

DANIEL MCNAUGHTAN—CHAMPION OF DEMOCRACY

Daniel McNaughtan is widely thought of as the man who in 1843 tried to kill the prime minister of England, shot his private secretary instead, and was acquitted on grounds of insanity, thus leading to the McNaughtan Rules of Madness, which have dominated insanity defenses in the English-speaking world ever since. What seems more likely is that Daniel McNaughtan was a pioneer of civil rights in England and that his treatment has become a model of how governments can cover up dissent by labeling agitators as being crazy.

THE FACTS

On Friday January 20, 1843, Daniel McNaughtan, a young Scotsman, shot and killed Edward Drummond, private secretary to the prime minister of England, Sir Robert Peel. He was found not guilty on the ground of insanity. Charles Dickens attended the trial. The case caused such an outcry that Queen Victoria demanded to know if the law was being followed. Questions were asked in the House of Lords and the answers, supplied by the judges of the Supreme Court, became the McNaughtan Rules—the basis for a defense of insanity in the English-speaking world for more than 160 years.

Some information about this case was gathered by West and Walk [1] in 1977 but this consisted mainly of reprinted trial reports and articles written by other people. It was not until 1981 that a critical analysis of the case was first made [2]. Richard Moran exhaustively studied the life and times of Daniel McNaughtan and concluded that, far from being a madman, McNaughtan was a dedicated political revolutionary who “aimed not merely to murder Sir Robert Peel but to destroy the very foundation of aristocratic government in England” in favor of a more democratic system. The story Moran has put together is even more remarkable than the traditional one that has been handed down—how a lunatic shot the wrong man and precipitated the basic rules for the insanity defense.

Daniel McNaughtan was born illegitimate around 1814 in Glasgow and lived with his mother Ada, a poor dressmaker, until she died in 1821. He moved in with his father, Daniel McNaughtan Sr., a respectable businessman who owned properties around Glasgow. About the age of ten young Daniel became apprenticed to his father as a wood turner and at the age of fourteen, a journeyman. But at the age of eighteen Daniel was not made partner, probably because his stepmother preferred the business go to her own sons. Daniel moved into a lodging house and started night school to become an actor. He toured western Scotland with a band of strolling players but could not make ends meet and opened his own wood-turning shop fifty yards from his father’s business in 1835.

In 1841 he sold his business, visited France, and moved to London. In 1842 he moved back to Glasgow, studied anatomy at medical school, bought two pistols, and then returned to lodgings in London. In the first three weeks of January 1843 he was seen loitering around Downing Street and the Privy Council where the prime minister, Sir Robert Peel, and his private secretary, Edward Drummond, came and went. On 20th January McNaughtan shot Edward Drummond, who died five days later. McNaughtan’s father arranged for a defense on 30 January and next day a grand jury brought a bill against McNaughtan for murder. The trial began on March 3rd. It appears that McNaughtan believed he had shot the prime minister, rather than his private secretary, a mistake that was easier to make at that time than it would be now, given that the two men looked alike and there were no media photos. The prosecution was not prepared to combat the medical testimony and the jury returned a verdict without even retiring—not guilty on ground of insanity.



Daniel McNaughtan standing in the dock, *Illustrated London News*, March 6, 1843.

THE RULES

Queen Victoria wrote to the prime minister on March 12th suggesting that the legislature check with the judges that the law was being followed. Next day McNaughtan was taken to Bethlem Hospital “to await her Majesty’s pleasure” and the House of Lords took up the difficult question of criminal responsibility. On June 19th the judges of the Supreme Court were asked five questions designed to help juries decide whether a perpetrator should be punished for a capital crime or treated for mental illness. Eleven of the twelve judges returned four answers that have become known as the McNaughtan Rules. One rule relates to medical witnesses and another to the relationship between the House of Lords and the judges. The other two are often simplified but in essence are as follows:

1. A person is punishable if he knew at the time he was acting contrary to the law of the land. If he was laboring under an insane delusion he must be considered in the same situation as if the facts of the delusion were real.
2. To establish a defense of insanity it must be proven that he was laboring under such a defect of reason from disease of the mind as not to know the nature and quality of the act, or if he did know, that he did not know it was wrong.

Over the last 160 years these two simple rules have formed the basis of law on criminal responsibility through much of the English-speaking world. They have been challenged in countless nuanced cases and have fostered some variations but still form a cornerstone of law. In Scotland in 1867 a concept of diminished responsibility evolved that somewhat eclipsed the McNaughtan Rules.

This concept however was not introduced in the United States until 1956 and not in England until 1957. In 1977 in the U.S. the McNaughtan Rules remained the sole definition in 21 states; in another 11 states they were part of a formula that added some form of “irresistible impulse” or “control” rule. In other states they have been replaced by a modernized form recommended by the American Law Institute. In New Zealand the rules remain firmly embedded in the statute book. In Australia it was 1936 before the first substantial critical examination was made.

PEEL AND VICTORIA

When King William IV died in 1837, Victoria, aged 18, became Queen. The government was controlled by the Whig Party, led by prime minister Lord Melbourne. In 1839, the Queen commissioned Sir Robert Peel, a Tory, to form a new ministry. She married Prince Albert in 1840. Britain was ruled by a constitutional monarchy.



