search in *Gale* for the string <"mad doctor" OR "mad-doctor" OR "mad doctors" OR "mad-doctors"> produces only two documents with these terms. (Between 1708 – which is as far back as *Primary Sources* permits a search to look – and 1800, these terms appeared in only 10 newspaper articles.) From the 1830s, the usage then increases significantly until it drops sharply in the 1890s. From 1900 onwards, it is almost never used. Already by 1830, 'mad doctor' seemed to have been used mostly as a pejorative term, with newspapers calling for government to rein in the influence of the 'speculative mad doctors' (e.g. *The Sheffield Independent* 1830)

attempting to defend the authority of psychiatrists, Laycock denounced the term as both unworthy of civilised people and harmful to the insane themselves:

It is undoubtedly a contemptuous and opprobrious term of vulgar origin, and one cannot understand why it should be so readily and freely used in such high quarters. The phrase “mad doctor” has also its effect upon those whose misfortune it is to be deprived of their reason; because calculated to obstruct that flow of sympathy and kindness which they especially need more than any other of the sick and infirm. (Laycock 1862: 14)

The lecture itself, named *The Antagonism of Law and Medicine in Insanity, and Its Consequences*, was a reaction to the ongoing debate in the House of Lords on the Lunacy Regulation Bill mentioned above. The disrespectful and inflammatory language used in the debate clearly infuriated Laycock and other members of the medical profession. The *British Medical Journal* commented: ‘Really, there is something senile, as well as pitiable, in the jokes cut by my Lord Chancellor and my Lord Shaftesbury on the evidence of the “mad doctors,” as they call them’. Clearly, psychiatrists did not take kindly to the term, something of which the newspapers seemed well-aware. In articles critical of psychiatry, practitioners were often referred to ‘mad doctors’.¹³ Meanwhile, this term was seemingly eschewed on occasions when newspapers wanted to highlight, for example, the danger posed by the increased rates of lunacy, or the tragedy of some particular case of insanity.

The public challenges to their authority and its scope understandably worried psychiatrists. An article in *The Medical Critic and Psychological Journal* – a publication founded and edited by Winslow – expressed concern over the negative effects that the devaluation of medical evidence would have on the public understanding of insanity, not just in court but in society more broadly. The article is worth quoting at length:

To depreciate medical evidence in cases of lunacy is to seek to set aside whatever light has been thrown in the past half-century upon this complex affection; it is to subject to popular apprehension questions in the decision of which even the most acute minds might well hesitate; it is to sacrifice the interest of the individual to the prejudice of the many. Insanity is a fact not limited by its legal bearings; it has a much wider scope and higher interest. It is the fruitful source of untold misery, wretchedness, and pain, escape from which is alone possible by the recognition of the truth that insanity is a disease, amenable, as other diseases, to the care and treatment of the physician. Except as a disease, the very notion of insanity falls to the ground, and the existence of this disease is inferred upon the same principles of observation and reasoning as the existence of any other disease. Insanity, indeed, is a fact of inference, not a fact per se – a fact deduced from other facts, not a primary fact; and this deduction is not one of so glaring a character that it is patent to every one... (Anon. 1862b)

Interestingly, *The Standard* (1862b) reproduced this extract in a review, claiming falsely that it pertained to the Windham case.

Part of what makes the extract remarkable is its similarity in both form and substance to twenty-first century defences of psychiatry. Significantly, however, it was formulated in a wider

¹³ E.g. *The Examiner* 1865; *North Wales Chronicle* 1866; *Punch* 1867b

context where the authority of psychiatry was being forcefully challenged outside the walls of the asylum. It is also noteworthy for its correspondence to Michel Foucault's ideas of psychiatric power. Most of the key elements Foucault (2006) identified within nineteenth century psychiatric power appear in the statement. There are references to a diffuse truth of insanity, the superiority of the psychiatric gaze, and the risks of unseen and uncontrolled madness. Even the idea that cure requires acceptance of the truth is present. Yet we have seen that the very reason these claims were made was precisely because their authority was in question. It does not show that the gaze of psychiatry had penetrated into the family. If anything, it indicates that some family members had directed their gaze at psychiatry, and they did necessarily not like what they saw.

