

‘A MOTHER SPECIFIC DISORDER FOR A MOTHER SPECIFIC CRIME’:
ALIENISTS, INFANTICIDE AND PUERPERAL INSANITY IN NINETEENTH-
CENTURY BRITAIN

by

Laura Ann Burgess

A thesis submitted to the faculty of
The University of North Carolina at Charlotte
in partial fulfillment of the requirements
for the degree of Master of Arts in
History

Charlotte

2020

Approved by:

Dr. Heather Perry

Dr. David Johnson

Dr. Peter Thorsheim

ABSTRACT

LAURA ANN BURGESS. 'A Mother Specific Disorder for a Mother Specific Crime': Alienists, Infanticide and Puerperal Insanity in Nineteenth Century Britain (Under the direction of DR. HEATHER PERRY)

From the early nineteenth century, the British medical community worked to redefine and reassert their professional space within society. During this process, medical men developed specific areas of focus and began to develop these into specialized subfields of medical knowledge. This thesis tracks how alienists – the self-ascribed term for early psychiatrists – established themselves as a recognized medical field by the end of the nineteenth century. Utilizing markers of specialization developed by historians George Rosen and George Weisz, this study analyzes how alienists asserted their specialized authority in two professional arenas: the medical field and the legal system. This study focuses on the development of puerperal insanity as a mental disorder and its connection to infanticide to outline how alienists met these markers of specialization by the close of the nineteenth century. This study is broken into three sections, as it tracks alienist's professional development; firstly, in the medical field, secondly, the legal field, and thirdly, the medical/legal intersection at the specialized institution, Broadmoor Criminal Lunatic Asylum. This thesis argues that alienists' early development in the medical field assisted their professional extension into the legal arena, which in turn bolstered their continued, and eventually successful, claim to specialized authority over insanity by the start of the twentieth century. Focusing on puerperal insanity, this thesis analyzes its development by alienists and how it assisted them in defining their specialized role in the medical and legal community.

DEDICATION

I would like to dedicate my thesis work to my mum and dad, Clare and Stephen, who always supported me in my passion for history and encouraged me to pursue my master's degree. Also, to my nan, Geraldine, who nurtured my love of reading and history from a young age. I would not have managed this without you all, thank you.

ACKNOWLEDGEMENTS

Firstly, I would like to thank my thesis advisor, Dr. Heather Perry, whose guidance, support, and, most importantly, patience, made this thesis possible. Without her mentorship throughout this process, I would have never been able to put my ideas on paper, let alone mold them into a coherent thesis. I also owe gratitude to my thesis committee, Dr. David Johnson and Dr. Peter Thorsheim, who have supported me through this process and offered great feedback. Thank you, Dr. Aaron Shapiro, for your mentorship and advice during my time in the Public History program. To Dean Thomas Reynolds, whose constant support, guidance, and belief in me have been invaluable to me since my first day at Graduate School. I also owe thanks to my fellow cohort who have been an inspiration to me in their academic journeys and kept me sane throughout my master's studies. Girls, it most definitely takes a village. I also want to thank Amy, Alex, Ashe, and Beatrice for being my surrogate family while at UNC Charlotte. You are always there for the best and the worst times, and I will never forget everything you have done for me. I would never have kept my sanity and perspective without the friendships I formed outside of Graduate School, so thank you all. To Laura, for reminding me that I could do this even when I did not believe it myself, you are an inspiration. I would also like to thank my amazing family, who has been my rock since I moved to North Carolina. Even though you are far away, I never felt alone, and your belief in me kept me going through the times I doubted myself. And a final thank you to the Thomas L. Reynolds Graduate Student Research Award and the University of North Carolina at Charlotte, for funding my research and supporting all graduate students in their studies.

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GLOSSARY

Term	Definition
Alimentary canal	The whole passage through which food passes from the mouth to the anus.
Assize Court	The periodic courts held around England and Wales until 1972. The Courts Act (1971) abolished the quarter sessions, and the permanent Crown Court replaced them. The Assize court was held four times a year and dealt with the most serious criminal cases.
Barrister	The British term for a lawyer who advocates in a trial, particularly in the higher courts.
Blistering	The nineteenth century medical treatment in which a hot plaster or irritant would be placed on the skin of a patient to raise blisters. The blisters would be drained and left to heal. Sometimes, a blister would be drained multiple times or multiple blisters applied to different areas of the body. Medical men considered this treatment effective in reestablishing circulation or treating inflammation.
Broadmoor Criminal Lunatic Asylum	The first state asylum specialized in the care and detainment of criminal lunatics in England and Wales. Designed by Sir Joshua Jebb, a military engineer, Broadmoor opened in 1863 in Berkshire, England, on 53 acres of land.
Criminal Lunatics Act (1800)	The act established the legal framework to indefinitely detain prisoners found “not guilty on the grounds of insanity” in treason, murder, or felony trials. Parliament passed the bill in response to the 1800 trial of James Hadfield, who, driven by delusions of conspiracies, had attempted to assassinate King George III. Before 1800, someone found insane would be acquitted and released into the care of their family.
Criminal Lunatics Act (1860)	Also known as the “Broadmoor Act,” the act was passed to make better provisions for the custody and care of criminal lunatics. Its full title was the “Act for the Better Provision for the Custody and Care of Criminal Lunatics.” It provided the legislative authority to build a specialized asylum by empowering the Home Secretary to appoint a Council of Supervision to manage the construction of the institution.

	The Council also oversaw the management and treatment of the patients and appointed a Superintendent.
Confinement or “Lying-in”	The tradition practiced by mothers who confine themselves indoors with their infant after childbirth. Usually, the practice would last from 9 to 20 days. During the nineteenth century, middle or upper-class women were assisted by female relatives or paid nurses to support them in nursing their infant while they recovered from childbirth.
Convict Lunatic	The term was given to a prisoner who suffered from insanity while serving their prison sentence. Unlike a criminal lunatic, a convict lunatic was found criminally responsible during their trial and only suffered from insanity after their crime. Convict lunatics had a defined sentence and, after successful treatment, would either be sent back to prison or released if they had completed their sentence.
Counsel	A term for a barrister or lawyer conducting a case in court.
County Asylum Act (1828)	The act required magistrates, a civilian officer who administered law, to organize and send annual records of asylum admissions, discharges, and deaths to the Home Office. The act also allowed the Secretary of State to send an inspector (known as a “visitor”) to inspect and compile reports on asylums.
Hereditary Disposition	The contemporary term for the psychiatric theory that an individual was more susceptible to mental disorder if there was a family history of mental illness.
His/Her Majesty’s Pleasure (HMP)	The legal term for the indefinite detention of an individual found insane at trial or arraignment.
Infanticide	The crime of a parent, usually a mother, killing their child. The Infanticide Act (1922) defined the term legally as the murder of an infant under 12 months old.
Lochial Discharge	The vaginal discharge that presents up to six weeks after childbirth.
Lying-in Hospital	The nineteenth century term for maternity hospitals, named after the tradition of “lying-in” by mothers after the birth of their child.
Madhouse Act (1774)	The act set out the legal framework for regulating asylum – known as “madhouses.” It required that all madhouses be licensed yearly by the Royal College of Physicians and

	established the need for yearly inspections of madhouses by the committee.
Mania	A nineteenth century mental disorder that presents in delusions, periods of great excitement, over-activity, and in severe cases, violence.
Medical Man/Men	A contemporary term for a Doctor of Medicine.
Medical Jurisprudence/Forensic Medicine	A study of scientific or medical knowledge to answer legal problems, such as time and reason for death.
Melancholia	The nineteenth century diagnosis for severe depression. The condition exhibited in delusions, despondent behavior and suicidal tendencies.
M’Naghten Rule (1843)	Named after the defendant who inspired the rule, the M’Naghten Rule was the legal test for criminal insanity until the twentieth century. It required that a prisoner and their defense counsel prove that they could not distinguish the difference between right and wrong during the act and therefore, could not be found criminally responsible. This rule required the presence of delusions that caused the prisoner to commit the act.
Moral Therapy	Inspired by the Enlightenment period, the humane approach to treating “insanity” emerged after public outrage at the treatment of lunatics in madhouses during the eighteenth century. It discouraged the use of restraints and outlined treatment through work, healthy meals, and religious services to “reorder” the mind. Quaker William Tuke (1732-1822) pioneered the development of this treatment approach in Britain.
The Old Bailey	Also known as the Central Criminal Court situated in London, England. During the nineteenth century, its jurisdiction extended to the City of London and Middlesex and dealt with major crimes.
Physiognomy	The study of an individual’s facial features and expressions to identify their temperament and character. Some nineteenth century alienists, such as Alexander Morison, developed the study to identify and diagnose mental illness.
Poor Law (1834)	The law introduced a system of support for the poor by grouping parishes into unions under 600 locally elected “Board of Guardians.” Each Board had a workhouse under its authority. “Outdoor relief” was withdrawn unless the

	individual was elderly or sick. Healthy people who required assistance had to enter the workhouse. Workhouses were constructed and run as a punitive measure to discourage “idleness” in the able-bodied.
Prisoners Counsel Act (1836)	The act gave prisoners the right to have professional counsel present their defenses. The prisoner, or their family or friends, could hire a defense counsel, or one would be appointed to the prisoner on request by the court.
Public Health Act (1848)	The act established the Central Board of Health, which had limited power and no funding. The Central Board created local boards that had the authority to handle the water supplies, sewerage, quality of food, paving streets, and sanitary services. This act was the first milestone in public health history in Britain.
Puerperal	The term referring to the period of around six weeks after childbirth during which the mother’s reproductive system would return to its “original” condition.

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INTRODUCTION

In 1803, Dr. William Buchan published a book entitled, *Advice to Mothers on the Subject of their Own Health; and on the Means of Promoting the Health, Strength, and Beauty, of their Offspring*. It offered guidelines women should follow to secure the health of themselves and their offspring.¹ Aimed at the upper and middle classes — who were not subject to “cheerless poverty” — the goal of his book was as follows:

I shall point out the most effectual method of assisting women so circumstanced [pregnant and married]; and I do not know any manner, in which humanity, charity, and patriotism can be more laudable exerted, or even a part of the public revenue more usefully employed, than in enabling mothers to bring up a healthy and hardy race of men, fit to earn their livelihood by useful employments, and to defend their country in the hour of danger.²

This publication, which Buchan “adapted” so women could understand and follow with ease, highlighted many factors involved in the increased social and medical interest in motherhood and childbirth throughout the nineteenth century.³ The onset of the Industrial Revolution reworked the social and economic map of Britain, and with it came new public health issues. The British government implemented public reforms focused on counteracting growing poverty, such as the Poor Law (1834) and the Public Health Act (1848). These acts shaped how the government dealt with its poorer classes, putting in place frameworks to support those in need, while also encouraging them to pull themselves out of poverty and contribute to the workforce.⁴ No national statistics were

¹ William Buchan, *Advice to Mothers on the Subject of Their Own Health; and on the Means of Promoting the Health, Strength, and Beauty, of their Offspring*, (London: Cadell and Davies, 1803), 1.

² Ibid, 4-5.

³ Ibid.

⁴ “The 1848 Public Health Act,” Living Heritage, Parliament UK, accessed August 14, 2018, <https://www.parliament.uk/about/living-heritage/transformingsociety/towncountry/towns/tyne-and-wear-case-study/about-the-group/public-administration/the-1848-public-health-act/>.

gathered before 1838, and so the birthrate of Britain could not be accurately tracked; however, historical demographers agree that the average completed family size consisted of five children.⁵ Physicians began to involve themselves in the birthing process previously dominated by female midwives, and family members. Eventually, male physicians worked to claim authority over the care of pregnant women, and “obstetrics” emerged as specialism by the mid-nineteenth century.

Coined in 1819 by the obstetrician, Dr. Robert Gooch, puerperal insanity became an area of interest for many physicians of differing specialties during the nineteenth century.⁶ Defined as “the insanity occurring in women during the period of pregnancy or after delivery,” physicians identified puerperal insanity as a byproduct of the child-birthing process.⁷ By the 1860s, puerperal insanity was recognized by the medical community as three distinct sub-diseases: insanity of pregnancy, puerperal insanity, and insanity of lactation.⁸ Considered the rarest of the three, insanity of pregnancy covered the period of gestation up to the birth of the child, with the primary symptom being melancholia.⁹ The insanity of lactation described the period after childbirth and linked directly to the act of nursing. Puerperal insanity covered the 6-week period after the birth and during confinement and was the most prevalent type of the disease.¹⁰ The diagnosis

⁵ R. Sauer, "Infanticide and Abortion in Nineteenth-Century Britain," *Population Studies* 32, No. 1 (1978): 81.

⁶ Hilary Marland, "Under the Shadow of Maternity: Birth, Death and Puerperal Insanity in Victorian Britain," *History of Psychiatry* (2012): 79.

⁷ Charles S. Potts, *Nervous and Mental Diseases: A Manual for Students and Practitioners*, (New York: Lea Brothers & Co, 1900), 430.

⁸ John B. Tuke, "Cases Illustrative of the Insanity of Pregnancy, Puerperal Mania and Insanity of Lactation," *Edinburgh Medical Journal* 12, (July 1866-67): 1083.

⁹ Physicians defined melancholia as depressive behaviors, delusions and physical ailments. The Victorian terminology has since shifted, and these symptoms would now be attributed to clinical depression.

¹⁰ The practice of “confinement” was popular during the Victorian period, especially amongst the middle and upper classes, and referred to the recovery process of mothers after childbirth. Women would spend their time recovering physically and emotionally after a strenuous birth. There are also religious

of puerperal insanity became so common that the label was utilized to represent the disease in all its stages by most physicians and the public.¹¹ The disorder manifested into two different behaviors: mania and melancholia.¹² Categorized as “overexcited, deviant and violent,” mania became a dominant form of puerperal insanity and considered difficult to manage. Melancholia resulted in depressed, lethargic moods in patients, and was considered the most challenging manifestation of the disorder to identify and treat. This difficulty resulted in cases of melancholia becoming chronic, and therefore, beyond the possibility of rehabilitation.¹³

Understanding of the disease linked it directly to the female reproductive system, and in doing so, highlighted the supposed fragility in women's mental health. By establishing the susceptible nature of the female mind to insanity, medical men emphasized a need for supervision and care of women who could be suffering from mental disorders.¹⁴ Mary Poovey argued that medical men crafted a dichotomy between men and women by defining women by their reproductive function, understood by its “otherness” to men. She stated that the “quasi-pathological nature of this difference” established the woman as “a creature who needed constant and expert superintendence by medical men.”¹⁵ Similarly to Poovey, Hilary Marland utilized a focus on gender to

connotations to the practice, as it was also considered time for the mother to thank god for her healthy child and for a swift recovery.

¹¹ In my study, I will utilize this overarching label of “puerperal insanity” when discussing the disorder and its subcategories. This gives me the opportunity to analyze all the variations of the disorder that physicians described and studied, and how the categorizations helped physicians develop their authority over the care and treatment of this disease.

¹² Robert Jones, “Puerperal Insanity,” *The British Medical Journal* 1, No. 2149, (March 1902): 580.

¹³ Ibid.

¹⁴ “Medical men” is the colloquial term for nineteenth century physicians and active members of the medical community. This contemporary terminology enforced the gendered authority of males over female care and I will be using this term throughout my study.

¹⁵ Mary Poovey, *Uneven Developments: The Ideological Work of Gender in Mid-Victorian England*, (London: Virago Press, 1989), 37.

analyze puerperal insanity, which became recognized and categorized in the nineteenth century. She described puerperal insanity as a “product of the nineteenth century,” as social expectations of motherhood came under the microscope by professional men who saw an opportunity to police female morality while asserting their professional authority.¹⁶ Historical investigations into puerperal insanity, and the broader subject of female insanity, examine how gender and social understanding of the female's role in a western society shaped the medical rhetoric on female psychiatry. Building on Marland's contribution to the topic, this study utilizes the disorder of puerperal insanity to examine how alienists asserted their medical expertise over insanity. Chapter one investigates the alienists' journey in the first part of the nineteenth century to specialize within the medical field and the role that puerperal insanity played in that process. A study into the alienists' efforts to establish their specialism reveals that they took several actions that historians today recognize as markers of specialization. Chapter one will adopt the markers developed by George Weisz and George Rosen to track how alienists began to specialize in the first half of the nineteenth century. Drawing from the *Lancet*, the *British Medical Journal (BMJ)*, and the *British Psychiatric Journal (BPJ)*, as well as treatises and medical publications, chapter one analyses the professional interactions between medical men through a case study of puerperal insanity.

Alienists recognized the danger of puerperal insanity to the health of patients and their families. One of the most severe symptoms of the disorder was an aversion to one's husband and family, with some cases resulting in the deaths of infants at the hands of

¹⁶ Hilary Marland, *Dangerous Motherhood; Insanity and Childbirth in Victorian Britain*, (New York: Palgrave Macmillan, 2004), 3.

their mothers. This type of violence distorted Victorian ideals of motherhood, and therefore threatened the “fabric of Victorian society, striking at the heart of the family life.”¹⁷ The role of women in Victorian society was to nurture and protect their family, and as the crime of infanticide became subject to news coverage in the emerging British media, society faced a moral problem. Previously unrecognized by society, infanticide was prevalent during the seventeenth and eighteenth centuries. Early attempts to legally define infanticide as a crime placed the blame on women. This is shown in the passing of the “Act to Prevent Destroying and Murdering of Bastard Children” in 1624, which established the need for mothers accused of the crime to prove, with a witness, that their child was stillborn.¹⁸ This Act placed guilt squarely on the shoulders of the mother, and required them to prove their innocence, shifting that responsibility away from the courts. The Act also symbolized how society understood infanticide as a crime directly associated with women and illegitimacy.

Anne Cossins, in her study, *Female Criminality: Infanticide, Moral Panics, and the Female Body*, explored the female body’s role in the moral regulation of women during the nineteenth century. She focused on the criminalization of infanticide during two periods at which it was high on the social consciousness: 1861-1870 and 1998-2003.¹⁹ She claimed that puerperal insanity, lactation insanity, and exhaustion psychosis were created to explain infanticide at different stages of motherhood, and therefore,

¹⁷ Morag Allan Campbell, “‘Noisy, restless and incoherent’: Puerperal insanity at Dundee Lunatic Asylums,” *History of Psychiatry* 28 (2017): 46.

¹⁸ Dana Rubin, “Beyond ‘Lewd Women’ and ‘Wanton Wenches’: Infanticide and Child-Murder in the Long Eighteenth Century,” in *Writing British Infanticide: Child-murder, Gender, and Print, 1722-1859*, ed. Jennifer Thorn (Newark: University of Delaware Press, 2003), 54.

¹⁹ Annie Cossins, *Female Criminality: Infanticide, Moral Panics and The Female Body*, (Hampshire: Palgrave Macmillan, 2015), 1.

alienists placed themselves “in the business of moral regulation.”²⁰ Cossins' study expressed criticism of nineteenth-century psychiatry, and more specifically, the paternalistic nature of the profession that controlled women. By looking at the power relationships that constructed the ideals of Victorian men and women, Dana Rubin uncovered a difference in the rhetoric used when discussing the crime of child-murder. In her essay, “Beyond ‘Lewd Women’ and ‘Wanton Wenches’: Infanticide and Child-Murder in the Long Eighteenth Century,” Rubin identified a link between infanticide and female criminality. While covering married women charged with infanticide, contemporary periodicals described the events through indirect discourse, usually leaving out the voice of the women. Men tried for infanticide, however, were directly quoted by newspapers, affording them agency in their crime.²¹ She also argued that while society did not entirely tolerate men perpetrating infanticide, their violent actions were not considered a phenomenon that required legislative action, unlike infanticidal women.²² This underlined the difference in gender ideals as women revolted against their role as mothers to kill their children. In contrast, the father, whose role was as head of the household, had the agency to “reorder” his family.

The connection of puerperal insanity to infanticide symbolized the intersection of medical expertise and the legal system as the classification of mental disorders brought into question the parameters of criminal responsibility. In recent decades, historians have utilized the growing access of online databases in their study of the British court system. Peter Eigen has studied the Central Criminal Court — known colloquially as the “Old

²⁰ Ibid, 193.

²¹ Rubin, “‘Beyond ‘Lewd Women’ and ‘Wanton Wenches’”, 56.

²² Ibid, 61.

Bailey"— in his analysis of medical men in the criminal court system. Trials at the Old Bailey were taken down in shorthand, transcribed and printed daily to be sold on the streets.²³ Produced for a general audience, these documents offer historians insight public understandings and discussions on crime through “nonlawyerly” language.²⁴ While there are drawbacks to using these sources to analyze and discuss legal history as they were adapted for a lay audience, information gaps can be filled with legal publications and newspaper reports. In his study, Eigen argued that defense counsel, introduced through the establishment of the adversarial system in British courts, played a significant role in promoting the importance of including medical expertise, especially in identifying madness.²⁵ Mary Clayton focused on infanticide trials at the Old Bailey before the nineteenth century tracked the growing presence of "professional men" in the criminal court system as they worked to establish their distinctive claims of expertise.²⁶ Chapter two will continue the investigation into the alienist's journey to claiming expertise and space within professional arenas. Continuing from Clayton's work, chapter two will track how alienists, concurrently with their efforts in the medical community, recognized and inserted themselves into infanticide trials to establish their expertise further. Analyzing the infanticide trials held at the Old Bailey throughout the nineteenth century, the chapter outlines how alienists furthered their professional authority through interactions with the legal community on the topic of insanity pleas, and boundaries of criminal responsibility in infanticide cases.

