

### Doc 3: The Victorians, sensation and wrongful confinement

**Excerpt from Peter McCandless, 'Liberty and lunacy: the Victorians and wrongful confinement', *Journal of Social History*, 1978, vol. 11, no 3, p. 366-386.**

In 1863 Charles Reade published *Hard Cash*, a melodramatic novel depicting the ease with which sane persons could be committed to English asylums. The book's readers doubtless shared the hero's terror when he found himself confined as a lunatic: 'At the fatal word 'asylum,' Alfred uttered a cry of horror and despair, and his eyes roved round the room in search of escape.'<sup>1</sup> The fear of wrongful confinement conveyed by this passage has haunted the public mind as long as asylums have been prevalent. Today, hardly a year goes by without some frightful revelation about sane persons rotting in mental hospitals.<sup>2</sup> In early 18<sup>th</sup>-century England, when the number of private madhouses was rapidly increasing, Daniel Defoe charged that men often disposed of unwanted wives by committing them to these establishments. He demanded that private madhouses be suppressed or at least brought under effective regulation and inspection.<sup>3</sup> Parliament did nothing at the time, but continuing concern about the possibility of improper confinement led to the appointment in 1763 of a Select Committee to investigate private madhouses, and to the passage, eleven years later of an act to regulate them. The "Madhouse Act" tried to prevent wrongful confinement by licensing and inspecting private madhouses, and by the certification and registration of patients.<sup>4</sup> Neither this act (which left great room for abuse) nor further reforms of the 19<sup>th</sup> century relieved the public of its anxiety and the Victorian era was marked by periodic outbursts of rage against the "mad doctors" and the commitment laws. Two such lunacy panics, in 1858-59 and 1876-77, led to the appointment of important select committees of the House of Commons.<sup>5</sup>

It is ironic that the more Parliament did to allay the fear of wrongful confinement, the more the public became concerned about its possibility. Ironic, but not difficult to understand. The number of persons committed to asylums rapidly increased during the 19<sup>th</sup> century,

---

<sup>1</sup> Charles Reade, *Hard Cash*, 2nd ed. (New York, 1889), 230.

<sup>2</sup> E. Fuller Torrey, *The Death of Psychiatry* (Radnor, Pa., 1974), 88; Bruce Ennis, *Prisoners of Psychiatry* (New York, 1972), passim; Thomas Szasz, ed., *The Age of Madness* (New York, 1973), 198-202.

<sup>3</sup> Daniel Defoe, 'Demand for Public Control of Madhouses (1728),' in R. Hunter and I. Macalpine, eds., *Three Hundred Years of Psychiatry, 1535-1860* (London, 1963), 266-267.

<sup>4</sup> "A Case Humbly Offered," *Gentleman's Magazine*, 33 (1763), 25-26; Report of the Select Committee of the House of Commons on the State of Private Madhouses. *House of Commons Journals*, Feb. 22, 1763, 486-489; 14 Geo. III c. 49. For the story of private madhouses in England, see William L. Parry-Jones, *The Trade in Lunacy* (London, 1972).

<sup>5</sup> Select Committee on the Care and Treatment of Lunatics, appointed Feb., 1859, and the Select Committee on the Operation of the Lunacy Law, appointed Feb., 1877. *Parliamentary Debates*, 152, 3d serf (Feb. 15, 1859), 411: 232, 3d serf. (Feb. 12, 1877), 247.

especially after 1845, when Parliament established a system of public asylums for the insane poor.<sup>6</sup> This fact alone created some apprehension. But the tactics of those who campaigned for lunacy reform also played a part. For many years they relentlessly exposed asylum abuses in an attempt to attract popular support for reform. The distrust of asylums they unwittingly helped to foster remained after reform had been achieved. It is likely the growth of the reading public in the 19<sup>th</sup> century helped feed this distrust. The spread of literacy and the availability of cheap magazines and newspapers meant that tales of wrongful confinement could reach a wider audience than before.<sup>7</sup> Such stories made good melodrama, and it is not surprising that many editors were not loath to print them.

Perhaps because of this melodramatic aspect, some historians have assumed that the fear of improper confinement was largely illusory, a bogey raised by sensationalist writers, self-seeking politicians, and editors anxious to sell newspapers.<sup>8</sup> It is true that few cases of wrongful confinement can be substantiated. The lunacy commissioners, the men responsible for detecting and remedying such cases, did not believe that they occurred.<sup>9</sup>

Yet there is reason to believe that the public's anxiety was not entirely groundless. Doctors, knowing little about the pathology of insanity, often relied on subjectively determined symptoms, and sometimes the reasons they advanced as proof of mental derangement were patently absurd. Frequently, too, they confused insanity with immorality, especially sexual, and with other forms of nonconformist behavior. Because of these diagnostic tendencies, it is likely that some persons, perhaps many, were wrongly confined.

The Victorians' attitudes toward wrongful confinement, like so many of their views, were paradoxical. While they were horrified by the prospect of lunatics at large, and fervently supported involuntary confinement for the insane, they were equally terrified by the thought of sane persons languishing in madhouses, and often viciously attacked those responsible for the confinement of mental patients. One possible explanation for this paradox lies in the widely held assumption that it was a relatively simple matter to determine who was sane and who was not. Few Victorians doubted that there was an essential distinction between the sane and the insane, or that most of the latter properly belonged in an asylum. This was one of the

---

<sup>6</sup> In 1844 the number of patients in English and Welsh asylums was about 1,000. By 1854 it had increased to almost 20,000, and by 1866 to over 30,000. Report of the Metropolitan Commissioners in Lunacy, 1844 (London, 1844), 184; Eighth Report of the Commissioners in Lunacy, Parliamentary Papers (hereafter PP), 1854, XXIX, 11; Twentieth Report., 1866, XXXII, 9-13. Most of the increase was in the public asylums.