By the end of the decade some had even begun to question whether there really was an epidemic of insanity at all, or if it was something conjured up by psychiatrists for their own benefit. *The Examiner* observed that there was no question that these 'dealers in the misery and mystery of madness' were perfectly capable of filling every new asylum that was built in short order. 'But', the magazine asked, 'does it really follow that more of us are going mad than formerly; or only that we are become the dupes of a system [which] is really a compound of inhumanity and imposture?' (*The Examiner and London Review* 1869).

Conclusion

What emerges from the Windham trial, its aftermath, and newspaper coverage of similar cases is a sense of the deep suspicions that many Victorians in the 1860s seem to have had towards the growing authority of psychiatrists and their ideas in the legal and political arenas. These suspicions were especially strong with respect to claims that common emotions and eccentric behaviours could be symptoms of insanity. Pundits, politicians, as well as ordinary people spoke out publicly against this authority, with some concrete political consequences.

I have argued that news coverage of the court cases indicates the authority of psychiatry and its scope was perhaps not as strong as some have suggested in the 1860s. Still, we should not underestimate the impact that the sustained and highly publicized presence of psychiatry in the courtroom had on the public's awareness and understanding of insanity and its symptoms, especially in the longer term. Roger Smith (1981) has argued that medicalisation did not increase or speed up within the legal system in the nineteenth century. He has also questioned whether the perception of psychological medicine as 'an adjunct of social control' was ever particularly novel. However, these claims seem to entail a rather narrow conception of medicalisation as process. The fact that there existed, prior to the nineteenth century, institutions whose agents treated certain behaviours as medical conditions does not show that medicalisation is old news. A condition has not been medicalized simply because a few experts agree to call something a disease, write a book about it, and then decide to go out into the world and look for it. As Foucault understood well, it also has to do with knowledge and power; people must think that something looks like a medical disorder and they must act like it is a medical disorder.

If we understand medicalisation to involve these factors, then, the change in the nineteenth century is manifest. First of all, it is well-known that the asylum population grew significantly during this time (e.g. Scull, 1993), which seems to suggest that more people than before acted upon some suspicion that they or people around them suffered from something that looked like disorder – they may even have believed them to be insane – and brought them to the attention of experts. I would, however, like to distinguish between laymen acting on medical knowledge

and experts acting on it. It may be that what changed in the nineteenth century was simply the effectiveness of existing institutions – or institutions that were very similar to those that existed before. In that case, Smith might still be correct. Yet – and this is the second point – there is good reason to believe that the general population’s knowledge, or at least awareness, of insanity also grew significantly over the nineteenth century. For example, if we compare the number of items in newspapers published in 1860 to 1869 containing the words ‘insanity’ or ‘madness’ in combination with ‘murder’ with the number published in 1830 to 1839, we find that it had more than tripled. Of course, the radical increase is due in part to the fact that the number of newspapers increased as well. But this does not change the meaning of the evidence. It seems fair to assume that the more articles there are about madness, the more people are likely to have read about it. I would also observe that even if the document numbers are put in proportion to the total number of publications, a comparison between the two decades still shows a significant 25 percent increase.¹⁴

Over time, then, it seems likely that the public’s exposure to ideas about insanity through courtroom reports should have contributed to a growing awareness of psychiatry and its ideas. But how does this compute with my previous claim that the psychiatric gaze and authority had not yet penetrated the family in the 1860s? It has to do with people doubts about the truth of psychiatric knowledge. Many people simply did not recognise that socially inappropriate weeping and bursts of anger were symptoms of insanity, although psychiatrists claimed that this was the case. Thus, I think it is consistent to claim that while psychiatry had not achieved the degree of authority that Foucault projects onto it, psychiatric awareness was spreading at a considerable rate, setting the stage for its future eminence as a science and practice.