²³ Joel Peter Eigen, *Unconscious Crime: Mental Absence and Criminal Responsibility in Victorian London*, (London: The John Hopkins University Press, 2003), 5.

²⁴ Ibid.

²⁵ Joel Peter Eigen, *Witnessing Insanity: Madness and Mad-Doctors in the English Court*, (New Haven: Yale University, 1995), 56.

²⁶ Mary Clayton, “Changes in Old Bailey trials for the murder of newborn babies, 1674-1803,” *Continuity and Change* 2, Vol. 2 (2009), 45.

Those diagnosed with puerperal insanity — depending on their class and the severity of the condition — were sent for treatment in an asylum. These institutions offered alienists the opportunity to develop statistical data and clinical studies of the disorder, further entrenching their research and categorizations in scientific processes. This allowed them to assert their dominance over the treatment of the disorder and take control from medical specialists, particularly obstetrics. Historians have dedicated study to the role of asylums in society and the psychiatric profession. Michel Foucault, in his monograph *Civilization and Madness*, identified a connection between the construction of asylums and the economic motivations involved in confining those who could not contribute to the growing industrial workforce. He argued that asylums functioned as methods of isolation for social deviants who threatened the established social structures.²⁷ These institutions also offered new forms of power that, in turn, generated new types of expertise.²⁸ As a disorder that rejected the social ideals of motherhood, puerperal insanity stood as an issue of medical, social, and in extreme cases, legal systems of which society needed to resolve to strengthen the structures in place.

Similarly to Foucault, Andrew Scull approached psychiatric history with a socio-economic lens. Scull identified the growth of asylums in Britain during the eighteenth and nineteenth centuries as a result of the alienist monopolization over the care of the mentally ill. He asserted that alienists' success at claiming authority over the care of the mentally ill was not a result of their superior knowledge of mental health, but rather their salesmanship. Alienists cemented their jurisdiction over the care of the mentally ill,

²⁷ Roy Porter, *Mind-Forg'd Manacles: A History of Madness in England from Restoration to the Regency*, (London: Penguin Books, 1990), 280.

²⁸ Tony Ward, "Psychiatry and Criminal Responsibility in England, 1843-1939." Ph.D. Diss., De Montfort University Leicester, 1996, 3.

claiming to the community that "interests of science and the obligation of true economy" needed the public asylums to be run like hospitals under a singular medical entity.²⁹ Foucault and Scull criticized the profession of psychiatry and asserted that alienists were motivated by economic gain and gaining powerful positions within society. Roy Porter reacted directly to Foucault in his study, *Mind Forg'd Manacles*, and rejected his conclusions. Porter argued that rather than alienists igniting the growth of asylums in England, the construction of asylums resulted in the expansion of psychiatry.³⁰ He stated that asylums offered alienists the opportunity to undertake clinical studies which legitimized their categorizations of mental illness and academic standing within the scientific community. Porter's investigation also questioned Foucault's connection between industrialization and madness. He argued that on closer inspection, the supportive evidence remained unconvincing on the hypothesis that industrialization disturbed the mind in the same way it disturbed "life and work rhythms" during the late eighteenth century.³¹

Debates emerged in the nineteenth century over how to care and successfully supervise those diagnosed as insane at the time of committing a crime. Identified as "criminal lunatics," this subclass of patients came under the purview of two systems of authority: medical and legal. This population was seen as dangerous and, in some cases, extremely violent, making them a threat to society. The creation of Broadmoor Criminal Asylum — the first of its kind in England — in 1863 became a physical representation of

²⁹ Andrew Scull, *The Most Solitary of Afflictions: Madness and Society in Britain, 1700-1900*, (New Haven: Yale University Press, 1993), 266.

³⁰ Porter, *Mind-Forg'd Manacles*, 228.

³¹ *Ibid*, 162.

how the country planned to deal with this new breed of "lunatic," through a system of moral therapy and detainment.

Chapter three analyzes the interactions between legal, medical, and government spheres on the topic of criminal lunacy that resulted in the eventual construction of Broadmoor. With its establishment, a consolidation of a new subset of lunatics now came under the direct authority of alienists, who argued they were the only specialists equipped with the skills to successfully detain and treat criminal lunatics. Continuing the focus on infanticide and female lunacy, this chapter analyzes how alienists utilized the paradoxical position of lunacy-stricken women to positively influence their attempts to align legal doctrines of insanity with their own medical knowledge. Unlike previous investigations on the subject, this study tracks how alienists utilized space created by other professions — both legal and medical — to cultivate their expertise and assert their authority over the diagnosis and treatment of the insane. By focusing on puerperal insanity and infanticide, this study offers new insights into how psychiatry emerged as a specialized discipline during the nineteenth century. This study also provides new insight into the role Broadmoor played in the development of psychiatry.

**CHAPTER ONE: “SHARP, QUICK AND UNNATURAL”: THE RISE OF
PSYCHIATRY AND PUERPERAL INSANITY IN NINETEENTH-CENTURY
BRITAIN**

The process of medical specialization has garnered the interest of historians studying contemporary medicine over the last sixty years. In 1944, George Rosen published his study on the process of specialization, focusing on ophthalmology, and identified markers required for specialization to occur. He recognized that specialization required a concentration of population — in his study, he identified urbanization specifically — as a social factor that resulted in specific social conditions that demanded care through specialized hospitals, for example, eye and ear hospitals.³² The emergence of urban centers also resulted in increased mortality rates and professional competition between doctors who served the same population pool, resulting in the need for specialization for professional success.³³ Rosen also argued that the shift to a localized approach towards medical knowledge produced a narrower but in-depth understanding of specific areas of human anatomy, resulting in the opportunity for new medical subfields. From new understandings of the body emerged new medical technologies that allowed doctors to study and treat specific organs. These technologies required specialized training, resulting in the need for specific teaching courses.³⁴

George Weisz further developed Rosen’s markers by taking a comprehensive study of specialization in different countries. Unlike Rosen, he did not place the same emphasis on the rise of organic localism and new technologies as central factors for

³² George Rosen, *The Specialization of Medicine with Particular Reference to Ophthalmology*, (New York: Froben Press, 1944), 35.

³³ *Ibid*, 42.

³⁴ *Ibid*.

specialization. Instead, Weisz argued that differences in national cultures resulted in different models of specialization, and therefore a universal model of specialization could not be identified. His study of Paris underlined three distinct preconditions required for specialization to occur. Firstly, a unification of medicine from which subfields can emerge; secondly, a “collective desire” to expand medical knowledge for which focused study is required, and thirdly, “administrative rationality” for which the need for proper classifications and separation of patient populations could succeed.³⁵ His study of specialization in Paris offered an opposing survey on how medical specialties emerged in nineteenth century London.³⁶ Weisz argued that the specialization model that developed in London took “a distinctive form” led by an entrepreneurial cast outside of the medical elites.³⁷ Specialization in London faced opposition to the markers he identified in Paris, and yet by the nineteenth century, the British medical community accepted the inevitability of specialization within its ranks. Although reluctant to accept specialization, the British model ultimately achieved the markers Weisz identified for specialisms to succeed within the medical community.

Utilizing the markers established by Rosen and Weisz, this study identifies how alienists, in the first part of the nineteenth century, began to develop their specialism within the medical community through specific processes. This chapter focuses on the development of puerperal insanity as a mental disorder and investigates its role in alienists’ claims of expertise over insanity. Analyzing the journey of puerperal insanity

³⁵ George Weisz, “The Emergence of Medical Specialization in the Nineteenth Century,” *History of Medicine* 77, No. 3 (Fall 2003): 539.

³⁶ George Weisz, *Divide and Conquer: A Comparative History of Medical Specialization*, (Oxford: Oxford University Press, 2006), 42.

³⁷ *Ibid.*, 28.

from an obstetric phenomenon to a mental disorder offers insight into how nineteenth-century alienists worked to develop their specialism into what we would recognize today as psychiatry.

The Medical Profession in Britain

Before the hospital movement, the medical profession acknowledged three different roles: the surgeon, the physician, and the apothecary.³⁸ Although not created equal in status, these specific strands of the medical profession, as Rosemary Stevens argued, molded the structure of the hospital system in Britain. London did not have the system of universities and education that assisted Paris in its specialization of medicine, but rather the royal societies.³⁹ The separate Royal Societies of Physicians, Surgeons, and Apothecaries represented their respective fields and functioned as the “arbiters of standards.”⁴⁰ Influenced by the concept of the “gentlemanly” physician that prevailed in British culture, the medical system placed merit in clinical study through practical experience rather than the empirical research in universities that stimulated specialization elsewhere.⁴¹ Therefore, medical education in Britain developed around hospitals rather than universities as the medical education required clinical experience, offered at the bedside of patients under the tutelage of a physician or surgeon.⁴²

The unique structure of the medical community at the start of the nineteenth century meant that specialization did not receive full support from medical practitioners. Many focused on establishing “unity, simplification of order, and greater equality” to the

³⁸ Rosemary Stevens, *Medical Practice in Modern England: The Impact of Specialization and State Medicine*, (Connecticut: Yale University Press, 2003), 14.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ Weisz, “The Emergence of Medical Specialization in the Nineteenth Century”: 563.

⁴² Stevens, *Medical Practice in Modern England*, 16.

complex structure of the medical profession, and specialization represented a risk to that mission.⁴³ Despite the resistance by many in the community, specialized hospitals and units continued to emerge in Britain, with the number nearly doubling between 1855 and 1875.⁴⁴ By the 1880s, British physicians could successfully establish themselves as a specialists due to the increased access to clinical opportunities.⁴⁵ It was in this somewhat chaotic hierarchy that psychiatry was able to develop as a medical specialism.

The Rise of Asylums

By the late eighteenth century, laymen and medical practitioners dominated as proprietors of private “madhouses.” However, medical men had no claim to a specialized monopoly over the mad – and therefore, madhouses – as the treatment and etiology of mental derangement was not considered medical.⁴⁶ With assistance from the government, the medical community claimed full control over the management of lunatics by the mid-nineteenth century. Driven by claims of illegal confinement and cruelty in madhouses, a House of Commons Select Committee was appointed in 1763 to investigate the institutions.⁴⁷ A Bill followed the investigation, and in 1774 the “Madhouse Act” passed and established the Royal College of Physicians as the inspecting body for mental institutions.⁴⁸ The Act required private madhouses to be licensed by the Royal College of Physicians, but this did not extend to public asylums.⁴⁹ The 1774 Act was the first of

⁴³ Weisz, “The Emergence of Medical Specialization in the Nineteenth Century”: 562.

⁴⁴ *Ibid*, 572.

⁴⁵ *Ibid*.

⁴⁶ Joel Peter Eigen, *Mad-Doctors in the Dock: Defending the Diagnosis, 1760-1913*, (Baltimore: John Hopkins University Press: 2016), 56.

⁴⁷ Ian Butler, and Mark Drakeford, *Scandal, Social Policy and Social Welfare*, ed. by Campling Jo, (Bristol: Bristol University Press, 2005), 8.

⁴⁸ Eigen, *Mad-Doctors in the Docks*, 56.

⁴⁹ Roy Porter, *Mind-Forg’d Manacles: A History of Madness in England from Restoration to the Regency*, (London: Penguin Books, 1990), 152.

many strategic legislative measures by the government that placed the medical community as exclusive monitors of quality and standards in madhouses.⁵⁰ Two pieces of legislation passed in 1828 – The Madhouse Act and County Asylum Act of 1828 – repealed the 1774 law and extended its scope to include pauper patients and made provisions for counties to establish public asylums.⁵¹ The 1828 acts represented initial efforts by the government to centralize the policing of lunacy care as it founded the Metropolitan Commissioners of Lunacy to make weekly visits to London-based asylums.⁵² These acts, however, did not prove useful in their attempts to centralize and provide adequate legal provisions for lunacy care and so the acts were replaced less than two decades later.

While the 1828 acts provided funding provisions for counties to construct asylums, many did not take the opportunity to do so. It wasn't until the Lunacy Act and the Lunatic Asylums and Pauper Lunatics Act of 1845 that it was made compulsory. The 1845 acts — dependent on one another — required that all counties build an asylum to care for their lunatic classes.⁵³ The Lunacy Act of 1845 also established the Commissioners of Lunacy, a national public body to oversee all public and private asylums and publish public reports on their findings.⁵⁴ They included five laymen, three medical commissioners, and three legal commissioners. The medical and legal

⁵⁰ Eigen, *Mad-Doctors in the Docks*, 56.

⁵¹ F.M.L Thompson, *The Cambridge Social History of Britain, 1750-1950, Vol. 3*, (Cambridge: Cambridge University Press, 1990), 213.

⁵² *Ibid.*

⁵³ Bernard Melling, “Building a Lunatic Asylum: ‘A Question of Beer, Milk and the Irish,’” in *Insanity and the Lunatic Asylum in the Nineteenth Century*, ed. Thomas Knowles and Serena Trowbridge (London: Pickering & Chatto, 2015), 57.

⁵⁴ The Commissioners of Lunacy replaced the Metropolitan Commissioners of Lunacy. The new commissioners had extended power over all of England and Wales asylums, rather than just institutions within London.

commissioners were banned from holding any other position, and the commission had to keep its ratio when electing new members in the case of retirement or death.⁵⁵ The acts represented a desire from the government to project transparency regarding lunacy care. Contemporary ideas of asylums as buildings of degradation and grievous acts against the mentally ill were still prevalent in society, and the government worked to dispel this view by working with the medical and legal community to craft and oversee the provisions of the acts. As asylums grew in number, so did the opportunities for physicians to seek a specialized career in treating the mad. One of the provisions in the 1845 Lunacy Act stated that a physician had to be in residence at an asylum, lawfully linking the care and treatment of the mad with the medical profession. Physicians who wanted to specialize in lunacy now had legitimate legal access to the lunatic populations, which only increased after 1845.

Specialized Societies

As the position of medical men in lunacy care strengthened during the early nineteenth century through government acts, so did the opportunity for a medical subfield to emerge. In 1841, “The Association of Medical Officers of Asylums and Hospitals for the Insane” was established with the aim for the “improvement in the management of such institutions and the treatment of the insane, and the acquirement of a more extensive and more correct knowledge of insanity.”⁵⁶ At its inception, the association included forty-four medical officers, which only increased as it became better known in the medical community. By creating a unified organization, alienists were able to assert their

⁵⁵ Kathleen Jones, *Asylums and After: A Revised History of the Mental Health Services: From the Early 18th Century to the 1990s*, (London: The Athlone Press, 1993), 90.

⁵⁶ Hardwicke Shute, “Association of Medical Officers Attached to Hospitals for the Insane,” *Provincial Medical & Surgical Journal* 3, no. 5 (Oct. 30, 1841): 100-101.

presence as a prominent population among the medical profession, as well as legitimize their claim to expertise in treating insanity.

In a move to solidify themselves as a medical subfield, the association agreed in its first meeting to change how they discussed lunacy. They established that members of the association – except for legal purposes – should use the terms “insane person” and “hospital for the insane” in place of “lunatic” and “lunatic asylum,” respectively.⁵⁷ While they acknowledged that legal acknowledgment of “lunatic” required them to continue to use the term, this shift in terminology represented their efforts to legitimize their specialism within scientific parameters. By the end of the 1840s, the medical community had a permanent position managing and policing asylums, from which a subset emerged to claim specific expertise: alienists. With increased access to lunatic populations, alienists grasped the opportunity to undertake clinical studies, from which they developed new understandings on insanity. Similarly, to their creation of the association, alienists needed to craft a specialized space to publish emerging works on insanity, therefore enforcing their expertise.⁵⁸

Specialized Journals

The first specialized publication on insanity was created in 1848 by alienist and entrepreneur, Forbes B. Winslow. Funded as a private venture, Winslow created the *Journal of Psychological Medicine and Mental Pathology (JPMMP)* to “establish a periodical devoted to the discussion of questions in relation to the Human Mind in its

⁵⁷ Shute, “Association of Medical Officers Attached to Hospitals for the Insane,” 100-101.

⁵⁸ George Weisz, “The Emergence of Medical Specialization in the Nineteenth Century,” *History of Medicine* 77, no. 3 (Fall 2003): 561.

abnormal condition.”⁵⁹ He drew from his experiences in private asylums and wrote articles on “psychological medicine” and its relevant topics. The term “psychological medicine” was adopted from Ernst von Feuchtersleben, an Austrian physician, who coined the term in his work, *The Principles of Medical Psychology* (1844).⁶⁰ The label broadened the study of insanity to include “history, phenomenology, nosography, the natural history of psychosis and therapeutics.”⁶¹ Winslow expanded this framework as he adopted a philosophical approach to insanity. He offered a “new view of alienism” that was “broader than medicine” as his publication explored the conceptual and practical aspects of treating and understanding insanity.⁶²

The establishment of *JPMMP* encouraged the association to publish a journal of their own. Although they recognized the need for a dedicated journal at the inception of their association, they did not achieve its publication until 1852.⁶³ Entitled the *Asylum Journal*, the periodical functioned as a vehicle to share studies on insanity and asylums as well as a platform for members to communicate. While there were two journals dedicated to the pursuit of knowledge on insanity, they published in relative harmony. Winslow discussed the *Asylum Journal* and identified the journal as the “organ” of the association, and as such, could not be viewed as an antagonist of his periodical.⁶⁴ In response, the *Asylum Journal* – edited by Dr. John Charles Bucknill, Superintendent of Devon County

⁵⁹ Forbes Winslow, “Preface,” *The Journal of Psychological Medicine and Mental Pathology* 1, (1848): iii–iv.

⁶⁰ Michael Shepherd, “Psychological Medicine *Redivivus*: Concept and Communication,” *Journal of the Royal Society of Medicine* 79, (Nov. 1986): 640.

⁶¹ *Ibid.*

⁶² Ge Berrios, “Forbes Winslow and His Journal: With an Introduction By,” *History of Psychiatry* 24, no. 4 (December 2013): 496.

⁶³ Thomas Bewley, *Madness to Mental Illness: A History of the Royal College of Psychiatrists*, (London: RC Psych Publications, 2008), 17.

⁶⁴ “The Psychological Journal,” *The Asylums Journal* 1, no. 11 (February 1855): 163.

Lunatic Asylum – stated that while they may face future issues of competition, it would be “directed to the increase of knowledge.”⁶⁵

The *Asylum Journal* differentiated itself from the work of the *JPMMP* by stating that their paths did not run parallel as it discussed matters focused on “the pathology and therapeutics of insanity, to the construction and management of asylums, and to the diseases, accidents, and difficulties likely to arise therein.”⁶⁶ Therefore, the *Asylum Journal* adopted a more practical approach to the study and application of early psychiatry and offered its readers a “guide in their professional duties” as well as a platform for alienists to share their practical knowledge with the growing community of medical officers.⁶⁷ Winslow, on the other hand, called for alienists to extend their focus to philosophical approaches to insanity, and therefore encompass a broader but less defined framework for psychological medicine.

The *Asylum Journal* outlived the *JPMMP*, which last published in 1883. The *Asylum Journal* underwent many name changes into its current moniker as the *British Psychiatric Journal (BPJ)*. Andrew Scull argued that the shifting terminology shown in journals to more medicalized terms represented how closely the emergence of the budding profession was tied to the “creation of the new network of ‘reformed’ asylums.”⁶⁸ Unlike other journals, the *BPJ* offered space for alienists to define and develop their position within the medical community. Designed in the *BPJ*, the specialism required the need for both medical knowledge and bureaucratic skills to run a

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Review of “*The Journal of Psychological Medicine and Mental Pathology* by Forbes Winslow,” *The British Medical Journal* 2, no. 8 (Jul. 24, 1854): 602.

⁶⁸ Scull, *A Cultural History of Insanity*, 220.

modern nineteenth century asylum successfully. The *BPJ* succeeded where the *JPMMP* did not, as it allowed alienists to form a collective identity that strengthened their claims to specialized skills. With the creation of a society and journal dedicated to the study and expansion of knowledge on insanity, alienists crafted an environment by which they could share and succeed in their “collective desire” to expand medical knowledge.⁶⁹ The inchoate discipline utilized the *BPJ* to link their specialism with asylums, as they identified practice in institutions as the only legitimate method of acquiring clinical experience in insanity.

Development of Disorders - Puerperal Insanity

During the early nineteenth century, alienists worked to define a space for their specialism within a medical community that had resisted specialization for decades. They consolidated their efforts through the formation of the association, where they could form a collective identity tied to asylums and form legitimate claims to specialized experience through published clinical studies. Alienists cemented their expertise over insanity by utilizing medical publications to develop the nosology and etiology of mental disorders within the standards of alienism. While many mental disorders were identified and developed by nineteenth century alienists, this study focuses on “puerperal insanity” in its analysis of the medical specialization process.