<sup>7</sup> Richard D. Altick, *The English Common Reader* (Chicago, 1957), passim

<sup>8</sup> Kathleen Jones, *Mental Health and Social Policy* (London, 1960), 2-3, 11; G.F.A. Best, *Shaftesbury* (London, 1964), 49-50; Georgina Battiscombe, *Shaftesbury* (London, 1974), 258-259, 318-320, 329-331.

<sup>9</sup> Select Committee on the Care and Treatment of Lunatics, 1859, sess. I, III, 104; 1860, XXII, ix.

verities of the age; even a strident critic of the commitment laws like Thomas Mulock<sup>10</sup> could write that ‘the number of really and unmistakably insane persons is very great, and, of course, there must be institutions fitted to receive them.’ People certainly differed over where to draw the line between the sane and the insane, but few disputed that such a line could be drawn without a great deal of difficulty. These attitudes help explain why, when a case of alleged wrongful confinement arose, the public rage was almost always directed against the individuals who operated the asylum system, almost never against the system itself. Most Victorians could not or would not see any contradiction between their concern for the liberty of the sane and their insistence on the incarceration of the insane. And, if one accepts their belief that distinguishing between the two was an easy matter, the contradiction largely disappears. From their perspective, if a sane person were confined, it could only be because the greed, stupidity, or malevolence of those responsible for his commitment had perverted the asylum system from its true purpose.<sup>11</sup>

Of course, in practice, the matter of distinguishing between the sane and the insane did not prove so simple. One can sympathize with the doctors who were responsible for making such distinctions, handicapped as they were by insufficient knowledge and faced with the certainty of public ridicule should they err. But one's sympathies are tempered by the doctors' general refusal to acknowledge the limitations they labored under, for they too largely accepted the popular concept of clear-cut boundaries between the sane and insane worlds. But they differed with the popular view in one important sense. They rejected the idea that diagnosing insanity was basically a common sense matter, something any rational person could do. They contended that it required a degree of expertise which only a medical man (preferably an alienist, or specialist in mental diseases) could provide. The law, which gave medical men the power of certification, essentially accepted this contention. The English public never wholly accepted it, however, and many people remained suspicious of the doctors' abilities and intentions even as reliance on them increased.

These suspicions were aroused, it seems, by two things. One, the doctors themselves frequently differed sharply over the mental state of a particular individual. This could hardly inspire confidence in their judgment. Two, many doctors seemed to be constantly trying to

---

<sup>10</sup> Mulock was a journalist and one-time Baptist minister who spent some time as an inmate of Stafford Asylum because he claimed, he had offended a local magistrate. His daughter, Dinah Maria, was the novelist Mrs. Craik, authoress of *John Halifax, Gentleman*. There is an excellent short summary of Mulock's life in John Prebble, *The Highland Clearances* (London, 1963), chapter 6.

<sup>11</sup> Thomas Mulock, ‘British Lunatic Asylums’ (Stafford, 1858), 13: ‘The World at Large,’ *Chamber's Edinburgh Journal* 15 (1851),353; W.L. Burn, *The Age of Equipoise* (London, 1964), 289.

enlarge the boundaries of insanity, constantly adding to the symptoms that indicated mental derangement. This certainly inspired fear, and periodically, rage. The Victorian alienists tried to establish themselves as the arbiters of mental normalcy, and in so doing, they showed an alarming tendency to equate sanity with behavioral acceptability. For many doctors, the extent to which an individual deviated from the Victorian social and moral codes, from what we call Victorianism, often became the measurement of his mental state. Considering the supposed strength of Victorianism, one might suspect that the public would have supported and applauded the doctors' efforts. Of course, many people probably did. What is surprising is the number of those who fought against this tendency. Whether these people demurred out of a simple concern for individual liberty. Or because they themselves felt stifled by the rigidities of Victorianism is difficult to say. The latter possibility, if correct, would indicate a widespread, if oblique, attack on the accepted code of behavior. The resistance to the doctors' efforts may have been an attempt to scuttle what would undoubtedly have been a very effective means of enforcing adherence to the code. All medical men could sign certificates of insanity. but those who specialized in mental diseases bore the brunt of the public outrage in cases of alleged wrongful commitment. These alienists (as they called themselves) or "mad doctors" (as their detractors called them), were variously described as hypocrites, frauds, sadists, knaves and money grubbers.<sup>12</sup> The violence with which these men were attacked is difficult to understand unless we realize that to be unjustly confined as a lunatic was popularly regarded as one of the greatest indignities an individual could suffer. As the Spectator expressed it in 1839:

A lunatic, in law language, is *civilitus mortuus* ... If committed unduly, he receives in his single person nearly all the civil injuries that can be inflicted; for not only is his liberty thereby taken away and his property removed from his control but he suffers an imputation which operates with all the force of a libel ... A party detained on a charge of insanity may be acquitted and restored to liberty: but we all know that this is a question of such a nature that it cannot even be raised without attaching suspicion ever after to the individual to whom it relates.<sup>13</sup>

---

<sup>12</sup> Mulock, *Asylums*, 12-13, 25-26; Richard Paternoster, *The Madhouse System* (London, 1841), 33

<sup>13</sup> *The Spectator* (1839), 156.