This also says something interesting about political impact of medicalisation at the time; namely, that even though psychiatric concepts were already quite pervasive in public discourse, people seemed reluctant to use them in political contexts. One of the reasons for this may be that the contemporary understanding and influence of fundamental political concepts, like liberty, functioned as a bulwark against the novel medical ideas that seemed to infringe on them, as an earlier reference to Mill suggests.¹⁵ Of course, we have also seen that conflicting understandings of the meaning of insanity itself also helped to limit the authority of psychiatrists. Given this, a potential fruitful avenue for future research might be to explore whether and how the conceptual dichotomies and attitudes shaped by the Windham controversy might have affected the public discourse surrounding the two landmark political events that followed later in the decades: the enfranchisement of (some) working class men, and the launch of the movement for women’s suffrage.

¹⁴ Again searching *Primary Sources*, I found 278 documents published in 1834 that contained the search string <(insanity OR madness) AND murder>; in 1864, there were 1,405 documents published with the same combination of words – a five-fold increase. However, the increase was not linear, and the number of publications with this word combination varies significantly from year to year. Comparing the total number of documents containing the string in the 1830s (3,245) and the 1860s (10,613), we also find a tremendous increase of 327 percent. If we put these numbers in relation to the total number of documents published in each decade (897,569 documents in the 1830s; 2,346,080 in the 1860s) there is an increase 25 percent, which is more modest but still significant.

¹⁵ Joan Busfield (1986: 284) has made a similar observation.

References

- Anon., (1862a) *An Inquiry Into the State of Mind of W. F. Windham, Esq.*, London: W. Oliver.
- Anon. (1862b) The Legal Doctrine of ‘Fact’ in Lunacy, and the Case of George Clark, *The Medical Critic and Psychological Journal*, 2(6): 304–30.
- Anon. (1863) Lunacy Regulations. In: *Companion to the Almanac; or Year-Book of General Information for 1863*. London: Knight and Co. p. 149-150.
- A Member of the Bar (1862) The Windham Case. *The Medical Critic and Psychological Journal*, 2(7): 381–423.
- Bell’s Life in London (1862) The Windham Case, *Bell’s Life in London*, 5 January, 5.
- Bell’s Life in London (1863) Treatment of Criminals and Idiots, *Bell’s Life in London*, 19 December, 3.
- Berry O W (1869) To the Editor of the Times, *The Times*, 10 July, 5.
- The Birmingham Daily Post (1865) Moral Insanity in the Townley Case, *The Birmingham Daily Post*, 27 February, 8.
- The Blackburn Standard (1864) The Plea of Insanity. *The Blackburn Standard*, 22 June.
- Busfield, J., 1986. *Managing Madness: Changing Ideas and Practice*. London: Dover.
- The Caledonian Mercury (1861a) The Windham Romance. *The Caledonian Mercury*, 19 December.
- The Caledonian Mercury (1861b) Is Mr Windham Mad? *The Caledonian Mercury*, 30 December.
- The Caledonian Mercury (1862) Dr Laycock on Law and Medicine in Insanity. *The Caledonian Mercury*, 8 May, 3.
- Crossley, N., 2006. *Contesting Psychiatry: Social Movements in Mental Health*. New York: Routledge.
- The Dundee Courier and Daily Argus (1863) Kleptomania. *The Dundee Courier and Daily Argus*, 16 April.
- The Examiner (1865) Again the Mad Doctors. *The Examiner*, June 30, 1.
- The Examiner and London Review (1869) Are more of us mad than formerly. *The Examiner and London Review*, 10 April, 226.
- Foucault M (2006) *Psychiatric Power: Lectures at Collège de France, 1972-1974*, Laranges J (ed.), Burchell G (trans.). London: Palgrave Macmillan.
- The Glasgow Daily Herald (1865) Moral Insanity. *The Glasgow Daily Herald*, 27 February, 6.
- HL Deb 27 February 1862 vol. 165 col. 779-786. Accessed (11 Oct. 2018) at: <http://hansard.millbanksystems.com/lords/1862/feb/27/bill-presented-first-reading>.
- Hervey N (1986) Advocacy or folly: The Alleged Lunatics’ Friend Society, 1845–63. *Medical History*, 30 (3): 245–275.