Origins of “Puerperal Insanity”

Dr. Robert Gooch coined the term “puerperal insanity” in 1819 when he identified a mental phenomenon in women who had given birth.⁷⁰ Gooch identified puerperal insanity in two forms; firstly, “soon after delivery, when the body is sustaining

⁶⁹ Weisz, “The Emergence of Medical Specialization in the Nineteenth Century”: 539.

⁷⁰ Marland, “Under the Shadow of Maternity,” 79.

the effects of [labor],” and secondly, “several months afterward, when the body is sustaining the effects of nursing.”⁷¹ Gooch directly linked puerperal insanity to the child-birthing process and highlighted two distinct symptoms to the aforementioned forms of the disorder. He connected mania with those who experienced puerperal insanity soon after birth, while those who suffered later due to nursing showed signs of melancholia.

Obstetrics, along with alienists, emerged as one of the early medical subfields to claim expertise.⁷² Puerperal insanity as a disorder straddled both emerging fields due to its connection with childbirth and its manifestation as a mental disorder. Obstetrics, who were asserting their dominance over birth at the expense of female midwives, also claimed early authority over the diagnosis and treatment of the disorder.⁷³ Hilary Marland argued that obstetricians utilized puerperal insanity as a reason to support their presence at the delivery of babies – rather than midwives – as they had developed the tools to identify the disorder.⁷⁴ However, alienists recognized the disorder as distinctly “mental” and, therefore should come under their expert purview.

Refined by Alienists

While obstetricians utilized their access to pregnant women in “lying-in hospitals” or private patients for clinical study, alienists’ connection to asylums allowed them to make similar claims of authority.⁷⁵ Marland argues that due to their wealth, upper-class women who suffered from the disorder could be treated in a private asylum or at home

⁷¹ Robert Gooch, *On Some of the Most Important Diseases of Women: and Other Papers*, (London: New Sydenham Society, 1859), 54.

⁷² Eigen, *Mad-Doctors in the Docks*, 56.

⁷³ Hilary Marland, “Destined to a Perfect Recovery’: The Confinement of Puerperal Insanity in the Nineteenth Century” in *Insanity, Institutions and Society, 1800-1914: A Social History of Madness in Comparative Perspective*, ed. Bill Forsythe and Joseph Melling, (London: Routledge, 1999), 140.

⁷⁴ *Ibid.*

⁷⁵ “Lying-in hospital” was the nineteenth century term for maternity hospitals.

under the care of an obstetrician or general practitioner.⁷⁶ Meanwhile, lower-class women found themselves sent to public asylums for their treatment.⁷⁷ Alienists developed the nineteenth century asylum as a specialized hospital for treating madness, and so it proved to be an ideal place to treat puerperal insanity in those who could not afford private care. While alienists accepted that puerperal insanity was a product of childbirth, they further developed the disorder through its behavioral symptoms, therefore presenting themselves as exclusively qualified to treat it.

By the 1830s, alienists began to regularly write about the disorder, outlining their clinical observations of puerperal insanity in their patients.⁷⁸ Dr. George Man Burrows, an early alienist, utilized clinical observations from his asylum, The Retreat, to outline the etiology of puerperal insanity. In 1829, Burrows identified one of the main causations to be “hereditary tendency” as he traced “satisfactory...existence of this predisposition” in half of the puerperal insanity cases at his asylum.⁷⁹ Burrows rooted the cause of puerperal insanity in physical catalysts such as “constitutional disturbance caused by the approach or departure of the milk, the cessation of the lochial discharge, [and] recession of milk during nursing” when “hereditary disposition was not sufficient to account for it.”⁸⁰ While Burrows recognized the importance of physical processes to the disorder, he credited hereditary factors for making women more susceptible to it.

⁷⁶ Marland, “Under the Shadow of Maternity,” 80.

⁷⁷ Ibid.

⁷⁸ For example, see Sir Alexander Morison, *The Physiognomy of Mental Diseases... No.1 Mania [-No.2 Puerperal Mania]*, (London: G. Odell, 1838). Alienists utilized their positions in public and private asylums to write on the disorder.

⁷⁹ “Part II. Critical Analysis: Commentaries on Insanity, &c. By Dr. G. M. Burrows,” *The Edinburgh Medical and Surgical Journal* 31, (1829): 320.

⁸⁰ Ibid.

James Cowles Prichard, a prominent alienist, developed and coined the term “moral insanity” in 1835. He defined this concept as “a morbid pervasion of the natural feelings, affections, inclinations, temper, habits, moral dispositions, and natural impulses, without any remarkable disorder or defect of the intellect, of knowing and reasoning facilities, and particular without an insane illusion or hallucination.”⁸¹ Prichard redefined madness as a deviation from socially accepted behaviors in response to external catalysts, such as poverty, alcoholism, domestic crisis, and in the case of puerperal insanity, the strain of childbirth.⁸² He left behind definitions of insanity as a “loss of reason” as he developed puerperal insanity within this new parameter of insanity. Marland argues that puerperal insanity “was in many respects a ‘perfected’ example of moral insanity” as it severely subverted one of the most “natural feelings” in society.⁸³ While alienists, such as Prichard, continued to recognize and define the physiological aspects of the disorder, they also developed how the disorder presented itself through behavioral markers.⁸⁴

Professional interest in puerperal insanity was not limited to British alienists. Jean-Étienne Dominique Esquirol, a French alienist, argued that “moral causes” accounted for eighty percent of his puerperal insanity patients.⁸⁵ His findings did not support Burrows’ study; however, Esquirol did recognize the influence of hereditary predisposition in insanity as he claimed that “of all the diseases, insanity is the most

⁸¹ James Cowles Prichard, *A Treatise on Insanity and Other Disorders Affecting the Mind*, (London: Sherwood, Gilbert, and Piper, 1835), 6.

⁸² Marland, ‘Destined to a Perfect Recovery,’ 143.

⁸³ Ibid.

⁸⁴ In 1845, Prichard was selected as join the newly created national organization, the Commissioners of Lunacy who were tasked with overseeing every asylum in the country.

⁸⁵ “Part II. Critical Analysis: Commentaries on Insanity, &c. By Dr. G. M. Burrows,” 320.

hereditary.”⁸⁶ Dr. James Macdonald, an American alienist, refuted claims made by Gooch on the subject of puerperal insanity. Gooch argued that puerperal mania presented similarly to manias caused by other factors, and any physician could not tell of its puerperal origins unless directly asking the patient.⁸⁷ However, Macdonald argued that in acute cases of puerperal insanity, “we observe an intensity of mental excitement, and excessive incoherence, a degree of fever, and, above all, a disposition to mingle obscene words with broken sentences; all things which are rarely noted under other circumstances.”⁸⁸

In his 1847 study, Macdonald utilized clinical studies to support his findings on puerperal insanity as he drew from 68 cases he had overseen during his time at Bloomingdale Asylum in New York. His study refined the distinction between the categories of the disorder stated by Esquirol in *Des Maladies Mentales* (1838), the first systematic study of the mental phenomenon in pregnant and parturient women. Esquirol divided his cases into three groups: those suffering during pregnancy, those suffering soon after childbirth, and those developing mental illness several weeks or longer afterward. Macdonald identified these three physiological stages as “forming parts of one whole and being but links of the same chain” that required further study by the alienist community.

Access to Patients

⁸⁶ John Charles Bucknill and Daniel H. Tuke, *A Manual Psychological Medicine: The History, Nosology, Description, Statistics, Diagnosis, Pathology, and Treatment of Insanity*, (Philadelphia: Blanchard and Lea, 1858), 240.

⁸⁷ *Ibid*, 237.

⁸⁸ *Ibid*.

The construction of public asylums increased after the passing of the Lunatics Act of 1845. The Act guaranteed alienists' access to lunatic populations as they grew as a result of transferring insane patients previously held in workhouses or prisons. Clinical study and descriptions – drawn from asylum populations – became extremely important to alienists in their work towards establishing their authority over puerperal insanity. Dr. John Batty Tuke, an influential Scottish alienist, further developed the theory that puerperal insanity could be recognized as three separate diagnoses. He argued that the insanity of pregnancy, puerperal insanity, and the insanity of lactation, each had distinct and recognizable behaviors and symptoms.⁸⁹

Compiled during his time at the Royal Edinburgh Asylum in the 1860s, Tuke linked a “distinct form” of the disorder to each stage of the child birthing process, expanding the diagnosis firmly beyond childbirth into pregnancy. As Esquirol identified the different periods that women experienced mental disorders during pregnancy and childbirth, Tuke further refined them as terms of diagnosis in patients. Although considered the rarest disorder, the establishment of the insanity of pregnancy extended the purview of alienists over female patients, who would have previously fallen under the authority of obstetricians during her pregnancy. The treatment of the mind became a focus during pregnancy and childbirth, as alienists argued that women posed a danger to themselves or their offspring if not treated quickly and effectively. The insanity of pregnancy traditionally presented as melancholia in patients, with many becoming suicidal.⁹⁰ This distinction further entrenched alienists' authority over the care of the mind

⁸⁹ John B. Tuke, “Cases illustrative of the Insanity of Pregnancy, Puerperal Mania and Insanity of Lactation,” *Edinburgh Medical Journal* 12 ,(July 1866-1867): 1083.

⁹⁰ *Ibid*, 1090.

and superseded the importance of obstetrics in childbirth when insanity arose in the patient.

Symptoms

Alienists assigned distinct behavioral and physiological symptoms to each form of puerperal insanity. From its earliest development as a disorder, the medical community identified that puerperal insanity presented in two groups of behaviors, maniacal and melancholic. Described as the most common representation of the disorder, “mania” became so intrinsically linked with the diagnosis, that many early alienists used the term “puerperal mania” interchangeable with “puerperal insanity” when discussing the disorder.⁹¹ Alienists identified a range of behavioral symptoms for puerperal mania such as an unkempt appearance, shouting, violence, foul language, aversion to husband and child, and in some rare cases, erotic behavior.⁹² These behaviors deviated from the feminine ideals of motherhood during the nineteenth century, especially in the most extreme cases of infanticide.⁹³ Aversion, and open hostility to one’s husband, and child became one of the defining characteristics of the disorder. In the pathologization of a woman’s rejection of the cultural ideals of womanhood — that of a loving mother and wife — the disorder perpetuated Victorian gender ideology.⁹⁴ In defining and treating puerperal mania, male alienists placed themselves in the role of policing female morality; therefore, becoming an integral part of preserving society by treating those who

⁹¹ M. D. MacLeod, “An Address on Puerperal Insanity,” *The British Medical Journal* 2, No. 1336 (Aug 7. 1886): 239.

⁹² Tuke, “Cases illustrative of the Insanity of Pregnancy, Puerperal Mania and Insanity of Lactation,” 1096-1097.

⁹³ Marland, “Destined to a Perfect Recovery,” 139.

⁹⁴ Nancy Theriot, “Diagnosing Unnatural Motherhood: Nineteenth-century Physicians and ‘Puerperal Insanity,’” *American Studies* 30, no.2 (Fall 1989): 75.

threatened it. In addition to identifying and treating puerperal insanity in their patients, alienists also had a moral obligation to cure women of their behavioral issues.

Alienists defined mania and melancholia as a dichotomy, with mania presenting as wild, erratic behavior while its counterpart, melancholia, presented slowly with despondent behavior. Considered a dangerous diagnosis, melancholia presented in depressive episodes, delusions, a debilitated state of health, and suicidal thoughts.⁹⁵ In contrast to mania, the treatment for melancholia took much longer and resulted in a higher possibility of becoming chronic if not treated in time.⁹⁶ The presentation of melancholia was identified consistently in the cases of insanity of lactation as symptoms did not present until weeks or months after birth, and many alienists connected its onset with over-nursing.⁹⁷ Melancholia was considered by alienists to be the most likely to become chronic, resulting in the need for permanent care in an asylum if treatment was too late in the timeline of the disorder. In opposition, puerperal mania, although severe in its presentation, was described as “the most curable form of insanity” by alienists.⁹⁸ The behavioral and physiological symptoms of puerperal insanity were essential to the identification of the disorder. Many alienists made notes of the appearance and behavior of the patient, along with the physiological characteristics of the disorder. The onset of puerperal insanity in its maniacal form was identified as rapid, coupled with a flushed complexion, uterine tenderness, abnormal lochial discharges, and a rapid pulse.⁹⁹

⁹⁵ Tuke, “Cases illustrative of the Insanity of Pregnancy, Puerperal Mania and Insanity of Lactation,” 1091.

⁹⁶ Gooch, *On Some of the Most Important Diseases Peculiar to Women*, 62.

⁹⁷ Alexander Morison, *The Physiognomy of Mental Diseases... No.1 Mania [-No.2 Puerperal mania*, (London: G. Odell, 1838), 15.

⁹⁸ Tuke, 1092.

⁹⁹ James Reid “On the Causes, Symptoms, and Treatment of Puerperal Insanity,” *Journal of Psychological Medicine and Mental Pathology* 1, (Jan 1, 1848): 136.

Melancholic cases of puerperal insanity completely reversed the symptoms of mania, resulting in the patient becoming afflicted over a more extended period, and suffering from clammy and cold skin, weak circulation and a slow pulse.¹⁰⁰

Clinical descriptions played a central role in the development of puerperal insanity as it assisted in establishing diagnostic markers used to identify the disorder in patients. Early efforts by alienists can be found in the use of physiognomy to present observational findings in asylums. Physiognomy is defined as the art of using facial features to determine character “and, by extension, (psycho-)pathology.”¹⁰¹ As a discipline, it emphasized the significance of permanent, anatomical features such as size and shape of the nose, chin, brow, etc. as well as temporary facial expressions in recognizing insanity. Alexander Morison, a Scottish alienist, worked to develop physiognomy as a scientific discipline and utilized illustrations to accompany his publications. Early sketches of the insane, shown in Morison’s, *The Physiognomy of Mental Diseases* (1838), assisted in promoting transparency in the care of lunatics as it represented the patient in their asylum surroundings.¹⁰² Appointed as visiting physician to Hanwell Asylum in 1832, and Bethlem in 1835, Morison drew from his clinical opportunities to develop the physiognomy of puerperal insanity in his 1838 publication.¹⁰³

Plate 8 (Figure 1) depicted “E.I.,” a patient who was “seized” with puerperal mania three days after the birth of her first child. Morison drew from his own experience,

¹⁰⁰ Ibid, 138.

¹⁰¹ Roy Porter, *Bodies Politic: Disease, Death, and Doctors in Britain, 1650-1900*, (New York: Cornell University Press, 2001), 43.

¹⁰² Sharrona Pearl, “Through a Mediated Mirror: The Photographic Physiognomy of Dr. Hugh Welch Diamond.” *History of Photography* 33, no. 3 (2009): 292.

¹⁰³ A. Beveridge, “Sir Alexander Morison and The Physiognomy of Mental Diseases: Part 1,” *Journal of the Royal College of Physicians of Edinburgh* 48, no. 3 (Sept. 2018): 273.

as well as contemporary studies on the disorder, to outline his “Observations on Puerperal Mania” before analyzing the portraits of patients. Plate 8 represented the patient eight weeks into the “commencement of the disorder,” during which she was pale and exhibiting an array of symptoms from tearing at her clothing and threatening to commit suicide and destroy her child.¹⁰⁴ These behavioral symptoms could not be represented through illustrations, but her facial expressions, dress, and restraints were displayed clearly in the image. The inclusion of the outline of an arm holding up her head represented her despondent manner, as she was unaware, or unable to acknowledge her surroundings. Morison stated that restraints were necessary for her maniacal condition and included in the illustration.

¹⁰⁴ Morison, *The Physiognomy of Mental Diseases*, 27.



Figure 1: Plate 8 – (First of three lithographs of the patient) Illustration of a patient (E. I. aged 33) suffering from puerperal mania.¹⁰⁵

¹⁰⁵ Ibid, 27. Next to this image, Morison noted “E. I. aged 33. This Female, who had no hereditary disposition to insanity, was seized with Puerperal Mania three days after the birth of her first child ; she is here represented eight weeks after the commencement of her disorder — her face pale, and her eyes and mouth shut ; at times she is very silent, at others she is very noisy, and screams ; she attempted to jump out of a window, is disposed to tear her clothes, and frequently drops on her knees ; her conversation is



Figure 2: Plate 9 – (Second of three lithographs of the patient) Illustration of a patient (E. I. aged 33) seven months after commencement of puerperal mania.¹⁰⁶

incoherent, sometimes she says that she is strange, and that she is mad, that she shall destroy her child, or cut her own throat ; restraint is found necessary

¹⁰⁶ Ibid, 29. Next to this image, Morrison noted “Taken after seven months after her disorder commenced. Gentle laxatives, nourishing diet, fresh air and exercise, affected some improvement; she, however, required occasional restraint, on account of a disposition to tear her clothes during the whole interval.

Plate 9 (Figure 2) depicted the same patient seven months into her treatment at the asylum.¹⁰⁷ She is presented as gaunt but now conscious without the need for support to hold up her head. However, her changed appearance shows that treatment has taken a physical toll on her. She is still presented in restraints, as Morison noted that she only required “occasional restraint” due to her tendency to tear at her clothes. Although her physical appearance looks worse than the previous image, Morison argued that she was responding with “some improvement” to the treatment.

Premature communication with her friends were prejudicial, and was succeeded by greater violence, her conversation became more incoherent, and she spat at those around her.”

¹⁰⁷ Morison does not make clear in which asylum (Hanwell or Bethlem) that this patient was being treated in.



Figure 3: Plate 10 – (Third of three lithographs of the patient) Illustration of a patient (E. I. aged 33) restored to reason.¹⁰⁸

¹⁰⁸ Ibid, 29. Next to this image, Morrison noted, “In this case a blister applied to the nape of the neck, and a discharge kept up by the application of Savine Ointment, appeared to expedite the recovery, which was completed by the use of Sulphate of Quinine, in about nine months from the commencement of the disorder.”

Finally, Plate 10 (Figure 3) represented the patient as “restored to reason,” with a docile expression and neat exterior.¹⁰⁹ Her treatment took a total of nine months to cure her mania completely. While the illustrations focused on her facial expressions, the presentation of her clothing is also important to note. The tearing of clothes and an unkempt appearance were recognized by alienists to be a behavioral symptom of puerperal insanity in its manic form. The use of scientific illustrations proved to be a useful tool to alienists to document and present the recovery process of their patients. As puerperal mania subverted the moral ideals of Victorian women, Morison showed how he rectified this challenge to social norms by representing the “cured” state of the patient as neatly dressed and groomed. Morison wrote his observations for the medical community, as he wanted to prove the usefulness of physiognomy as a method to recognize the characteristic features of different variations of mental disease.¹¹⁰ He also argued that the practice could assist alienists in identifying the warning signs of certain disorders, which could lead to prompt treatment.¹¹¹ However, Morison’s illustrations had their limitations as his descriptions were devoted to the patient’s behavior rather than offering further analysis into the physiognomy of puerperal mania. While the use of illustrations assisted some alienists in their publications, many did not have “the means or impulse” to provide images with their studies, preferring to use extensive written descriptions in their place.¹¹²

While Morison spearheaded professional efforts to establish physiognomy as a discipline in the early nineteenth century, many alienists focused instead on developing more precise and scientific diagnostic markers for insanity. Morison’s lithographs offer

¹⁰⁹ Morison, *The Physiognomy of Mental Disease*, 31.

¹¹⁰ *Ibid.*, 1.

¹¹¹ *Ibid.*, 2.

¹¹² Marland, *Dangerous Motherhood*, 50.

insight into how alienists aimed to legitimize their claims to professional authority over madness and the importance of puerperal insanity to that effort. Morison argued the usefulness of identifying the physiognomy of mental diseases, especially in cases such as puerperal insanity due to its “variable” presentations.¹¹³ Initial efforts by alienists to link the diagnosis of puerperal insanity to physiological and behavioral markers placed alienism firmly into the scope of medical practice. In defining and developing puerperal insanity as a comprehensive disorder, alienists also began creating “administrative rationality” within the asylum system that outlined how patients should be diagnosed, categorized and treated.