- Jones K (1971) The Windham Case: The Enquiry held in London in 1861 into the state of mind of Frederick William, heir to Felbrigg Estate. *British Journal of Psychiatry*, 119, 425–433.
- Laycock T (1862) *The Antagonism of Law and Medicine in Insanity, and Its Consequences: An Introductory Lecture*. Edinburgh: Oliver & Boyd.
- The Leeds Mercury (1862) Criminal Insanity.-Taylor's Case, *The Leeds Mercury*, 27 August, 2.
- The Liverpool Mercury (1866) Medical Men on Madness, *The Liverpool Mercury*, 25 December, 3.
- McCandless P (1978) Liberty and Lunacy: The Victorians and Wrongful Confinement. *Journal of Social History*, 11(3): 366–386.
- The Morning Chronicle (1862) Am I Mad?, *The Morning Chronicle*, 3 January, 4.
- The Morning Post (1861) The Windham Lunacy Commission, *The Morning Post*, 28 December, 2.
- The Morning Post (1862) The Windham Lunacy Commission. *The Morning Post*, 6 January, 7.
- Northumbrian (1862) The Mad Doctors' Signs of Insanity. *Reynolds's Newspaper*, 14 December, 3.
- North Wales Chronicle (1866) The Mad Doctor. *North Wales Chronicle*, 22 September, 2.
- Punch (1862a) A Last Word on the Windham Case. *Punch*, 8 February, 58.
- Punch (1867b) The Mad-Doctor. *Punch*, 8 June.
- Reynolds's Newspaper (1862) Our Abominable Lunacy Law. - Madness of the Mad Doctors, *Reynolds's Newspaper*, 16 March, 4.
- Reynolds's Newspaper (1870) Science and Crime. *Reynolds's Newspaper*, 24 April, 8.
- S. G. O. (1864) Madness and Murder, *The Times*, 9 January, 6.
- Saturday Review (1865) Moral insanity, *Saturday Review*, 25 February, 216–218.
- Scull A (1993) *The Most Solitary of Afflictions: Madness and Society in Britain, 1700-1900*. New Haven, CT: Yale University Press.
- The Sheffield Independent (1830) Lunatic Asylums, *The Sheffield Independent*, 16 January, 1.
- Smith R (1981) The Boundary Between Insanity and Criminal Responsibility in Nineteenth-Century England. In: Andrew Scull (ed.) *Madhouses, Mad-Doctors, and Madmen: The Social History of Psychiatry in the Victorian Era*. London: Athlone Press 363-384.
- Southampton Herald (1862) Madness and Guilt. *Southampton Herald*, 9 August, 8.
- The Spectator (1861) The Windham Case. *The Spectator*, 28 December, 10
- The Standard (1861a) The Windham Lunacy Case, *The Standard*, 17 December, 6.
- The Standard (1862b) The Quarterlies. *The Standard*, 24 April, 3.
- The Times (1862a) The Case of Mr. W. F. Windham, *The Times*, 2 January, 9.
- The Times (1862b) The Case of Mr. W. F. Windham. *The Times*, 1 January, 5.

- The Times (1862c) The Case of Mr. W. F. Windham. *The Times*, 21 January, 5.
- The Times (1862d) The jury have at last found that Mr. Windham is of sound mind, *The Times*, 31 January, 6.
- The Times (1862e) Parliamentary Intelligence - Lunacy Regulation Bill. *The Times*, 12 March, 5.
- The Times (1862f) Parliamentary Intelligence - Lunacy Regulation Bill. *The Times*, 25 March, 7.
- The Times (1862g) 'The Man's Mad!' *The Times*, 7 January, 6.
- Unsworth C (1993) Law and Lunacy in the 'Golden Age'. *Oxford Journal of Legal Studies*, 13(4): 497–507.
- The York Herald (1862) The Alleged Lunacy of Mr. Windham, *The York Herald*, 18 January.