Treatments

Considered one of the most curable mental afflictions of the century, puerperal insanity proved to be a valuable vehicle for alienists to establish their success rates in treating insanity. From the early nineteenth century, asylums adopted the pillars of “moral therapy” in their treatments. While the therapy was pioneered in Britain by Quaker philanthropists with no medical training, alienists continued to establish “moral therapy” in their asylums, as they utilized its success in dealing with the psychological symptoms of mental disorders. “Moral therapy” included a strict regimen of work therapy, healthy diet, exercise, and religion to re-order the disordered mind of those

¹¹³ Morison, *Physiognomy of Mental Diseases*, 15.

suffering from insanity.¹¹⁴ Some alienists, however, feared the success of moral therapy in curing the insane threatened the medical control established through legal policies.¹¹⁵

Many believed that some might interpret the success of moral therapy as proof that insanity and physical ailments had no connection, therefore making the role of alienists redundant in their care. As Porter argued, asylums were important to alienists' professional development, and losing authority over their management would remove any clinical claim alienists had to expertise in insanity.¹¹⁶ Alienists could not reject the effectiveness of moral therapy in the construction and management of lunatic patients, and so they aligned their professional support with its principles and integrated them into their clinical studies. In the treatment of puerperal insanity, alienists outlined the importance of isolation from family and friends for patients in their road to recovery, and asylums functioned as a perfect space to manage and treat them.¹¹⁷ In addition to offering a therapeutic environment for patients to recover a balance of mind, alienists utilized the use of medical treatments to counteract "the various deviations from the healthy state."¹¹⁸ Alienists recognized that due to the physical connection of the disorder to the female reproductive system, they had to effectively treat the physical and psychological factors of the disorder to restore reason in the patient.

¹¹⁴ Work therapy included activities such as sewing and knitting for the female patients, and gardening, and woodwork for the male. The highly gendered therapy focused on giving patients back a sense of personal responsibility, which would assist them in becoming functioning members of society again. Many historians, such as Michel Foucault, and Andrew Scull argued that "moral therapy" highlighted the custodial role Victorian psychiatrists, whose authority over the mentally ill was an act of securing their own position in society, rather than caring and curing the mentally ill.

¹¹⁵ William F. Bynum Jr., "Rationales for Therapy in British Psychiatry, 1780-1835," in *Madhouses, Mad-Doctors, and Madmen: The Social History of Psychiatry in the Victorian Era*, ed. Andrew Scull (Pennsylvania: University of Pennsylvania Press, 1981), 50.

¹¹⁶ Porter, *Mind-Forg'd Manacles*, 228.

¹¹⁷ James Cowles Prichard, *Treatise on Insanity and Other Disorders Affecting the Mind*, (Philadelphia: Haswell, Barrington, and Haswell, 1837), 229.

¹¹⁸ Morison, *The Physiognomy of Mental Diseases*, 16.

Bloodletting as a “general remedy” was condemned by alienists, such as Esquirol, as many believed it detrimental to any progress in treatment.¹¹⁹ Gooch, however, developed rules in which bloodletting could be used effectively to relieve the disorder when accompanied by congestion or inflammation of the brain.¹²⁰ If patients presented with flushing, and “strong pulsation of the temporal and carotid arteries,” their heads were shaved and given cold compresses to maintain a normal temperature.¹²¹ Alienists utilized purgative treatments to counteract the maniacal or depressed behavior of patients. They applied blisters, usually at the nape of the neck, to “expedite” recovery, and often these blisters were not allowed to heal until the patient improved.¹²² Purgative medicines (such as calomel, rhubarb and castor oil) were given in cases when the patient experienced a disrupted alimentary canal, and alienists followed this treatment with a nourishing diet.¹²³ This was repeated until regularity was restored in the patient. Sedatives, such as opiates, were administered to enable patients to rest and remain calm and tranquil, which in turn resulted in clearing up the disorder of the mind.¹²⁴

By 1850, alienists had established a universally acknowledged approach to the treatment of puerperal insanity that required the restorative, and isolating environment of asylums with medical intervention to restore reason to patients. While many of their “medical” treatments drew from eighteenth century knowledge, alienists were beginning

¹¹⁹ Prichard, *Treatise on Insanity*, 228.

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² Morison, *Treatise on Insanity*, 31. In his case study, Morison used chemical irritants, such as savine ointment, to continue the discharge from blister sights and considered to be effective in quickening the recovery of patients.

¹²³ Prichard, *Treatise on Insanity*, 228.

¹²⁴ *Ibid.*, 229.

to utilize asylum populations to develop puerperal insanity and its treatment methods further.

Conclusion

By the 1850s, alienists had already begun to assert their authority over madness by developing and claiming expertise in the treatment of mental disorders. In the creation of a specialized association and journal dedicated to the expansion of knowledge of insanity, alienists consolidated their efforts through forming a collective identity driven by their desire to expand the specialism as a recognized medical subfield. Alienists did not always agree on the direction the profession should take in developing mental disorders. Winslow's approach to insanity from a philosophical mindset did not appeal to medical officers who wanted to validate their professional position through more focused and practical studies into madness. Not alone in their attempts to monopolize lunacy, the government recognized alienists as an efficient solution to improve the management of asylums as social worries existed over false imprisonment.¹²⁵ Newspapers covered stories on sane individuals being imprisoned in asylums, many sent there by their own families as a method to gain access to their land or money.¹²⁶ The reforms and efforts undertaken in the early nineteenth century did not, however, allow alienists to attain full recognition for their specialism. Aware of this limitation, alienists looked to other professional arenas to establish themselves as legitimate medical authorities on insanity. In their development of puerperal insanity, alienists recognized the danger many of its symptoms could cause

¹²⁵ Eigen, *Mad-Doctors in the Dock*, 56.

¹²⁶ For example, see the trial of Semple vs. Hall (1863). This case is discussed later in the paper and exposes issues with the process of certifying lunatics. Also, during the nineteenth century many autobiographies were published detailing the author's experiences in asylums while being completely sane. For example, see Henry Newcome, *The Private Asylum: How I Got In and Out, An Autobiography* (1889).

to family unity, the most severe being extreme violence and murder of children.

Infanticide proved a useful avenue for alienists to continue to develop puerperal insanity within the public stage of criminal trials.

CHAPTER TWO: “MAD OR BAD MOTHERS?”: ALIENISTS AND MEDICAL WITNESSES IN NINETEENTH-CENTURY INFANTICIDE TRIALS

“Medical jurisprudence owes its power to knowledge derived from every branch of medicine, but the law determines how far this power shall be utilized in the administration of justice.”

– Stanford Emerson Chaille (1876)¹²⁷

Defined today as the science that deals with the “relation and application of medical facts to legal problems,” medical jurisprudence became a focus for many medical professionals in the nineteenth century.¹²⁸ The definition of medical jurisprudence has stayed consistent since its inception in the seventeenth century, as European medical men strove to develop medical answers for legal questions.¹²⁹ As described by Chaille in 1876, the topic depended on the medical profession for its material and expertise, but the legal community defined its limits. Medical jurisprudence signified a partnership between two professional bodies who were distinguishing themselves by their expertise within one overarching system, resulting in a shifting understanding of criminal behavior. In “Judges v. Jurors: Courtroom Tensions in Murder Trials and the Law of Criminal Responsibility in Nineteenth-Century England,” Martin J. Wiener analyzed the shifting relationship between jurists and judges in the nineteenth century assize courts. In the British court system before 1971 — after which radical reforms were implemented — local assize courts were located at principal towns in each

¹²⁷ Stanford Emerson Chaille, “Origin and Progress of Medical Jurisprudence, 1776-1876,” *Journal of Criminal Law and Criminology* (1931-1951) 40, No. 4 (Nov.-Dec. 1949): 398. This article is a reprint of the only known copy of Dr. Stanford Emerson Chaille's work as originally published in the *Transactions of the International Medical Congress* held in Philadelphia in 1876.

¹²⁸ Forensic Medicine Medical Definition.” Merriam Webster.

<https://www.merriamwebster.com/medical/forensicmedicine> (Accessed February 1, 2020).

¹²⁹ Although the science behind medical jurisprudence can be traced back to the Egyptians, the earliest writer on medical jurisprudence is considered to be Italian physician, Fortunatus Fidelis, who wrote on the subject in 1602. Unlike Italy, Germany, and France, Britain fell behind in its development of medical jurisprudence as an accepted area of study.

county and conducted trials for serious crimes, including infanticide.¹³⁰ Wiener argued that the contentious relationship between judges and juries, intensified by the inclusion of defense counsel in criminal trials, fueled a shift in the understanding of criminal responsibility in the British courts.¹³¹ His study demonstrated that social pressures from the public — voiced through newspaper reports and social movements such as the temperance movement— influenced judges’ and juries’ interpretations of criminal responsibility, and therefore, their understanding and acceptance of mental unsoundness.¹³²

Mary Clayton charted the developments in infanticide trials in the Old Bailey Proceedings (OBP) in London from 1674 to 1803, a period when there were no legal reforms to infanticide laws. Despite this, Clayton identified distinct shifts in legal defense strategies and understanding of criminal responsibility in infanticide trials. Aimed at single women, the 1624 “Act to Prevent the Destroying and Murthering of Bastard Children” required the prisoner to supply the court with evidence of her innocence, usually in the form of a witness who could confirm that the infant was stillborn. This Act outlined the recognition by the legal system of social factors — such as shame associated with illegitimacy —that led desperate women to destroy their infants. Despite the severity of their crimes, public attitudes still expressed sympathy for the “unfortunate” women. By the late eighteenth century, this was highlighted in the effectiveness of “informal defenses” — notably the “linen defense” and claiming an

¹³⁰ The Assizes,” UK Parliament, <https://www.parliament.uk/about/living-heritage/transformingsociety/laworder/court/overview/assizes/> (Accessed January 2, 2020).

¹³¹ Martin J. Wiener, “Judges v. Jurors: Courtroom Tensions in Murder Trials and the Law of Criminal Responsibility in Nineteenth-century England,” *Law and History Review* 17, no. 3 (Autumn, 1999): 468.

¹³² *Ibid.*, 505.

“unsound mind” — in obtaining acquittals in infanticide trials.¹³³ A linen defense required evidence that the mother had prepared for the birth of her child, such as collecting linens or clothes, proving that she had no intention of concealing or willfully murdering her infant. Clayton argued that the increased presence of “professional men” in the roles of lawyers and medical witnesses in infanticide trials offered women a high chance of acquittal as lawyers (with the help of medical witnesses) developed new narratives to argue a woman’s innocence or lack of responsibility due to her mental state.¹³⁴

While alienists worked to establish themselves as having a legitimate specialism within the medical profession, legal changes in the court's recognition of insanity offered alienists another space in which they could further develop their expertise. Employing Wiener’s study as a framework, this chapter analyzes the relationship between medical witnesses and lawyers, through their interactions in infanticide trials and medico-legal publications, to outline how alienists moved from their medical sphere into the legal arena of the criminal court system. The public stage of criminal trials offered alienists a space in which to establish and practically apply their growing expertise on insanity to the legal parameters of criminal responsibility. This chapter draws from the Old Bailey Proceedings (OBP) in its analysis of infanticide trials from 1800-1900. Continuing from Clayton’s study, this chapter tracks how alienists asserted their authority over insanity in infanticide trials during the nineteenth century. The unique position of infanticidal women as sympathetic victims of their social, economic, or mental situation offers an

¹³³ Ibid, 695.

¹³⁴ Mary Clayton, “Changes in Old Bailey trials for the Murder of Newborn Babies, 1674-1803,” *Continuity and Change* 2, no. 2 (2009): 338.

opportunity to examine how nineteenth century alienists extended their expertise from a medical/psychological basis to answer the legal/social issue of infanticide.

The growing public interest in infanticide trials dovetailed with the increasing concern for insanity pleas in criminal trials. Open hearings during the early nineteenth century exposed the need for a new legal classification of insanity. Historians recognize the M’Naghten trial in 1843 as the catalyst for the development of a legal standard for acquittal on the grounds of insanity in criminal trials — known as the “M’Naghten Rules.”¹³⁵ The rules required proof that the individual was laboring under “a defect of reason, from disease of the mind, as to not know the nature and quality of the act he was doing; or if he did know it, that he did not know he was doing what was wrong.”¹³⁶ The M’Naghten rules were not the first attempt to codify a medico-legal interpretation of insanity, as the 1800 trial of James Hadfield resulted in the enactment of the Criminal Lunatics Act that same year which established the legal process to detain insane prisoners indefinitely.¹³⁷ On the backdrop of growing concerns around criminal lunatics, medical writers dedicated their pages to insanity as they developed medical jurisprudence. The

¹³⁵ Eigen, *Unconscious Crime*, 6.

¹³⁶ J. E. Hall Williams, “Defect of Reason from Disease of the Mind,” *The Modern Law Review* 20, no. 1 (Jan, 1957): 55.

¹³⁷ There are many similarities in the cases of Daniel M’Naghten and James Hadfield as both attempted to assassinate public figures. M’Naghten attempted to murder Robert Peel, Prime Minister of Britain, in 1843, and Hadfield attempted to assassinate King George III in 1800. Both men explained their crimes were in response to a conspiracy led by their victims, and so the courts found them not responsible due to these delusions. M’Naghten was tried for “wilful murder” as he killed Peel’s private secretary, Edward Drummond, in his attempts. Hadfield, however, was tried for high treason, which would come with harsh punishment. Despite the severity of his crime, society and the legal system acknowledged Hadfield’s insanity and therefore, could not be found responsible for his crime. Before 1800, prisoners found insane were essentially acquitted of their crimes and released into the care of their families. Hadfield’s highly publicized trial and victim meant that this could not happen. In response to this trial, parliament passed the Criminal Lunatics Act (1800), which introduced an indefinite sentence of incarceration for lunatic prisoners considered too dangerous to be returned into society.

importance of insanity and infanticide to the topic can be seen in its inclusion in the first English treatise on medical jurisprudence.¹³⁸

By firstly outlining how medical men established medical jurisprudence as a professionalized medico-legal specialism during the nineteenth century, this chapter investigates how alienists utilized this emerging specialism to cultivate their expertise through the establishment of diagnostic markers for puerperal insanity in cases of infanticide. As they developed the medico-legal doctrine of insanity in instructive literature, alienists also moved to participate in infanticide trials. Participating in trials as medical witnesses further entrenched their expertise while practically applying their diagnostic systems for identifying puerperal insanity.

The Development of Medical Jurisprudence

Medical jurisprudence attracted little attention from both British medical and legal professionals before the nineteenth century, with medico-legal literature and lectures being virtually non-existent.¹³⁹ French, German, and Italian medical men had begun cultivating the specialism from as early as the seventeenth century as some “noticed it as a system, while others have examined detached parts.”¹⁴⁰ Samuel Farr wrote the first contribution by a British physician to medical jurisprudence in 1788.¹⁴¹ Entitled *Elements of Medical Jurisprudence*, Farr’s publication outlined nine distinct legal issues that required medical intervention, which included pregnancy, divorce, insanity, rape, and the

¹³⁸ Farr, in his 1788 publication, outlined the medico-legal definitions of insanity, along with eight other topics that included infanticide.

¹³⁹ Joel Peter Eigen, *Witnessing Insanity: Madness and Mad-Doctors in the English Court*, (New Haven: Yale University, 1995), 113.

¹⁴⁰ Theodric Romeyn Beck, *Elements of Medical Jurisprudence*, (Albany: Websters and Skinners, 1823), xxv.

¹⁴¹ *Ibid*, xxviii.

murder of infants.¹⁴² His work functioned as a “succinct and compendious” guide to the medical markers required by coroners and courts of law in cases of rape, pregnancy, infanticide, divorce, etc.¹⁴³ Farr’s contemporaries criticized his work as a “brief and imperfect” volume on the subject as it consisted of around 140 pages and outlined only nine medico-legal issues.¹⁴⁴ Medical men complained that the systems and markers Farr described were outdated as they drew from European medico-legal literature and did not offer any original insight into the subject for a British legal model.¹⁴⁵ Despite this backlash, Farr’s publication provided a starting point for medical writers to expand and develop medical jurisprudence for British courts.

In 1816, Dr. George Edward Male published *An Epitome of Juridical or Forensic Medicine for the use of Medical Men, Coroners, and Barristers*, which is considered to be the “original” British contribution to medical jurisprudence. In his preface, Male stated that the book could offer guidance to lawyers and judges, so they could learn how to “examine medical witnesses more minutely, and detect ignorance or omission on their part.”¹⁴⁶ By the late eighteenth century, medical men offered witness statements in criminal courts, albeit reluctantly, as many had to be compelled by the courts to attend.¹⁴⁷ With little guidance or professional standards for medical evidence, early medical men

¹⁴² The full title of the book is, *Elements of medical jurisprudence or, A succinct and compendious description of such tokens in the human body as are requisite to determine the judgment of a coroner, and of courts of law, in cases of divorce, rape, murder, &c. To which are added, directions for preserving the public health.* The work was taken from a publication entitled “Joh. Fred. Faselii Elementa Medicinae Forensis,” (1767) written by “learned Professor” at Geneva. Although not from a British physician, he drew from what he believed to be universal truths of medical evidence.

¹⁴³ Cyril H. Wecht, “The History of Legal Medicine,” *J Am Acad Psychiatry Law* 33, no. 2 (2005): 247.

¹⁴⁴ Beck, *Elements of Medical Jurisprudence*, xxviii.

¹⁴⁵ *Ibid.*

¹⁴⁶ George Edward Male, *An Epitome of Juridical or Forensic Medicine; for the Use of Medical Men, Coroners, and Barristers*, (London: R. and G. Underwood: 1816), 1.

¹⁴⁷ *Ibid.*

held valid fears that their professionalism would be questioned in the public arena of criminal trials. Early medical writers recognized the need to develop medical jurisprudence as a discipline within the medical community. John Gordon Smith's, 1821 book, *The Principles of Forensic Medicine: Systematically Arranged, and Applied to British Practice*, exceeded 600 pages and aimed to clearly explain "the physical grounds on which we are to conclude that the human person has sustained injury — whether fatal to life, or not."¹⁴⁸ Smith further developed the medico-legal issues medical jurisprudence aimed to solve by assigning distinct sections and chapters in his publication. For example, further dividing "infanticide" into criminal abortion and "infanticide, strictly so-called."¹⁴⁹ Drawing from his lectures on the topic, Smith expertly outlined the duties and responsibilities of medical examiners in cases of suspected crime.¹⁵⁰ The early examples of medical jurisprudence reflected a collective movement by medical men to professionalize the medico-legal discipline as they outlined the requirements, according to medical standards, in cases of criminal trials. Following Farr's work as a primary example, Male and Smith codified a British model of medical jurisprudence.

As medical writers dedicated their time to the development of medical jurisprudence through specialized literature, the medical community also worked towards establishing medical jurisprudence in the curriculum for medical students.¹⁵¹ The first lecture dedicated to the subject was given in 1789 at the University of Edinburgh by

¹⁴⁸ John Gordon Smith, *The Principles of Forensic Medicine, systematically arranged, and applied to British practice*, (London: Rand G. Underwood: 1821), v.

¹⁴⁹ Ibid, xiv.

¹⁵⁰ Andrew Mangham, *Dickens Forensic Realism: Truth, Bodies, Evidence*, (Columbus: Ohio State University Press, 2016), 51.

¹⁵¹ Throughout this chapter, I will use "forensic medicine" and "medical jurisprudence" interchangeably as both these terms were utilized by contemporary medical writers in their formation of the discipline in Britain.

Andrew Duncan Sr., who was dedicated to pioneering the “new science” of medical jurisprudence, or forensic medicine.¹⁵² Also active in the study of insanity, Duncan underlined the deficiencies of the medical education as it did not offer lectures on forensic medicine. In 1807, the British government created the first Professorship of Medical Jurisprudence in an English-speaking country.¹⁵³ His son, Andrew Duncan, Jr., was appointed to the position. By the late 1860s, the General Medical Council passed resolutions that required the medical licensing bodies to include forensic medicine in their professional examinations.¹⁵⁴ This inclusion symbolized the medical community's recognition that forensic medicine was “essential” to the education and professionalism of future medical practitioners.¹⁵⁵ Working concurrently with the rise of medical jurisprudence literature, medical universities and societies acknowledged the emerging field as an essential area for the professional education and licensing of future medical men.

Medical jurisprudence developed into an expansive field that included knowledge from every part of the professionalizing medical community. As the discipline sought to answer legal questions, the popular topic of infanticide became a permanent fixture in publications as legal reforms created space only medical expertise could fill. From as early as the seventeenth century, the British legal system worked to develop an adequate legal response to infanticide. Its definition as “infanticide” classified it as one of the most horrific crimes; however, social reactions to the crime exposed sympathetic attitudes

¹⁵² Thomas Rogers Forbes, *Surgeons at the Bailey: English Forensic Medicine to 1878*, (New Hampshire: Yale University Press: 1985), 7.

¹⁵³ Mangham, *Dickens Forensic Realism*, 8.

¹⁵⁴ “Regulations of The General Medical Council and Medical Licensing Bodies, Session 1868-69,” *The British Medical Journal* 2, (Sept. 12, 1868): 269.

¹⁵⁵ *Ibid.*

unique to women whose social or economic situations galvanized them to kill. After several unsuccessful attempts in the late eighteenth century to reform the “Concealment of Birth of Bastards' Act” (1624), Lord Ellenborough successfully passed the “Offences Against the Person Act” in 1803 which restructured the archaic 1624 Act. The 1803 Act established a separate charge of “concealment of birth” in cases where a live birth could not be proven.¹⁵⁶ Concealment of birth represented the legal system's attempt to comply with society's sympathy for single mothers. By offering a loophole to punish the lesser crime of concealing a birth with temporary imprisonment, the legal system gave in to social pressures by setting the maximum sentence for this crime at just two years. The 1803 Act did not, however, remove capital punishment in proven cases of infanticide.

The new legal expectations of evidence in infanticide and concealment of birth trials relied on the inclusion of medical witnesses to provide their expertise. The 1803 Act represented a conscious legal action that created a space for medical men to implement themselves as experts. Medical men — and especially obstetricians — worked to develop the medical markers required to identify whether an infant was stillborn or a victim of violence. The legal profession relied on the medical men to outline clear medical markers to assist them in either defending or prosecuting women accused of infanticide. The earliest publications on medical jurisprudence in Britain dedicated part of its limited space to the medico-legal issue of infanticide. In 1816, Male opened his section on infanticide to acknowledge the “universal truth” that nature “implanted in the breast of all animals a strong affection for their offspring” so that it seemed “incredible

¹⁵⁶ Josephine McDonah, *Child Murder and British Culture, 1720-1900*, (Cambridge, UK: Cambridge University Press, 2003), 95.

that the crime of child-murder should ever be committed.”¹⁵⁷ Medical men defined the crime of infanticide as subverting this “natural rule” of female behavior and therefore, could only be the result of extreme circumstances, such as insanity, poverty, or shame. Before the development of puerperal insanity as a mental disorder, lay understanding of infanticide included the recognition that the child birthing process could create a mental imbalance in the mother. As social and economic motivations offered a logical reason for why single women subverted the social expectations of motherhood by murdering or concealing the birth of their illegitimate child, mental imbalance represented a medical answer to the legal question of why married mothers committed infanticide. In their development of infanticide as a medico-legal subset of medical jurisprudence, medical writers expressed their sympathetic attitudes to the perpetrators of the crime. This sympathy is expressed by Male when he argued that “concealing the birth of a bastard” was punishment enough for women.¹⁵⁸

Early books on medical jurisprudence books reflected a clear motivation by the medical community to rectify issues of “ignorant” medical witnesses who either lacked the knowledge or preparation to meet the court’s needs in criminal cases. As Peter Eigen has argued, demands for “evidentiary vigor and the threat of public humiliation through blatant exposure of professional ignorance” spurred the medical community to develop medical jurisprudence in medical knowledge.¹⁵⁹ Medical men expanded the topic of medical jurisprudence during a time when reforms changed the criminal court system in Britain.

¹⁵⁷ Male, *An Epitome of Juridical or Forensic Medicine*, 90.

¹⁵⁸ *Ibid.*

¹⁵⁹ Eigen, *Witnessing Insanity*, 114.

The need for more clarity in the role of the medical witness, and what constituted medical evidence in criminal courts, was intensified by the introduction of the “adversarial trial system” by the Prisoners’ Counsel Act of 1836. The Act altered the system in felony cases to allow prisoners “the right to delegate the presentation of their defense to professional counsel,” essentially establishing the two-sided structure of trials that is recognizable today.¹⁶⁰ The 1836 Act changed the dynamic of the criminal court trials and left medical witnesses vulnerable to extreme scrutiny by both defense and prosecution lawyers in the public arena. Medical men, fueled by internalized fear of public scrutiny, rose to the pressing need to codify requirements for medical proof. For the first time, defense lawyers could address the jury on behalf of prisoners in felony trials.¹⁶¹ This shifted the power away from prosecution lawyers as defense lawyers could offer their own narrative to the events and counteract the prosecution with their own evidence and witnesses.¹⁶²

While medical writers dominated the publication of medical jurisprudence, the legal community also contributed to the topic. Some literature emerged as a product of a partnership between the legal and medical community, as seen in the 1823 work by Dr. John Paris and Anthony Fonblanque entitled *Medical Jurisprudence*. Rather than offer medical insight, the text offered a legal perspective on medical jurisprudence as it aimed to “educate medical men on matters of legal practice and precedent.”¹⁶³ Paris and Fonblanque organized their observations in line with the legal standards of evidence

¹⁶⁰ Cerian Griffiths, “The Prisoners’ Counsel Act 1836: Doctrine, Advocacy and the Criminal Trial,” *Law, Crime and History* 2, (2014): 28.

¹⁶¹ David J. A. Carines, *Advocacy and the Making of the Adversarial Criminal Trial 1800-1865*, (Oxford: Clarendon Press, 1998), 4.

¹⁶² *Ibid.*

¹⁶³ Mangham, *Dickens Forensic Realism*, 52.

rather than the scientific view taken by medicine, and they insisted that knowledge of the law was a “highly useful and necessary” skill for a successful professional career.¹⁶⁴ Andrew Mangham argued that this publication was “an exception to the rule” in terms of the legal and medical professions' partnership on the topic.¹⁶⁵ He stated that the contribution of some lawyers indicated that they felt “medicine and law did not always speak the same language.”¹⁶⁶ This misalignment can be understood by the differing motivations that pushed each professional body to define evidentiary standards of guilt. The legal system existed to define morality by social standards and constructed a system to punish those who subverted those values. On the other hand, the medical community prided itself on scientifically defining and treating human ailments. The legal system, however, needed the medical community in their pursuit to effectively recognize and define criminal responsibility, and both professional bodies had to reevaluate their roles under the shared roof of the criminal courts.

As the medical community cultivated the medico-legal specialism to meet their professional needs, the legal community also contributed their own legal perspective. The lawyer Joseph Chitty published, *Practical Treatise on Medical Jurisprudence* in 1834, which aimed to instruct the legal community on the medical knowledge required to understand and successfully interact with medical witnesses during a trial.¹⁶⁷ Lawyers recognized that expert medical witnesses could be the “turning point of decision” for the jury and so they needed to be equipped with the skills to utilize their testimonies

¹⁶⁴ John Ayrton Paris and J. S. M. Fonblanque, *Medical Jurisprudence* 1, (London: W. Phillips, 1823), xlix.

¹⁶⁵ Mangham, *Dickens Forensic Realism*, 52.

¹⁶⁶ *Ibid.*

¹⁶⁷ Joseph Chitty, *A Practical Treatise on Medical Jurisprudence*, (London: H. Butterworth, 1834), v.

properly.¹⁶⁸ Chitty's publication represented an early recognition by the legal profession that they needed to familiarize themselves with medical knowledge to be successful in their roles. Similarly to the medical profession, lawyers feared they would expose their "ignorance" of medical knowledge in trials, which could call their authority into question.¹⁶⁹ Lawyers needed to be prepared to cross-examine medical witnesses in the pursuit of presenting the truth, and this required them to pursue clarification of medical findings or call them into question. While the legal and medical community mutually recognized a need to form a universal language that met both of their professional standards, the development of the adversarial trial system in Britain meant that they could also be at odds with one another. While alienists and obstetricians fought to define their professional identity within the medical space in the first half of the century, the broader medical community were redefining their authority within the legal system at the expense of lawyers. With new expectations of medical proof, legitimized by the 1834 Act, lawyers had to accept medical witnesses into the criminal courts. Medical men dominated the advancement of medical jurisprudence literature as it relied on their medical knowledge, leaving lawyers to address their own needs in the changing arena. They worked to equip themselves with enough medical knowledge so that they could "puzzle and perplex a great majority of physicians, on almost any subject; and... elicit the truth more clearly."¹⁷⁰ Lawyers explained that this skill was required to rid the courts of "medical pretenders," which would, in theory, assist medical witnesses in cultivating their professional identity.¹⁷¹ However, this also placed the authority to identify and

¹⁶⁸ "Medical Jurisprudence – No. 1," *American Jurist and Law Magazine* 13, no. 2 (April 1835): 331.

¹⁶⁹ Chitty, *A Practical Treatise on Medical Jurisprudence*, xi.

¹⁷⁰ *Ibid*, 332.

¹⁷¹ *Ibid*, 334.

revealing these “pretenders” in the hands of lawyers, which allowed them to retain some control over evidentiary standards.

Although the subject bridged both law and medicine, it was the latter that dedicated itself to its development. As Chaille stated in 1876, the subject of medical jurisprudence derived from “every branch of medicine,” and during the nineteenth century, the professionalization of medicine required medical jurisprudence to be continuously updated with new medical intelligence. With his first publication in 1836, Alfred Swaine Taylor became the foremost pioneer of medical jurisprudence.¹⁷² His writings dominated the field from the 1830s as his contributions grew the topic tenfold. In *A Manual of Medical Jurisprudence* (1836), Taylor aimed to rectify the “gaps” he saw in the discipline that were not addressed by previous publications. Taylor drew from his practical experience as a medical witness in trials, as he reportedly appeared as a witness in nearly all trials requiring a forensic medical expert.¹⁷³ Just as Taylor cemented his mastery of forensic medicine through practical experience and publications, alienists utilized their clinical expertise in asylums to develop and assert their authority in the medico-legal field.

Insanity in Medical Jurisprudence

Insanity prevailed as an essential area of expansion and development as medical jurisprudence grew into its own professionally recognized specialism. As alienists worked to establish their expertise over insanity within the medical field, they also worked on updating the legal interpretation of insanity with their clinical findings. They

¹⁷² Taylor continued to write on medical jurisprudence throughout the nineteenth century, with his 1866 publication, *A Manual of Medical Jurisprudence*, continuing through twelve editions, some of which were published posthumously.

¹⁷³ Forbes, *Surgeons at the Bailey*, 6-7.

did not experience, however, universal acceptance by society in their work to define and treat mental disorders. The M'Naghten trial evoked strong responses from the public as the new legal framework for acquittal essentially removed criminal guilt from the prisoner if found insane. In response to the trial, *The Standard* published a satirical poem by T. Campbell titled “On a Late Acquittal” with the lines:

“— You omit the insane.
 They're a privileged class whom no statute controls, And their
 murderous charter exists in their souls.
 Do they wish to spill blood — they have only to play
 A few pranks — get aslym'd a month and a day
 Then Heigh! To escape from the mad doctor's keys
 And to pistol or stab whomever they please.”¹⁷⁴

This poem symbolized the public's response to the court's handling of the case, as many perceived this new legal definition as a threat to society. During the 1840s, alienists were still establishing their expertise within the medical community, and public remained skeptical of this new specialism. The public did not trust that the new legal test could successfully decipher legitimate insanity from those feigning it to avoid prison. The outcome represented a restrictive view of madness that both contemporary lawyers and alienists criticized.¹⁷⁵ An acquittal on the grounds of insanity represented an intersection of insanity and criminality that the public feared as debates arose on how to rehabilitate those found not criminally responsible for their crimes.

Alienists had actively fought the diagnostic markers that the M'Naghten Rule established. Prichard, who had developed the term “moral insanity,” was one of the first medical writers to criticize the court's reliance on identifying delusions in prisoners

¹⁷⁴ “Congratulations on a Late Acquittal,” *The Standard*, March 7, 1843.

¹⁷⁵ Harry Potter, *Law, Liberty and the Constitution: A Brief History of the Common Law*, (Rochester, NY: Boydell & Brewer, 2015), 240.

utilizing the insanity plea.¹⁷⁶ From his early publications in the 1830s, Prichard drew from his extensive asylum experience to question the legal and medical definition of madness that placed delusions as an “essential character of insanity.”¹⁷⁷ His description of “moral insanity” rejected the legal system’s interpretation of insanity as he argued medical observations did not require the presence of an “intellectual disorder” to identify madness.¹⁷⁸ Prichard later wrote a treatise entitled *On the Different Forms of Insanity, in Relation to Jurisprudence* (1842), in which he outlined the medico-legal aspects of moral insanity. He avoided the use of technical or “medical terms” as he offered “information respecting the different kinds and modifications of mental unsoundness.”¹⁷⁹ His avoidance of medical terms and his motivation to aid those “regularly or accidentally... engaged in affairs referring to lunatics, or in trials in which there is a question of the sanity or insanity of individuals,” underlined his desire to inform lay and legal professionals to the developing psychiatric doctrine on insanity.¹⁸⁰

Taylor’s approach to medical jurisprudence focused on compiling an extensive medico-legal system of standards that mirrored the latest medical knowledge. This required Taylor to draw from a diversifying medical community as specialisms such as alienists cultivated their own distinct areas of study. His chapters dedicated to the medico-legal standards of insanity drew from emerging theories on insanity, even when they openly contradicted the legal framework Taylor worked within. Taylor discussed Prichard’s observations on insanity but was critical of his definition of “moral insanity.”

¹⁷⁶ Eigen, *Mad-Doctors in the Dock: Defending the Diagnosis*, 134.

¹⁷⁷ James Cowles Prichard, *Treatise on Insanity and Other Disorders Affecting the Mind*, (Philadelphia: Haswell, Barrington, and Haswell, 1837), 272.

¹⁷⁸ Ibid.

¹⁷⁹ James Cowles Prichard, *On the Different Forms of Insanity, in Relation to Jurisprudence*, (London: Hippolyte Bailliere, 1842), viii.

¹⁸⁰ Ibid, vii.

Taylor disagreed with Prichard's definition of "moral insanity" as a valid diagnosis in trials as it did not meet the requirements outlined by the M'Naghten Rules. In support of his criticisms, Taylor argued that insanity could not occur without some "disturbance of the intellectual faculties."¹⁸¹ By 1865, Taylor further developed his critique of "moral insanity" as he argued that if the diagnosis was accepted, its lack of connection with "perversion of intellect" would end the need for medical evidence.¹⁸² Taylor explained that this separation meant that any "man endowed with plain common-sense" could determine the criminal responsibility of a prisoner.¹⁸³ His critique did not extend to puerperal insanity; however, as Taylor argued that infanticide occurred as a result of an "unaccountable impulse, with a full knowledge of the wickedness and illegality of the act."¹⁸⁴ He ended this observation by stating that the legal test of responsibility could not be applied in such cases when puerperal insanity was diagnosed.¹⁸⁵ Puerperal insanity sat firmly outside the parameters of legal insanity but still retained universal acceptance of its validity, even by those who worked with the stringent legal system. This unique position offered alienists a vehicle by which to define and establish their expertise within the legal framework.

Taylor's critique of Prichard's work lay in its divergence from the legal interpretation of insanity as he called for a "well-defined distinction between moral depravity and moral insanity," before it could be seen as an admissible diagnosis in

¹⁸¹ Alfred Swaine Taylor, *Medical Jurisprudence*, (Philadelphia: Lea & Blanchard, 1845), 500.

¹⁸² Alfred Swaine Taylor, *The Principles and Practice of Medical Jurisprudence*, (London: J. Churchill, 1865), 1022.

¹⁸³ Ibid.

¹⁸⁴ Taylor, *Medical Jurisprudence*, (1845), 521.

¹⁸⁵ Ibid.

court.¹⁸⁶ Taylor utilized his experiences as a medical witness in trials – he had consulted on around five hundred medico-legal cases by the 1850s – rather than clinical expertise in specialized hospitals to compile his publications. Just as alienists asserted their expertise through their connections to asylums, Taylor asserted his authority through his professional experience within the medico-legal position as a medical witness. While his position within the criminal courts explained his disapproval of moral insanity as a psychiatric concept, this criticism reflected the main argument against alienists’ absolute authority over insanity in criminal trials. The legal community and general public believed that alienists could not agree amongst themselves on a precise diagnostic system to define insanity in the courts, which undermined their claim to expertise. This simplistic critique, however, did not account for the complex nature of madness as a psychiatric phenomenon. As alienists continued to develop their specialism, some individuals diverged on how they observed and expounded insanity.

Drawing from Prichard’s development of “moral insanity,” Henry Maudsley, a pioneer in insanity, staunchly rejected the legal definition of insanity. Much of his work moved insanity away from metaphysical debates and grounded its markers in physiological (such as hereditary factors) and environmental causes. For example, Maudsley adhered to the theory of degeneration. He argued that criminality was an inherited trait and a result of generations of degeneracy.¹⁸⁷ He stated there was a thin line between criminality and insanity, and while they arose from different causes, Maudsley explained that both should be treated in asylums. This would result in those who were

¹⁸⁶ Alfred Swaine Taylor, *Principles and Practice of Medical Jurisprudence*, 2nd ed. Vol. II (London: J. & A. Churchill, 1873), 479.

¹⁸⁷ Henry Maudsley, *Body and Mind: An Inquiry into Their Connection and Mutual Influence, Specially in Reference to Mental Disorders*, (New York: D. Appleton & Co., 1871), 51.

“truly insane” being treated and the “degenerate criminal” — who could not control themselves any more than the insane — being confined away from society.¹⁸⁸

In his development on insanity and criminality, Maudsley declared that the legal system's understanding of insanity and delusions had “no foundation in science.”¹⁸⁹ Maudsley argued that the defect in the legal interpretation of responsibility was its focus on consciousness, as he contended that every contemporary study on insanity argued that the essential parts of the mind operated unconsciously.¹⁹⁰ These theories disrupted the expectation that medical witnesses could identify whether a prisoner knew “right from wrong” as Maudsley called for insanity to be understood not as a matter of consciousness but rather an inability to resist impulses. He gained support from his fellow medical colleagues as he argued — from a place of authority due to his academic position and celebrated publications — that the medical character of insanity placed its definition and diagnosis in the hands of medical men, and not the law.

Another critic of legal definitions of insanity was Thomas Harrington Tuke, a pioneering British alienist and brother-in-law to Maudsley.¹⁹¹ Tuke was widely accepted as a trusted authority on insanity, reflected in his role as a witness in parliamentary inquires, most notably the Royal Commission on Capital Punishment (1864-1866). He

¹⁸⁸ Ibid.

¹⁸⁹ Peter Scott, “Pioneers in Criminology. XI Henry Maudsley (1835-1918),” *The Journal of Criminal Law, Criminology, and Police Science* 46, No. 6 (Mar.- Apr. 1856): 763.

¹⁹⁰ Eigen, *Mad-Doctors in the Dock*, 126.

¹⁹¹ Both Tuke and Maudsley married daughters of the prominent alienist, John Connolly. Although they shared family connections, Tuke and Maudsley showed contempt for one another throughout their careers. They both approached the study of insanity differently with Tuke's theories influenced by his Quaker background, whereas Maudsley openly rejected religion and cultivated a materialistic study into madness. There is also no evidence that Tuke was related to John Batty Tuke. See Scull, MacKenzie, and Hervey's book chapter, “Degeneration and Despair: Henry Maudsley (1835-1918),” in *Masters of Bedlam: The Transformation of the Mad-Doctoring Trade*, for an in-depth look into their personal and professional relationship.

was also vocal on the issues facing alienists in the courtroom and dedicated much of his time to the topic of criminal responsibility. Tuke published his reaction to the case of *Hall v. Semple* (1863), in which a sane man (Mr. Hall) was sent to an asylum on an illegal certification. Tuke used the *Hall v. Semple* trial to reflect on the expertise of alienists and declared that if someone experienced in lunacy had been consulted, the public scandal could have been prevented.¹⁹² Certifying a person as insane did not require any specialized training – merely an examination and signature from two physicians. In the case of *Hall v. Semple*, Mr. Hall was sent to an asylum under certification of Dr. Semple that did not meet the requirements of the law but was still detained in the asylum for two days before his release. This case functioned as evidence for the public newspapers that false imprisonment in asylums was a possibility and laid the blame on alienists, who had no involvement in the case.¹⁹³

In his analysis of the case, Tuke underlined the need for specialized intervention in the certification process to prevent public backlash and legal repercussions for the medical community. The *BMJ* published a response to Tuke's statements, as an unnamed author stated that "we disbelieve in the fine subtleties of psychological pathology, just as we disbelieve in the use of fine-draw, hair-splitting signs, in stethoscopic diagnosis, as indications of internal diseases."¹⁹⁴ The article disregarded alienists' claims to specialized skills in diagnosing insanity, instead stating that "educated medical men can (if not led away by his feelings or his trust in others)" identify insanity.¹⁹⁵ Physicians did not wish to

¹⁹² T. Harrington Tuke, "Part IV. — Medico-Legal Cases: *Hall v. Semple*," *The Journal of Mental Science* 8, (Dec. 31, 1863): 605.

¹⁹³ *Ibid.*, 605.

¹⁹⁴ "The Week," *The British Medical Journal* 1, no. 107 (January 17, 1863): 69.

¹⁹⁵ *Ibid.*

relinquish full authority to alienists in diagnosing insanity in criminal trials as it would supersede their access to the role. While the article contradicted Tuke's claims, the author conceded that alienists did acquire "special and peculiar powers" from their experience dealing with the treatment and management of the insane.¹⁹⁶ However, the author argued the "special" skills did not extend to diagnosing insanity.¹⁹⁷

Throughout the nineteenth century, there was no legal or medical framework in place to outline the professional requirements of medical witnesses, other than medical education. However, by the late nineteenth century, a common consensus emerged among legal and medical professions that recognized the authority of those who held experience with insanity in trials of infanticide. Medical men acknowledged the growing importance of the medical witness role to their professionalization as the public focused their gaze on criminal trials. The public arena of the criminal courtroom exposed both the law and medicine to public scrutiny. With the introduction of the adversarial trial system, both professions had to define their roles in examining criminal responsibility. The development of medical jurisprudence as a professionalized medical discipline guaranteed medical men access to criminal courts, and therefore a space in which they could subvert legal definitions of insanity to mirror psychiatric thought.

Medical Jurisprudence, Puerperal Insanity and Infanticide

As the medical community worked to implement standardized medical markers to prove live births, alienists began to develop the markers to identify insanity in women accused of infanticide. The creation of the "concealment of birth" charge in the 1803 Act offered juries and judges the opportunity to punish single women with limited prison

¹⁹⁶ Ibid.

¹⁹⁷ Ibid.

time, as the informal defenses used in trials presented them as sympathetic creatures acting in response to economic and social pressures. The driving force behind the Act, however, was not humanitarian pressure, but rather a concerted effort to make the law more effective in punishing infanticide as the draconian penalties resulted in the sympathetic response of high acquittal rates in British courtrooms.¹⁹⁸ The charge could not be brought against married women, as they were not vulnerable to the same pressures that motivated single women to kill or conceal a birth. However, the law did not offer an adapted legal loophole for married women accused of infanticide. The expanding newspaper coverage of criminal trials exposed the large population of married women tried for infanticide. Between 1800-1900, 49 percent of female defendants in infanticide trials in the OBP were married or widowed women.¹⁹⁹ Early legal reforms focused their attention on defining infanticide around the single woman; however, by the 1860s, the crime had changed as married women were representing a significant percentage of defendants in infanticide trials.

As alienists developed and established themselves within the medical community as experts on insanity, the new medico-legal space offered alienists the opportunity to apply their diagnosis and expertise to a new population of people: criminal lunatics.²⁰⁰ Medical men considered infanticide “a most important and leading subject in medical jurisprudence.”²⁰¹ Taylor organized his book in accordance with the importance of the

¹⁹⁸ Mark Jackson, *New-Born Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England*, (Manchester: Manchester University Press, 1996), 168-76.

¹⁹⁹ “The Proceedings of the Old Bailey, 1674-1913, Old Bailey Proceedings, accessed January 2, 2020, <https://www.oldbaileyonline.org/>. This percentage is calculated from the cases in which the marital status of the prisoner could be confirmed through reading the trial transcripts.

²⁰⁰ Criminal lunatics during the nineteenth century were individuals who had committed crimes while insane, or who had developed insanity while incarcerated.

²⁰¹ Theodric Romeyn Beck and John B. Beck, *Elements of Medical Jurisprudence*, 11th ed (Philadelphia: J. B. Lippincott & Co, 1860), xx.

topic, giving three-fourths of the manual to “poison, wounds, and infanticide.”²⁰² Placing poison at the start of his book is unsurprising as he specialized in toxicology. Still, the inclusion of infanticide reflected its importance to the development of the medico-legal discipline. Many medical men worked on developing methods to identify live births definitively, spurred on by historic cases in which ignorant medical testimonies fueled by “vague and inconclusive evidence of [the prisoners’] guilt” condemned innocent women.²⁰³ As treatises on medical jurisprudence emerged throughout the nineteenth century to further develop the requirements of knowledge by medical witnesses and jurists, the topic of infanticide split into the questions of physiological markers focused on the victim, and psychological analysis of the accused state of mind.

Public outcry over infanticide reached its peak in the 1860s in response to debates that claimed infanticide had become prevalent.²⁰⁴ Consequently, one observer claimed that the police thought “no more of finding the dead body of a child in the street than of picking up a dead cat or dog.”²⁰⁵ This desensitization reflected the horror the public felt at the increasing number of infanticide trials in the late nineteenth century. While interest in puerperal insanity as a mental condition had developed by the 1830s, it was not until the 1860s that alienists to firmly place its diagnosis under their authority. Puerperal insanity as a mental disorder offered a medical explanation for the shifting characteristics of nineteenth century infanticide. While medical men put themselves at the forefront of

²⁰² Taylor, *Medical Jurisprudence*, (1845), iv.

²⁰³ Male, *An Epitome of Juridical or Forensic Medicine*, 92.

²⁰⁴ Hilary Marland, “Getting Away with Murder? Puerperal Insanity, Infanticide and the Defense Plea,” in *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550-2000*, ed. by Mark Jackson (Aldershot: Ashgate Publishing, 2002): 169.

²⁰⁵ M. A. Baines, “A Few Thoughts Concerning Infanticide,” *Journal of Social Science* 10, (1866): 535

infanticide debates in the public domain, alienists continued to develop puerperal insanity as an encompassing mental diagnosis.²⁰⁶

As medical men further defined the medical evidence required to prove infanticide by focusing on the victim, alienists focused their attentions to the mindset of the perpetrator. A mother specific crime required a mother specific disorder and puerperal insanity became a common diagnosis in infanticide trials. Alienists linked puerperal insanity as a diagnosis that explained why married (and single) women perpetrated infanticide, subverting the role of Victorian women as mothers. From its development by alienists, infanticide was identified as the “the most marked symptom” of the disorder.²⁰⁷ Alienists focused on defining the markers required to recognize and diagnose puerperal insanity in criminal trials, and these diagnostic observations were accepted and invoked by lawyers and medical witnesses. Alienists identified the female reproductive system, and the physiological changes it undertakes during and after childbirth, as the main catalyst that caused puerperal insanity. Alienists defined and expanded these physiological and physiological changes to identify specific markers to diagnose the disorder. This is evident in the increased attention paid by Taylor in his treatises. In 1845, he dedicated a small paragraph to puerperal insanity and how it applied in cases of infanticide. By 1865, however, he drew from the growing works on the disorder under the title “infanticide in cases of puerperal mania” and offered trials to support his chapter.²⁰⁸

²⁰⁶ Marland, “Getting Away with Murder,” 171.

²⁰⁷ Taylor, *The Principles and Practice of Medical Jurisprudence*, (1865), 1122.

²⁰⁸ Ibid.

In 1847, Mary Ann King was accused of violently attacking her infant son, and following the crime, exhibited excessive violent behavior that resulted in her being physically tied down by her husband following the attack.²⁰⁹ Michael Lawrence Mason, a surgeon, diagnosed King as “raving mad with puerperal insanity” due to her violent behavior and inability to hold a conversation.²¹⁰ Nine years prior, Elizabeth Hodges was tried for willfully murdering her infant daughter, after which she was found “perfectly collected” in her bedroom.²¹¹ James Hayes, a surgeon who attended her last confinement, diagnosed Hayes with puerperal mania caused by “deficiency of milk, and the milk flowing upwards.”²¹² Both were found “not guilty on the grounds of insanity” despite stark differences in their cases and behaviors, with the only similarity in their behaviors being their inability to converse. Marland has argued that the elasticity of puerperal insanity stood in sharp contrast to the stringent efforts by forensic medicine to precisely establish the criteria to identify when and how infant deaths occurred.²¹³ This elasticity, however, allowed alienists to develop puerperal insanity into a comprehensive disorder that could be diagnosed in a number of varying circumstances that offered a medical answer to the legal issue of how and why infanticide was perpetrated.

While early development of the disorder recognized that puerperal insanity could present in both maniacal and melancholic forms, by the mid-nineteenth century alienists had further defined and crafted subcategories of the disorder connected to when the symptoms presented. This was useful in diagnosing the disorder in trials of infanticide as

²⁰⁹ *OBP Online* (www.oldbaileyonline.org, version 8.0, 1 Feb 2020), January 1847, trial of MARY ANN KING (t18470104-430).

²¹⁰ *Ibid.*

²¹¹ *Ibid.*

²¹² *OBP Online* (www.oldbaileyonline.org, version 8.0, 23 Jan. 2020), January 1838, trial of ELIZABETH HODGES (t18380129-499).

²¹³ Marland, “Getting Away with Murder,” 179.

many alienists took into consideration at what stage of parturition the mother killed her infant. The common manifestation of puerperal insanity was at the lactation stage, which usually presented with despondent and melancholic behavior. However, behavior connected to mania was not impossible at this stage as both were considered a result from the “exhaustion of the nervous system.”²¹⁴ By the 1880s, medical witnesses had universally accepted the subcategories of the disorder, shown by their references to the definitions in their testimonies. Both medical witnesses in the trial of Julia Georgina Spickernell in 1889 identified her mania as one that “arose from over-lactation” of which, Edward Richard Spencer, a surgeon, identified as one of the three kinds of puerperal insanity recognized by the medical community.²¹⁵ Although seemingly opposite in their characters, both mania and melancholia were identified by alienists as likely to result in infanticide if severe enough. Mirroring the cultivation of puerperal insanity by alienists within the medical community as a comprehensive psychiatric disorder, the development of diagnostic markers for the medical-legal arena highlighted the adaptability of the disorder. In patients, mania and melancholia presented as opposing physiological and behavioral symptoms that covered a spectrum of markers from a fast pulse, flush complexion and erratic speaking to slow heart rate, placid demeanor and suicidal thoughts. This inclusive framework was reflected in the diagnosis of puerperal insanity in infanticide trials.

Jurists in infanticide cases utilized a number of diagnostic markers developed in alienist’s publications on the disorder. Defense lawyers moved away from discussions of

²¹⁴ *OBP Online* (www.oldbaileyonline.org, version 8.0, 22 Jan. 2020), February 1889, trial of JULIA GEORGINA SPICKERNELL (37) (t18890204-214).

²¹⁵ *Ibid.*

previously accepted factors, such as illegitimacy, in infanticide cases as it did not fit the circumstances of married women. Instead, outlining the lack of “valid” external motivations such as hatred for their children or fear of poverty meant that the only logical finding could be that the prisoner was driven by insanity. Despite Prichard’s definition of moral insanity not meeting the requirements of legal insanity, his observations on the external moral influences assisted defense lawyers in arguing the presence of puerperal insanity in their defendants. Discussions by lawyers, medical witnesses, and by family and friends emphasized the prior fondness shown by the mother, comfortable social position, or loving nature of their marriage, to prove that no external motivations could be found to prove her criminal responsibility. In a cross examination by the court, Dr. Spencer, who had attended Spickernall’s previous confinements, stated that from his observations, “she was always a kind and affectionate mother.”²¹⁶ This clarification on the mother’s previous behavior was sought out by the judge and outlined the importance for insanity pleas to clarify if the crime was out of character. Lay testimony also offered further support to the diagnosis. While they lacked the education and experience of alienists, family and neighbors offered further evidence that their diagnosis was correct by presenting the “true self” of the prisoner when not under the influence of insanity.

In the trial of Adelaide Freedman, a German Jewish woman accused of killing her infant daughter, her defense counsel read directly from Taylor’s chapter on puerperal mania, in which he asserted that women suffering from puerperal mania could be driven by “uncontrollable impulses” to murder their child while still being conscious that her actions would result in the death of her child.²¹⁷ Freedman represented an unusual case of

²¹⁶ Ibid.

²¹⁷ *OBP*, Adelaide Freedman (1869), t18691122-36

infanticide due to her method of murder. She used poison to kill her daughter and this method came with implications that she consciously premeditated the crime. This implication, in other cases of insanity, would prove detrimental to any plea of insanity. In other successful trials of infanticide caused by puerperal insanity, the main methods of killing were strangulation, use of a blunt or sharp object (such as a knife or axe), drowning or throwing the infant from a great height. While extremely violent, alienists utilized these as additional markers of behaviors attributed to insanity. The aforementioned methods of murder, albeit horrific and violent, represented the impulsive nature of the crime, as many of the methods relied on household objects. Sleigh utilized Taylor's work to offer an expertly developed outline of the behaviors attributed to puerperal mania that offered an explanation as to why Freedman should be found insane despite her unusual method of using poison. Sleigh argued that while Freedman visited the chemist to obtain the poison, she was under the mental alienation caused by puerperal insanity, leaving Freedman unconscious of her actions as a result.²¹⁸ Freedman was found "Not Guilty on the ground of insanity" and sent to Broadmoor Criminal Lunatic Asylum indefinitely. Freedman's trial reflected the growing reliance of lawyers on alienist's diagnosis of puerperal insanity by the 1860s, and while it was being developed further by alienists, it still retained its flexibility in answering the legal question of infanticide.

Due to its connection to the child birthing process and its temporary nature, puerperal insanity could reappear if the prisoner fell pregnant again. Prior to her trial in 1896, Annie Matilda Phelps had previously been treated for insanity — whose markers

²¹⁸ *OBP Online* (www.oldbaileyonline.org, version 8.0, 22 April 2020), November 1869, trial of ADELAIDE FREEDMAN (30) (t18691122-36).

mirrored puerperal insanity — prior to the murder of her infant. She had previously been treated in two asylums, and in his testimony, George Ormsden, Medical Superintendent of Essex County Asylum, explained that while she had been successfully treated and discharged as cured, her affliction could return “under unfavourable circumstances such as overtaxing the strength, [or] by nursing a child too long.”²¹⁹ While the term “puerperal insanity” is not used in the testimony, many of its markers are utilized to argue that Phelps suffered from insanity at the time of the crime. John Joseph Griffin, a surgeon who had treated Phelps in the past, stated that he had advised her that she was “suffering from over-suckling the child” and weaning the child would improve her depression and sleeplessness.²²⁰ He was unaware of her previous treatments at asylums, and his testimony supported the findings of Ormsden and John James Pitcairn, assistant surgeon to Holloway Prison, who argued that she suffered from “acute melancholia” and was not responsible for her actions.²²¹ She was found to be insane and sent to Broadmoor indefinitely. Even by the end of the nineteenth century, puerperal insanity, while considered temporary if properly alleviated with medical care, was not permanently curable. Its basis in biology and the female reproductive system meant that it could reoccur if the patient conceived again as they were now more susceptible due to their medical history. With the expansion of asylums throughout the nineteenth century, sufferers of puerperal insanity had a space they could be treated by specialized alienists until they were cured. For those who suffered with the severest forms of the disorder that resulted in the infanticide, the construction of Broadmoor Asylum in 1863 offered a

²¹⁹ *OBP Online* (www.oldbaileyonline.org, version 8.0, 22 April 2020), February 1896, trial of ANNIE MATILDA PHELPS (38) (t18960224-278).

²²⁰ *Ibid.*

²²¹ *Ibid.*

specialized space in which they could be held indefinitely while also receiving medical treatment.

Medical Witnesses, Insanity Plea and Infanticide

Just as alienists faced opposition from obstetrics in their development of puerperal insanity as a psychiatric disorder, they faced another class of medical professionals that attempted to exert their authority over the identification of insanity in criminals. Structural changes in criminal justice administration placed surgeons and physicians in police divisions and resulted in a small population of medical men with a unique claim to authority in the new medico-legal sphere.²²² Due to their proximity and access to prisoner populations, prison surgeons monopolized the role of medical witness in criminal trials from the early nineteenth century.²²³ The system by which courts selected medical witnesses laid priority on those with the most physical proximity to the crime scene and victim, and usually surgeons — who examined the victims— offered additional observations on the mental state of the prisoner. Eigen argued that prison surgeons boasted the specialized skill of identifying counterfeit insanity due to their extended interactions with the criminal classes.²²⁴ Similarly to alienists' claims of expertise through continued observations of pauper lunatics, prison surgeons presented themselves with authority in courts due to their observations of criminal lunatics. This claim appealed as an answer to the public's fears that the insanity plea could be used by criminals to receive lesser sentences.

²²² Eigen, *Mad-Doctors in the Dock*, 170-171.

²²³ Those appointed to the position of “prison surgeon” required formal medical training. In the case of those who took the position at the Newgate or Holloway Prison had to hold a license from the Apothecaries Company and a member of one of the Colleges of Surgeons.

²²⁴ Eigen, *Mad-Doctors in the Dock*, 170-171.

In the first half of the nineteenth century, Dr. Gilbert McMurdo, surgeon to Newgate Prison, was one of the most prevalent medical witnesses at the OBP. Eigen identified McMurdo as the medical witness who most frequently observed “shammed madness” in prisoners.²²⁵ Between 1800-1850, McMurdo was a medical witness to five cases of infanticide where an insanity defense was used successfully. In each case he argued that the female prisoner was acting under some form of insanity during the crime, and therefore could not be found criminally responsible.²²⁶ It is notable that while McMurdo, claimed special skills in identifying the difference between genuine and false insanity; in cases of infanticide, McMurdo consistently argued to the genuine insanity of the women and utilized the diagnosis developed by alienists to support his observations. The early development of puerperal insanity by alienists made it more recognizable as a severe but curable affliction.

However, in spite of his consistent presence at the Old Bailey, McMurdo was not immune to questioning from the legal profession to his claims of expertise in insanity. In the murder trial of Mary Ann Hunt, acting as the prosecution witness, McMurdo offered his observations on the sanity of Hunt. After paying particular attention “to ascertain the state of her mind,” McMurdo observed no signs of insanity in Hunt and therefore, could not support an acquittal on the grounds of insanity.²²⁷ After his testimony, McMurdo was questioned by the defense lawyer, Mr. Clarkson, as to his experiences with “the diseases of women.”²²⁸ The judge followed up with his own question on the experience McMurdo

²²⁵ Eigen, *Witnessing Insanity*, 129.

²²⁶ For example: *OBJ Online*: Ann Clarke (1835), t18350302-806; Eliza Huntsman (1845), t18451215-205; Mary Ann King (1846), t18460330-830; Mary Ann Ogden (1849), t18490702-1446; Emma Sanderson (1850), t18500408-745.

²²⁷ *OBP Online* (www.oldbaileyonline.org, version 8.0, 22 April 2020), August 1847, trial of MARY ANN HUNT (t18470816-1797).

²²⁸ *Ibid.*

had with the “temporary insanity from irregularity in respect of that function [menstruation].”²²⁹ McMurdo admitted in court that he did not practice as an “accoucheur” (French term for midwife) and did not have the cases of temporary insanity caused by menstruation brought under his notice, and therefore, could not offer clinical experience to support his findings.²³⁰ This acknowledgement reflected the expectation by the legal system, as well as the medical community, that medical witnesses needed to support their observations with clinical studies. His acknowledgement that he was not a midwife also represented that alienists, during the 1850s, were still fighting to establish their authority over insanity.

In court, McMurdo had to openly acknowledge the limits of his expertise in response to questioning from the defense and the judge.²³¹ In order to counter the questioning of McMurdo’s expertise in this case, the prosecuting lawyer, Mr. Bodkin, in a surprising twist, brought forward another medical witness to contradict the prisoner’s defense, Alexander John Sutherland, who unlike McMurdo, could offer experience and expertise in insanity to support his testimony. Sutherland was a leading alienist who was “much consulted in medical-legal questions” and contributed to the study of insanity through publications and lectures.²³² The decision by Bodkin to bring in Sutherland, who also garnered public recognition for his work with insanity, underlined a clear acceptance by jurists that alienists had a clear claim to expertise over insanity. With this additional testimony, Mary Ann Hunt was found guilty, and sentenced to death.²³³ The trial can be

²²⁹ Ibid.

²³⁰ Ibid.

²³¹ Eigen, *Witnessing Insanity*, 63.

²³² “Obituary: Alexander J. Sutherland, M.D., F.R.S.,” *The Lancet London* 1, (Feb 9, 1867): 193.

²³³ *OBP Online*, trial of MARY ANN HUNT (t18470816-1797). This sentence, on the confirmation of her pregnancy, was commuted to transportation, and after the completion of her confinement in prison, she was sent to Australia.

seen as an example of the legal profession's willingness to openly question medical witnesses' experience and ability to offer an expert opinion and outlined what the legal profession recognized as legitimate claims to expertise.

As well as openly admitting his limited expertise in insanity, McMurdo also conceded authority to John Conolly, an early British psychiatrist, who at the time of the trial was the chief physician at Hanwell Asylum. In the case of a man accused of breaking the peace and wounding another, McMurdo appeared for the prosecution and stated that he could not find any signs of insanity in the prisoner. He finished his testimony by stating, "I know the senior physician at Hanwell, he is a man who is looked upon in the profession in every way as a man highly gifted, he has had very large opportunities of judging of this question, and of course his opinion would be worth more on such subjects than that of a person like myself."²³⁴ Conolly took this opportunity to assert his own position in an asylum who cared for "around 1000 patients" and as the author of a book on insanity.²³⁵ Hunt's trial earlier that year outlined what jurists' recognized as a valid claim to expertise, and Conolly's disclosure of his professional contributions legitimized his expert testimony.

In trial testimonies, medical witnesses worked to make their observations clear to the jury while also asserting their own professional experience in identifying insanity. John Rowland, Surgeon of Newgate Prison, began his testimony by stating that he had "devoted [his] attention to mental diseases" and had the prisoner under his care for a

²³⁴ *OBP Online* (www.oldbaileyonline.org, version 8.0, 22 April 2020), October 1847, trial of JOHN OVENSTONE (t18471025-2310).

²³⁵ *Ibid.*

significant amount of time as to ascertain her “homicidal mania.”²³⁶ On cross examination from the prosecution, which asked him to outline the “kind of conduct she displayed, from which you infer that she is of unsound mind?” Rowland discussed the various delusions she harbored under — one focused on lactation— and again stated that he “had paid considerable attention to insanity.”²³⁷ His consistent references to his experience with insanity reflected a growing acknowledgement of the specific professional markers that supported a medical man’s claim to expertise in a specific field.

By the end of the nineteenth century, alienists asserted their expertise as medical witnesses in trials of insanity; however, this was not achieved by monopolizing the role. While the legal system favored medical testimony from those with physical proximity and first-hand accounts of the crime and the aftermath, by the end of the nineteenth century, lawyers were reaching out to alienists for the expert opinion on the diagnosis of insanity. Jurists and many medical men had already acknowledged the unique claim alienists had to identifying insanity in prisoners. In the trials of Johanna Culverwell (1883), Louisa Constance Proud (1893) and Elizabeth Fowler (1895), at least three medical witnesses were called to ascertain how the infant died as well as the state of mind of the defendant. Each woman had previously been treated for insanity, and the asylum medical officers offered their insight into the medical history and diagnosis of the women. Michael Bevan Lewis, medical superintendent of the West Riding Asylum, offered his expertise in the trial of Fowler, in which he outlined her previous history of depression, of which she successfully recovered from after a short time (under two

²³⁶ *OBP Online* (www.oldbaileyonline.org, version 8.0, 22 April 2020), April 1857, trial of SARAH PRICE (t18570406-480).

²³⁷ *Ibid.*

months).²³⁸ Due to his previous observations of her mental state, and his experience with lunacy, Lewis served a dual function in his witness role; firstly, to confirm her medical history, and secondly, to offer his expertise on her case. He outlined his diagnosis and argued that while her case was “peculiar” due to the rapid appearance of her symptoms and perpetuation of the crime, her behavioral markers fit a “form of melancholia [that] often passes away rapidly.”²³⁹ Lewis identified the cause of her insanity as her confinement, supporting James Maughan’s — the divisional surgeon — observations after he was called to examine the baby. Maughan spoke with Fowler and stated that “her condition was that of melancholia, a sort of puerperal mania that very often occurs during lactation.”²⁴⁰ While Maughan drew from commonly accepted factors of puerperal insanity, Lewis utilized psychiatric terminology that reflected a more precise and informed diagnosis of Fowler’s condition.

Unlike Maughan and George Edward Walker, a medical officer at Holloway Prison, whose testimonies relied on their proximity to the case and interactions with Fowler after the crime, Lewis’s testimony was sought after and given legitimacy due to his position as an alienist. Lewis openly acknowledged that his first interaction with Fowler since her discharge from the asylum was the morning of the trial. Due to Lewis’s expertise, he did not have to bolster his testimony with an in-person interview, but rather he could successfully examine the evidence given and offer a diagnosis that reflected contemporary theories of insanity. Prison surgeons relied on their access to defendants and time spent with them to certify their testimony in cases of insanity. However,

²³⁸ *OBP Online* (www.oldbaileyonline.org, version 8.0, 22 April 2020), June 1895, trial of ELIZABETH FOWLER (35) (t18950617-518).

²³⁹ *Ibid.*

²⁴⁰ *Ibid.*

alienists — through the construction of asylums — had already laid claim to populations of lunatics as they legitimized their specialism and did not rely on this method to support their findings. Alienists' universally recognized expertise in insanity by the end of the nineteenth century allowed them to offer their insight as experts with limited interaction with the prisoner in comparison to prison surgeons. In Annie Player's trial in 1884, Dr. William Orange was called as a medical witness. Orange held the position of medical superintendent of Broadmoor Criminal Lunatic Asylum for fourteen years and outlined this experience in the opening of his testimony. Overseen by the psychiatric profession, Broadmoor opened in 1863 and operated as a designated state facility for the most dangerous criminal lunatics in England and Wales. Unlike Lewis in the Fowler trial, Orange had no previous communication with Player prior to his role as medical witness. Orange was directed to visit the prisoner by the Solicitor of the Treasury — a non-ministerial government branch that provided legal services to the majority of central government departments.²⁴¹ His selection by a government body to offer his expertise suggested that he could give specialized insight into the case. Orange argued that from his observations — he made only two trips to see her — as well as the information given to him by the medical officer of the prison, Player was not of sound mind and “decidedly a proper person to be confined in a lunatic asylum” in which she would receive the proper care and treatment for a recovery.²⁴²

The inclusion of more medical witnesses in the cases of infanticide reflected a clear motivation by the legal community to offer the most informed analyses of a

²⁴¹ *OBP Online* (www.oldbaileyonline.org, version 8.0, 22 April 2020), January 1884, trial of ANNIE PLAYER (25) (t18840107-219).

²⁴² *Ibid.*

defendant's sanity or insanity. In her trial, Culverwell — whose diagnosis of melancholia was attributed to hereditary factors and a history of intemperance — was considered by the medical witnesses to be “not conscious of the nature and quality” of her crime, and therefore could not be found guilty.²⁴³ Oliver Treadwell, assistant medical officer to the Clerkenwell Prison, outlined his diagnosis of melancholia, after which he stated that her previous treatment at an asylum “confirmed his opinion.”²⁴⁴ In his cross-examination, Treadwell stated that he obtained further “corroborative evidence” of her history, which implied that clinical proof of her predisposition to insanity through her admission to an asylum legitimized his findings. John Crenonini, medical officer at Hoxton House (a private asylum), supported Treadwells' research and diagnosis, as he argued that from her history and postpartum status, her system was susceptible to insanity. Crenonini's testimony marked an end to the trial, and his testimony further developed Treadwell's diagnosis into a clear exploration of the causation and markers that supported a plea of insanity

Lay witnesses for Louisa Constance Proud's trial outlined her previous experience with “deep depression” that sent her to an asylum. Despite her depressed episodes, she had lived in “affectionate terms” with her husband. The only source of her insanity that could be identified was her last confinement. Dr. Warner, the superintendent of Peckham Asylum, stated that she came to the asylum as a “boarder” rather than confined via the usual process.²⁴⁵ This meant she did not have the official title of lunatic — as she had not

²⁴³ *OBP Online* (www.oldbaileyonline.org, version 8.0, 22 April 2020), September 1883, trial of JOHANNA CULVERWELL (27) (t18830910-800).

²⁴⁴ *Ibid.*

²⁴⁵ *OBP Online* (www.oldbaileyonline.org, version 8.0, 22 April 2020), May 1893, trial of LOUISA CONSTANCE PROUD (31) (t18930501-482). Her status as a boarder meant that she had not been certified by two physicians as insane, but rather the Commissioners of Lunacy gave their consent for her to be held at the asylum temporarily until her state of mind could be ascertained by the medical officers there.

been certified by two medical men yet —and therefore could notify the Commissioners of Lunacy of her intention to leave, which she had. Warner argued that while at the asylum, he observed that her symptoms were “very marked” as he thought the severity of her condition meant she should be restrained.²⁴⁶ He wrote to the commissioners of his findings and advised that she be recertified as a lunatic. It is unclear whether Proud left prior to Warner sending his recommendations but his statements underline his clear experience and expertise in recognizing the danger of her disorder prior to her crimes. The medical witness testimonies concurred that Proud suffered from “melancholia” which could present in suicidal or homicidal mania. By the late nineteenth century, alienists writing in the medico-legal sphere connected puerperal insanity with the growing use of the term “homicidal mania” which applied to cases where no clear motives were identified and accompanied with a “sudden impulse.”²⁴⁷ Puerperal mania had begun to shift to be recognized as a form of “homicidal mania” by the 1860s.²⁴⁸ The diagnostic markers of puerperal mania were shifted and used interchangeably as alienists worked to further cultivate their expertise by introducing new medio-legal terms that reflected new studies into insanity.

Conclusion

Alienists began to define themselves within an emerging medico-legal arena by the mid-nineteenth century. The early and consistent presence of prison surgeons in the first half of the century posed an obstacle that alienists fought to overcome in their work

²⁴⁶ Ibid.

²⁴⁷ John Charles Bucknill and Daniel H. Tuke, *A Manual Psychological Medicine: The History, Nosology, Description, Statistics, Diagnosis, Pathology, and Treatment of Insanity*, 2nd ed, (London” John Churchill, 1862), 206

²⁴⁸ Taylor, *The Principles and Practice of Medical Jurisprudence*, (1865), 1100.

to establish their expertise. While prison surgeons utilized their proximity to the perpetrators to secure their presence in criminal trials, alienists had to utilize their growing clinical studies to assert their expertise. Alienists also faced growing concerns by the public into their profession – seen in the case of *Hall v Semple* – that ignited already present distrust for the emerging specialism. However, the crime of infanticide represented an ideal vehicle by which they could secure public and legal support for their specialized focus. Through the development of medical jurisprudence, alienists aimed to codify a psychiatric system to identify and prove insanity in infanticide trials. Although historians such as Hilary Marland have critiqued the “elasticity” of puerperal insanity as a psychiatric answer for infanticide; the cultivation of a “blanket” diagnosis assisted alienists in asserting their specialized skill at identifying the disorder and offering an answer to the shifting legal issue of infanticide.²⁴⁹ Alienists offered an effective medical solution to the growing concerns about why women killed their infants, and the legal profession actively constructed a space in which they could cultivate their growing specialism. Throughout the nineteenth century, alienists’ efforts to assert their medical authority can be recognized; firstly, in the universal acceptance of the diagnostic markers by medico-legal professionals, and secondly, in the increasing use of alienists as “expert” witnesses to supplement medical witnesses. In many cases, the legal profession utilized alienists' expertise to offer legitimacy to medical witnesses who could not boast the same

²⁴⁹ Hilary Marland, “Getting Away with Murder? Puerperal Insanity, Infanticide and the Defence Plea,” in *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550-2000*, eds. by Mark Jackson (Aldershot: Ashgate Publishing, 2002): 179.

credentials. Seen in the trials of Culverwell, Proud and Fowler, alienists enjoyed a distinct position of authority when discussing their observations and findings.

By the end of the nineteenth century, the elastic diagnosis of puerperal insanity that assisted in their efforts to assert authority, no longer functioned as it once had. The previously appealing flexibility of the illness led to its undoing.²⁵⁰ In the latter decades of the nineteenth century, previously accepted causes, such as shame and poverty, returned to the center of discussions on infanticide and negated the power puerperal insanity once had as a psychiatric answer to the legal issue.²⁵¹ This shift cleared a way for the gradual introduction of more nuanced psychiatric diagnoses that reflected the changing theories on insanity. Alienists writing in the medico-legal sphere on infanticide connected it with the growing diagnosis of “homicidal mania.”²⁵² The disorder exhibited in violent actions with no clear motive, in which an individual perpetrated the crime due to a “sudden impulse.”²⁵³ As Marland argues, the diagnosis of “puerperal mania” gave way to newer definitions of insanity by the end of the nineteenth century.²⁵⁴ This shift is represented in the prevalence of “homicidal mania” as a diagnosis by the early twentieth century as it surpassed puerperal insanity, epilepsy and brain injuries in criminal trials. While it mirrored many of the behaviors attributed to puerperal insanity, “homicidal mania” was defined by its extreme “physiological upheaval,” which Eigen argues was taken more seriously than “reproductive ills” by juries.²⁵⁵ Considered more serious, Eigen continues

²⁵⁰ Anne-Marie Kilday, *A History of Infanticide in Britain, c. 1600 to the Present*, (Basingstoke, Hampshire: Palgrave Macmillan, 2013), 187.

²⁵¹ Ibid, 189.

²⁵² John Bucknill, *A Manual Psychological Medicine*, 206.

²⁵³ Ibid.

²⁵⁴ Marland, *Dangerous Motherhood*, 3.

²⁵⁵ Joel Peter Eigen, “Diagnosing Homicidal Mania: Forensic Psychiatry and the Purposeless Murder,” *Medical History* 4, no. 54 (Oct 2010): 441.

that the basis of reproductive illness that a diagnosis in puerperal insanity relied on.²⁵⁶ Just as alienists inserted themselves into the growing public discussions on infanticide in the second half of the nineteenth century, they led development of criminal lunatics as a subcategory of lunacy. Criminal lunatics' unique social position straddled both medical and penal systems and meant that a specialized approach needed to be created and applied as social anxiety grew over their potential threat to society. Alienists cultivated a specialized space for themselves in two professional classes and in doing so recognized the opportunity to further entrench their authority over criminal lunatics by consolidating their populations under a single institution: the criminal asylum.

²⁵⁶ Ibid.

**CHAPTER THREE: “PECULIAR CLAIM ON OUR SYMPATHIES”:
ALIENISTS, INFANTICIDE AND BROADMOOR CRIMINAL LUNATIC
ASYLUM, 1863-1910**

On 27 May 1863, the first patients — eight women, six of whom had committed infanticide — walked through the doors of the newly built Broadmoor Criminal Lunatic Asylum. However, the construction of England’s first dedicated institution to the criminally insane did not happen overnight, but as a result of half a century of discussions between the psychiatric community and the government. This chapter analyzes the process by which alienists, through publications and interactions with the government, sought to assert their authority over the care of the criminally insane. Firstly, by outlining the process in which Broadmoor was created, this chapter investigates how active alienists’ role was in the creation of Broadmoor. Lastly, this chapter focuses on the discussions surrounding infanticide and puerperal insanity to analyze how alienists utilized the unique status of infanticide as a crime and those who perpetrated it to further their claim of expertise over the medico-legal topic of insanity.

Before Broadmoor

Modeled on the Dundrum Asylum in Ireland, Broadmoor was dedicated to the care and confinement of criminal lunatics, a special status established in 1800.²⁵⁷ The Criminal Lunatics Act of 1800 stated that if a prisoner was found to be insane during the trial, then they would be confined, at His/Her Majesty’s Pleasure (HMP). This term was used for indefinite sentences on prisoners, who could be held until they were deemed sane. Prior to the 1800 Act, legal guidelines equated a finding of insanity to an acquittal;

²⁵⁷ “Broadmoor Patients,” *The British Medical Journal* 2, No. 5089. (Jul. 19, 1958): 174.

therefore, the prisoner would be released into the care of their family or an asylum. The act reversed this in response to the trial of James Hadfield, who was acquitted on the grounds of insanity for his attempt to assassinate King George III in 1800.²⁵⁸ Rather than set him free, the presiding judge, Lord Kenyon stated that Hadfield was too dangerous to be released into society where it was unlikely that he would receive the treatment he needed.²⁵⁹ Hadfield's case exposed the inadequacy of the legal system in dealing with insanity, and Kenyon's decision — codified in the 1800 Act — represented the application of a legal solution to a medico-legal problem.²⁶⁰ However, the act did not specify where this new criminal lunatic class would be held.

In 1807, a Select Committee looked into the state of “criminal lunatics”—the first official use of this term.²⁶¹ The Committee suggested that a separate building be constructed to house criminal lunatics as their confinement in prisons would be detrimental to their own recovery and the safety of other prisoners. Another category of prisoners fell under the definition of “criminal lunatic” as further legislation in 1816 enabled the transfer of prisoners who became insane during their prison sentences to asylums for treatment.²⁶² These criminal lunatics differed from those with indefinite sentences — known as HMP patients — as they would be returned to prisons if they recovered before their release date, or remain at the asylum for the rest of their sentence, after which they would be held until they were cured. This additional subcategory of criminal lunatics increased their populations in asylums, and alienists gained more

²⁵⁸ Harvey Gordon, *Broadmoor*, (Hove: Psychology Press Ltd., 2014), chap. 1, para. 8, Kindle.

²⁵⁹ William Orange, “Presidential Address, delivered at the Annual Meeting of the Medico-Psychological Association, held at the Royal College of Physicians, London, July 27th, 1883. By W. ORANGE, M.D., F.R.C.P.” *The Journal of Mental Science* 26, No. 127 (Oct. 1883): 332.

²⁶⁰ *Ibid.*

²⁶¹ *Ibid.*

²⁶² *Ibid.*

patients. However, the facilities were still not adequate enough to meet the growing population of criminal lunatics and their specific needs.

The alienist community aired their grievances regarding the lack of provisions dedicated to treating and confining the criminal lunatics. By the 1850s, the Commissioners in Lunacy expressed their strong opposition to criminal lunatics being admitted to local asylums, amongst the population of pauper or ordinary lunatic patients. In 1852, the commissioners surveyed medical superintendents of local asylums, who argued that the presence of criminal lunatics posed a threat to their treatment of ordinary patients as the former induced bad moral effects in the latter as they would attempt to escape or feign insanity.²⁶³ Lawyers and alienists alike recognized the contradiction shown in the universal term “criminal lunatics.” In the eyes of the law, a prisoner found insane meant that they were not criminally responsible for their crime; however, the term itself also best represented the two categories these prisoners now bridged, “doubly stigmatized and the psychiatric leper of society.”²⁶⁴ This new breed of lunatic meant that alienists required more assistance from the government to establish the therapeutic atmosphere of asylums with the removal of criminal lunatics to a specialized facility.

Most of the psychiatric community accepted the need for an asylum for criminal lunatics. In July 1851, the Association for Officers of Asylums and Hospitals for the Insane decided to petition the government to provide a new asylum for criminal lunatics.²⁶⁵ John Bucknill, Superintendent at Devon County Asylum, — who attended the

²⁶³ David Nicolson, “A Chapter in the History of Criminal Lunacy in England.” *Journal of Mental Science* 23, No. 102 (1877): 171.

²⁶⁴ Gordon, *Broadmoor*, chap. 1, para. 24.

²⁶⁵ “Medical Intelligence,” *The London Medical Gazette or Journal of Practical Medicine*. XIII (1851): 175.

association meeting — published his observations on how to fix the “defective system” in which criminal lunatics were confined.²⁶⁶ He stated that consolidating the criminal lunatic population would not solve the issue; instead, he called for the separation of “criminally disposed” lunatics from the “harmless” population.²⁶⁷ Bucknill thanked his friend, Dr. William Charles Hood, for his assistance in the publication and recognized the “strangeness” of his acknowledgement as Hood had recently published his own findings on the topic. Hood, a medical officer at Bethlem Asylum’s criminal section, argued that a separate facility for criminal lunatics would take the form of a prison, rather than an asylum which would hinder any treatment offered to the patients.²⁶⁸ He also criticized the criminal lunatic warrant system as he argued there was no demarcation between who they were issued to as well as no consideration for their crime.²⁶⁹ Criminal lunatics were confined by two different types of warrants; firstly the royal warrant under which a prisoner was found insane at their trial and therefore placed indefinitely “at His/Her Majesty’s Pleasure.”²⁷⁰ Secondly, the Secretary of State’s warrant which was given to already convicted prisoners who were examined and are found insane serving their sentence in prison.²⁷¹

Just as alienists had argued against the integration of criminal and ordinary lunatics in county asylums, Hood stated that the combination of criminal lunatics with “convict lunatics” in a state asylum posed a threat to rehabilitating the former subset. He

²⁶⁶ John Charles Bucknill, *An Inquiry into the Proper Classification and Treatment of Criminal Lunatics*. (London: John Churchill, 1851), 2.

²⁶⁷ *Ibid.*

²⁶⁸ Gordon, *Broadmoor*, chap. 1, para. 27.

²⁶⁹ William Charles Hood, *Suggestions for the Future Provisions of Criminal Lunatics*. (London: John Churchill, 1854), 26.

²⁷⁰ *Ibid.*, 15.

²⁷¹ *Ibid.*, 25.

argued that HMP prisoners were not considered criminally responsible as they were not convicted, but rather acquitted of their crimes, while those found insane after conviction were legally considered criminal. He suggested that the warrants should be given to prisoners based on the severity of their crimes, with royal warrants given to violent crimes, and Secretary of State warrants assigned to minor crimes.²⁷² This would also change their destinations after the trial, with royal warrants sending prisoners to Bethlem Asylum criminal wing, and the minor offenders to county asylums.²⁷³

Hood also focused his analysis of criminal lunacy on the crime of infanticide arising from puerperal mania. He argued that due to its established curability amongst the medical community, the disorder could be cured quickly with prompt medical treatment in an institution. Hood explained that once a patient is cured, she is to “discover that she has destroyed her child, and must be treated virtually as a prisoner for the remainder of her life.”²⁷⁴ Giving the presumption that she is admitted to the asylum under the royal warrant, even though her disorder is considered temporary in nature, she is left to remain in the asylum where a “sense of being under the ban of punishment...added to her bereavement and affliction.”²⁷⁵ While in direct contradiction to his previous suggestions to recategorize criminal lunatics, Hood acknowledged the peculiar position infanticidal women enjoyed as sympathetic creatures to the judicial, medical, and lay community.

His exploration of the position infanticidal women held in society underlined why alienists were able to implement themselves into the social and legal discussions surrounding their crimes. Previous attempts by the government to codify infanticide as a

²⁷² Ibid, 24.

²⁷³ Ibid.

²⁷⁴ Hood, *Suggestions for the Future Provisions of Criminal Lunatics*, 163.

²⁷⁵ Ibid, 164.

complex crime no longer met the needs or status infanticide rose to by the mid-nineteenth century. Alienists' exploration and development of criminal lunacy allowed them to outline guidelines on how to rehabilitate infanticidal women through psychiatric methods.

In 1852 the House of Lords proposed a plan to construct a state asylum for the criminally insane, fueled by the perceived injustice to “ordinary lunatics” were treated alongside criminal lunatics.²⁷⁶ Despite the favorable reviews from his fellow medical men on Hood’s suggestions directed to the government, plans went forward to establish a state asylum for the criminally insane.²⁷⁷ Hood later altered his attitude towards the project and was appointed to the Council of Supervision for Broadmoor, who oversaw its construction and management.²⁷⁸ Based on the structure and features of county asylums— for example a countryside location, far from urban centers and with an abundance of fresh air and natural landscape to offer a therapeutic environment — Broadmoor was set to be built in Berkshire.²⁷⁹

Broadmoor

For the first nine months of its existence, Broadmoor was a female-only hospital.²⁸⁰ This was a result of the female buildings – which were fewer in number – being completed before the male buildings.²⁸¹ By the close of 1864, Broadmoor held 200 male and 100 female patients.²⁸² The construction of Broadmoor meant that the

²⁷⁶ Gordon, *Broadmoor*, chap. 1, para. 29.

²⁷⁷ For example, see *Review of Suggestions for the Future Provisions of Criminal Lunatics* by Charles Hood, *Association Medical Journal* 2, no. 79 (Jul. 7, 1854): 398.

²⁷⁸ Gordon, *Broadmoor*, chap 1, para 29.

²⁷⁹ *Ibid.*

²⁸⁰ Mark Stevens, *Broadmoor Revealed: Victorian Crime and the Lunatic Asylum*, (South Yorkshire: Pen & Sword Social, 2013), 6.

²⁸¹ *Ibid.*

²⁸² *Ibid.*, 7.

population of criminal lunatics, which had previously been spread throughout numerous asylums and prisons, was consolidated under the care of one institution run by psychiatric professionals. Overseen by the government through the Secretary of State office, Broadmoor represented the official recognition of alienists' authority over the treatment of the insane.

In the year following the opening of Broadmoor, a Royal Commission on Capital Punishment was established to discuss the issue. Public perception of the debates frequently aligned alienists as "abolitionists" who wished to remove capital punishment altogether; however, many only raised their objections in cases of insanity pleas.²⁸³ In his testimony, Thomas Harrington Tuke stated that he would rather see the abolition of the practice than to see those suffering from insanity fall victim to "judicial murder."²⁸⁴ In response to critics of their motives, alienists argued that confinement in any situation was punishment, and criminal lunatics' in their indefinite terms of confinement in asylums should satisfy the "public's thirst for retribution."²⁸⁵ However, this defense, utilized by alienists such as Forbes Winslow, failed to silence the critics. The suggestion of "perpetual imprisonment" to replace capital punishment arose during the debates of the Royal Commission due to its established success with criminal lunatics at Broadmoor.²⁸⁶ As many arguments to retain capital punishment argued that it functioned as a deterrent for serious crime, many argued that the "convict class" feared indefinite detention more than death.²⁸⁷ However, this "perpetual imprisonment" did not apply to cases of

²⁸³ Norman, J. Finkel, *Insanity on Trial*, (London: Plenum Press, 1988), 25.

²⁸⁴ *Report of the Capital Punishment Commission: Together with the Minutes of Evidence and Appendix; Presented to Both Houses of Parliament by Command of Her Majesty*. (London: George E. Eyre & William Spottiswoode, 1866), 325.

²⁸⁵ Finkel, *Insanity on Trial*, 25.

²⁸⁶ *Report of the Capital Punishment Commission* (1866), 300.

²⁸⁷ *Ibid.*

infanticide. Tuke argued that cases of puerperal mania could result in a pardon once they recovered, in spite of their status as HMP patients. As the act (infanticide) arose from a physical catalyst (childbirth or lactation) which meant that after the insanity “passed away,” the woman is no longer a “criminal lunatic” and should be released.²⁸⁸ Hood contradicted this suggestion and argued that the safest course of action was to release a woman after she completed menopause, so that the “phenomena connected with utero-gestation [was] no longer liable to be called into action.”²⁸⁹

Publications emerged from alienists who found positions at Broadmoor and had access to Britain’s criminal lunatic population. Within this population, those who committed infanticide constituted a high portion of female patients. Gordon Harvey, from his own research, created a table to illustrate the proportion of infanticidal women within the female population of Broadmoor from its opening.

	Total Female admissions	No. of Insanity Cases	Number of Child Murder cases related to insanity (% of insanity cases)
1860s	171	85	54 (62.8%)
1870s	146	91	70 (76.9%)
1880s	138	94	74(78.7%)
1890s	121	98	76 (77.5%)
1900s	183	167	126 (75.4%)
1910s	198	171	124 (72.5%)
1920s	196	196	147 (75%)

Figure 4: Gordon Harvey’s statistics of women’s admission to Broadmoor published in his book, *Broadmoor* (2014).²⁹⁰

²⁸⁸ Ibid, 337.

²⁸⁹ Ibid.

²⁹⁰ Gordon, *Broadmoor*, chap. 7, para 9. The original table covered 1860s to 2000s.

As shown in the table, a high percentage of the female patients at Broadmoor in its first fifty years were those who perpetrated child murder. Harvey stated that the proportion of child murderers in the 1860s was lower than in subsequent decades, as Broadmoor's population initially included a large number of "miscellaneous female patients" who had been transferred from other asylums.²⁹¹ Women found insane at trial, or unfit to plead in child-murder cases were always sent to Broadmoor.²⁹² In his 1902 study into the female population at Broadmoor, Dr. John Baker, Deputy Superintendent of Broadmoor, offered his clinical insight into the "sketch" of female criminal lunatics. He focused on the cases of infanticide to outline the "medico-legal aspects" of its intersection with insanity associated with gestation and external social factors.²⁹³ Baker argued that infanticide perpetrated by insane women "had not attracted the attention it deserved" as lawyers, juries and judges were willing to accept a plea of insanity with little medical intervention.²⁹⁴ Baker stated that there had not been more study into further defining and identifying key aspects of the disorder past the simple facts already established. This suggested that alienists only developed the diagnosis as far as they needed to for the legal profession to accept and utilize it in criminal cases. However new scrutiny brought by the increase in public attention to the crime in the 1860s pushed alienists to further develop and align the diagnosis along a psychiatric framework.

Baker attributed 65 percent of infanticide cases at Broadmoor to insanity of lactation, with 35 percent caused by puerperal insanity, and the remaining 5 percent to the

²⁹¹ While this study is focused on infanticide, the term was not used consistently and many of the admissions records of Broadmoor use the term "child" for infant in some instances.

²⁹² Tony Ward, "Psychiatry and Criminal Responsibility in England, 1843-1939," Ph.D. Diss., De Montfort University Leicester, 1996, 171-172.

²⁹³ John Baker, "Female Criminal Lunatics: A Sketch," *Journal of Mental Science* 48, (1902): 15.

²⁹⁴ Ibid.

most rare form, insanity of pregnancy.²⁹⁵ He argued that the most likely victim of puerperal insanity (defined as within two months from childbirth) in its maniacal state was her husband, and on some occasions the child, with the likelihood of infanticide grew if she went on to suffer from insanity of lactation.²⁹⁶ Through his observations, Baker outlined the pathology and clinical features of infanticide in the different cases of insanity relating to gestation. His findings represented an effort to identify markers that could prevent infanticide by identifying the disorder before it became acute. Baker identified the factors in which certain groups of women could be likely to develop insanity and resort to violence and murder. Supporting previous publications on the disorder, Baker identified that in 24 percent of Broadmoor cases, women diagnosed with the insanity of lactation had a prior history of the disease, while a further 28 percent of cases had a family history of madness.²⁹⁷ Baker's study underlined that understanding these factors of the disorder could help in counteracting the disorder in women by identifying who would be susceptible and thereby reducing crimes of infanticide. Through his access to a large population of infanticide cases, Baker worked to confirm distinguishable factors that presented prior to the crime of infanticide so that it could be prevented. He also welcomed further development on the topic and encouraged his alienist cohort to use his publication as a starting point to reinvigorate interest in the disorder and crime.

Alienists were critical of the legal criterion of responsibility, and throughout the nineteenth century, discussions in the medico-legal sphere focused on adjusting criminal responsibility to reflect the developing understanding of insanity. Dr. Thomas Claye

²⁹⁵ Ibid, 16.

²⁹⁶ Ibid, 16-21.

²⁹⁷ Ibid, 23.

Shaw called for a “reversal” of the criminal court system for murder trials, in which he called for prisoners to be examined prior to trial to ascertain their state of mind.²⁹⁸ Shaw also shared his criticisms of the capacity for prison surgeons to successfully diagnose insanity due to their lack of clinical knowledge of the insane, and instead argued for the commission of government experts to examine the prisoners.²⁹⁹ Shaw’s suggestions were not original. Dr. William Orange, Medical Superintendent of Broadmoor (between 1870-1886), outlined his observations on the topic of criminal responsibility in his presidential address to the Medico-Psychological Association in 1883. Dr. Orange argued that the “ideal state of the society” that would result in the eradication of the category of “criminal lunatics.”³⁰⁰ In the ideal state Orange envisioned, no one would be sentenced to punishment without their mental state being ascertained prior to their sentence.³⁰¹ Orange’s observations echoed Tuke’s recommendations to the Royal Commission in the 1860s. The increase in psychiatric intervention at early stages of insanity presenting in crime, Orange explained, would mean they would be placed under “proper control before, and not after they have committed some alarming act of homicide or violence.”³⁰² The petitioning for systems to establish early psychiatric intervention emphasized the specialized skill alienists claimed over insanity, so much so that they could essentially rid society of the social issue of criminal lunacy.

Conclusion

²⁹⁸ T. Claye Shaw, "Insanity and Murder," *Transactions of the Medico-Legal Society* 3 (1905-1906): 72.

²⁹⁹ *Ibid.*, 74-76.

³⁰⁰ Orange, “Presidential Address,” (1883): 331.

³⁰¹ *Ibid.*

³⁰² *Ibid.*

Despite the numerous discussions on the legal criterion of criminal responsibility, none of the proposals came to fruition. Twentieth century discussions about amendments to British criminal procedures and responsibility mirrored the issues outlined by nineteenth century medico-legal professionals.³⁰³ Although alienists recognized that legal doctrines on insanity reflected a coherent moral interpretation of responsibility, it failed to meet the developing knowledge on insanity. While alienists ultimately gained authority over the treatment of criminal insanity in the physical construction of Broadmoor, they continued to seek a solution to the piecemeal approach by the government to the growing criminal lunatic population. Their developing expertise in insanity within the medical community supported their authority within the legal and judicial system. In Baker's retrospective analysis of Broadmoor's female lunatic population from 1863 to 1902, he argued that the sympathetic feelings inspired in judges, juries, and lawyers resulted in "expert witnesses" not being required to offer their evidence.³⁰⁴ In their efforts to assert their authority, however, alienists utilized this universal attitude toward infanticide to cultivate support from the public for their profession. In their development of puerperal insanity as a medical answer to the infanticide question, alienists managed to align their clinical observations with already established social understandings of childbirth and its effects on the mother's mental health which bolstered its social acceptance. By the turn of the twentieth century, alienists had turned their attentions to other disorders and methods

³⁰³ In 1964, the Criminal Procedure (Insanity) Act was passed which amended the Trial of Lunatics Act of 1883 which changed the verdict from "not guilty on ground of insanity" to "guilty but insane." If the sanity of a defendant is questioned by the court, under 1964 they are to be removed to a special hospital for an undefined amount of time.

³⁰⁴ Baker, *Female Lunatics*, 15.

of entrenching their established authority, leaving behind puerperal insanity as a fully formed diagnosis.

CONCLUSION

By the late nineteenth century, alienists had established themselves as a recognized specialism within the medical community. Through their work to develop and expand their psychiatric knowledge as a collective body, alienists were able to petition for a formalized education within the medical community. In 1870, John Sibbald — the Deputy Commissioner in Lunacy for Scotland and Joint-Editor of the *Journal of Mental Science* — spoke at length about the need for clinical instruction in insanity at a meeting of the Medico-Psychological Association. He expressed the accepted opinion among the growing numbers of alienists that there was now a necessity to offer "clinical teaching in insanity imperative in every medical curriculum."³⁰⁵ Sibbald was not the first alienist to advocate for specialized education. Prominent Scottish psychiatrist Dr. David Skae — President of the Medico-Psychological Association in 1863 — had organized and delivered courses on the mental sciences at Edinburgh University; however, they were not a requirement in the curriculum for medical students.

In 1874, the London Hospital offered lectures on mental diseases to students.³⁰⁶ Held at the Bethnal House Asylum, the lectures were offered weekly and gave students the clinical skills they would require specializing in psychiatry. Universities throughout Britain began to include "mental sciences" under the heading of "Special departments" in their curriculum. The title of "mental science" underlined the professions' attempts to present their specialism as a legitimate science with clinical opportunities. Alienists

³⁰⁵ John Sibbald, *Clinical Instruction in Insanity: a Necessary Element in Medical Education*, (London: Lewes, 1871), 1.

³⁰⁶ "Notes Concerning the Hospital and Medical Schools in London," *The British Medical Journal* 2, no. 715 (Sep. 12, 1874): 341.

succeeded in permanently establishing "mental science" in the medical education curriculum by the 1870s, despite setbacks due to lack of interest by students. As alienists developed their specialism and became more active in the criminal courts, their expertise gained recognition as an essential aspect of medical knowledge. This work culminated in 1892 in the establishment of "mental sciences" as a requirement of a medical degree.³⁰⁷ As alienists slowly acquired official recognition of their specialism within the medical community, they utilized this legitimization to bolster their influence in criminal courts. By working concurrently to develop their specialism and assert their growing expertise in the legal system, alienists successfully garnered recognition as an essential branch of medical knowledge.

As alienists worked to create a functional space for themselves in the developing medical profession, they also sought to assert their expertise in the legal sphere as criminal responsibility emerged as a leading social issue in England. In the early nineteenth century, the legal system had failed to outline the parameters for identifying insanity adequately. In response, society began to express fear for its safety as there was no adequate system to deal with "criminal lunatics." Contemporary alienists examined the clear divide between legal and medical approaches to insanity in criminal cases. Bucknill explained the chasm between legal and medical understandings of insanity was a product of the profession's difference in aims and purposes.³⁰⁸ Alienists aimed to diagnose and cure, while for the lawyer, it was not "how the seed of insanity was sown, nor the growth of the plant, except as confirmatory evidence that the plant is there."³⁰⁹ Therefore the law

³⁰⁷ "The Modern Medical Curriculum," *The British Medical Journal* 2, no. 1549 (September 6, 1890), 605.

³⁰⁸ John Charles Bucknill, "Original Lectures: The Lumleian Lectures on Insanity in its Legal Relations," *The Medical Times and Gazette* 1, (May 18, 1878): 527.

³⁰⁹ *Ibid.*

approached the issue of insanity from a moral standpoint as they recognized their core responsibility to identify insanity and outline to what degree the mental alienation affected the prisoners' responsibility.³¹⁰ The relationship between medical witnesses and, by extension, the medical community, and lawyers (the legal system) was one of balance. In cases of insanity, alienists understood the limited reach of their influence in definitions of insanity in the courtroom, as they had to work within a restricted, moral view of insanity and crime. Bucknill complained that some alienists sought to further fracture the balance between law and medicine. He argued that some alienists:

... not only the meaning of insanity far beyond the possibility of practical recognition – when they venture to instruct the courts in what the law regarding criminals ought to be, and the punishments to which they ought not to be subjected, then I think it is quite possible that the opposition of the administrators of the law may take a tinge of hostility towards men who seem so glaringly to transgress their proper province.³¹¹

Bucknill, who argued that insanity was a byproduct of brain disease, recognized that more "psychological" approaches to insanity could damage the relationship between lawyers and medical witnesses. As medical witnesses integrated into the legal system, lawyers realized that they would have to open their professional space to the developing medical profession. While lawyers relied on medical witnesses, and in many cases, alienists' expertise in forming their trial narratives on insanity to either defend or prosecute a case, they still held power within the arena in which medical witnesses now consistently placed themselves. There was no specialized requirement for medical witnesses in trials involving an insanity plea, and it mainly fell to surgeons who were the first to the scene, or those employed by prisons where the defendant was held until their

³¹⁰ Ibid.

³¹¹ Ibid, 528.

trial. As Eigen identified, prison surgeons dominated the position of the medical witness in trials of insanity.³¹² However, their testimonies, and in some cases their research interests, were influenced by the growing discipline of psychiatry represented in their publications and public debates concerning insanity in the legal system.

Chaille's definition of medical jurisprudence placed the power of medical jurisprudence within the hands of those who administered justice.³¹³ However, throughout the nineteenth century, alienists asserted their authority by consistently and openly criticizing the legal system they functioned within. While many published their own contributions to medical jurisprudence — or what we would recognize today as forensic medicine — some alienists focused their efforts in criticizing the established legal criterion of criminal responsibility, which disregarded medical observations. Focusing on the crime of infanticide, alienists participated in the discussions surrounding the use of insanity pleas in the nineteenth century legal system. The Royal Commission on Capital Punishment (1864-1866) did not find common ground on amendments to capital punishment, except for the eventual banning of public executions in 1868. Still, it offered several amendments related to infanticide.³¹⁴ Drawing from testimonies by alienists, the commission suggested that infanticide should be punished by penal servitude instead of capital punishment.³¹⁵ It also recommended that proof of the child being "completely born" alive should no longer be required, but rather evidence of death by violence or fatal injury.³¹⁶ These recommendations represented the sympatric attitude

³¹² Eigen, *Witnessing Insanity*, 176.

³¹³ Chaille, "Origin and Progress of Medical Jurisprudence, 1776-1876," 398.

³¹⁴ Randall McGowen, "History, Culture and the Death Penalty: The British Debates, 1840-70," *Historical Reflections / Réflexions Historiques* 29, no. 2 (2003): 230.

³¹⁵ Society for the Abolition of Capital Punishment. *Analysis and Review of the Blue Book of the Royal Commission on Capital Punishment*, (Holborn: William H. Warr & Co., 1866), 26.

³¹⁶ *Ibid.*

— by the legal, medical and lay community — toward infanticidal women, as even in the cases in which insanity could not be legally proven, and did not meet the requirements for concealment, they were still not considered "guilty" enough to deserve capital punishment.

Many unsuccessful attempts to introduce changes followed the commission until the Infanticide Act of 1922.³¹⁷ This act can be attributed to the effectiveness of insanity pleas and universal acceptance of socio-economic aspects of infanticide that ultimately resulted in no executions for the crime after 1849.³¹⁸ The 1922 Act abolished the death penalty for infanticide, provided that the perpetrator's "balance of [her] mind was disturbed from the effect of giving birth to the child."³¹⁹ The act was passed in reaction to the evident reluctance by juries to convict in cases of infanticide.³²⁰ While the act recognized the medicalized understanding of infanticide in its basic terms — the psychological effects of childbirth — Tony Ward argued that what it "emphatically did not represent was a triumph of medical over legal discourse."³²¹ In his analysis, this did not occur until 1938, when the law was amended to codify the medical understanding of puerperal and lactation insanity.³²² While these acts fell outside the main focus of this study, they are the product of nineteenth century alienists' establishment of their specialized space in the legal and medical community. Alienists cultivation of puerperal insanity as a medical answer to infanticide resulted in them becoming intrinsically linked until one cannot be understood without the other.

³¹⁷ Robyn Lansdowne, "Infanticide: Psychiatrists in the Plea Bargaining Process," *Monash University Law Review* 16, No. 1 (1990): 45.

³¹⁸ *Report of the Capital Punishment Commission* (1866), 231.

³¹⁹ "Infanticide," *The British Medical Journal* 2, no 5215 (Dec 17, 1960): 1815.

³²⁰ *Ibid.*

³²¹ Ward, "Psychiatry and Criminal Responsibility in England, 1843-1939," 191.

³²² *Ibid.*, 190.

The analysis of puerperal insanity and infanticide as two medical phenomena that ultimately fell under the jurisdiction of the psychiatric community offers insights into how alienists during the nineteenth century shaped their authority and identity in two separate communities: medical and legal. The issue of successfully determining criminal responsibility intersected with these two professional institutions by the mid-nineteenth century as they both fought to establish distinct boundaries of influence that would leave them with the most authority. Although alienists recognized the obstacles they faced in influencing legal rhetoric on criminal responsibility, the result of the piecemeal approaches by the government to address the issue of criminal lunacy allowed alienists to construct their authority to treat and eventually release criminal lunatics. While alienists never truly succeeded in asserting their full dominance over insanity through legal means, their efforts allowed them to reassert their specialized skill in containing and treating mental illness in all its forms. While puerperal insanity as a psychiatric term faded into obscurity by the mid-twentieth century, the biological and behavioral aspects alienists established in its minor and most severe cases continues today.

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