Chartism was a movement for political and social reform, possibly the first mass working-class movement in the world. It takes its name from the People’s Charter of 1838, which stipulated six main aims: universal suffrage for all men over 21, equal-sized electoral districts, voting by secret ballot, an end to the need for a property qualification for Parliament, pay for members of Parliament, and annual election of Parliament. In June 1839, a large petition was presented to the House of Commons, which voted by a large majority not to even hear the petitioners.

Many advocated force as the only means of attaining their aims. There was a confrontation in Newport where 20 Chartists were killed and 50 wounded. In May 1842 a further petition of over 3 million signatures was submitted and again rejected by parliament. A depression in 1841-42 led to a wave of strikes in England and Scotland in favor of Chartist principles. Chartist leaders were arrested, sentenced, and jailed.

Photo of Queen Victoria at the time of her Golden Jubilee (fifty years on the throne) in 1887.

The best known operative in Glasgow politics in the 1830s was Abram Duncan, a wood turner, who lectured on Chartism and came to work for Daniel McNaughtan on an irregular basis, which allowed Duncan to pursue his political activities. McNaughtan became known as a political radical, eager to debate the points of the charter with anyone in his shop. It became generally known that he hated the Tories, whom his father supported. The secret ballot was desired to protect voters from violence and economic persecution, weapons that were widely used by those in power to intimidate people and maintain position. These methods were employed by town governments, landlords, clergymen, and universities, amongst others. By 1837 the Tories had political control of Glasgow. In 1838 McNaughtan’s shop rent was raised from nine to twelve pounds and he became eligible to vote. In the local election of 1839 he voted against the Tories. In order to monitor Chartist activity, officialdom used a network of paid informers and private spies, including soldiers, old-aged pensioners, superintendents and inspectors of factories and mills. Police infiltrated the movement and speakers at Chartist meetings were prosecuted. The Chartist movement was strongest in Glasgow and the government concentrated much of its intelligence gathering efforts there. Chartists had to be extremely cautious and secretive.

Thanks to the landed aristocracy, Peel became prime minister for the second time in 1841. The country was in a financial crisis. Peel was accused of favoring the aristocracy while ignoring the suffering of the poor. His response to direct threat against his personal and political life was to intensify his program of harassment of the Chartists and other agitators by initiating criminal prosecution of their leaders. Three attempts to assassinate Queen Victoria occurred in 1842. During her first pregnancy, 18-year old Edward Oxford attempted to assassinate her, was tried for high treason, but was acquitted on grounds of insanity. The defense portrayed Oxford as a confused imbecile, but the Queen believed him perfectly sane. Many suggested a Chartist conspiracy. On 29 May, John Francis fired a pistol at her, was convicted of high treason and was sentenced to transportation for life. On 3 July, John Bean attempted to shoot the Queen, even though his gun was loaded only with paper and tobacco. Prince Albert encouraged Parliament to pass the Treason Act of 1842 and Bean was sentenced to 18 months imprisonment.

In this climate it was natural that the Queen and the Tory government should consider McNaughtan’s attempt on the prime minister’s life a plot. The information that Peel was the intended victim was suppressed. Scotland Yard told Peel that McNaughtan was in touch with other men. Victoria recorded in her diary: “Had a letter from Sir Robert Peel, with very curious enclosures, relative to MacNaughten who is clearly not in the least mad. A most mischievous paper was found in his lodgings in Glasgow—quite shocking.” The document was never made public. A second document has been expunged from the record that was referred to in a letter to the Queen: “information . . . will prove that MacNaghten is a Chartist, that he attended political meetings at Glasgow and that he has taken a violent part in politics.”

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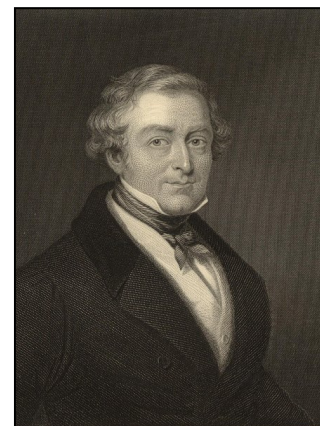
THE TRIAL

Daniel McNaughtan shot Edward Drummond in broad daylight. A policeman pinned his arms before he fired his second pistol. A second arresting officer testified that when he wrested the pistols from McNaughtan, McNaughtan told him pointedly “I know what I’m about,” which is the opposite of what the court eventually found. A police inspector asked McNaughtan if he was aware of the identity of his victim. McNaughtan answered “It is Sir Robert Peel, is it not?” At his arraignment he was given the choice of pleading guilty or not guilty. McNaughtan did not answer for a long time and then said “I was driven to desperation by persecution.” When prompted to plead guilty or not guilty he hesitated again then said “I am guilty of firing.” A plea of not guilty was entered.

The attorney general, who had prosecuted Edward Oxford, normally would have prosecuted the case for the government but he was in Lancaster at the trial of 57 Chartists for inciting the August disorders. The case was therefore assigned to Sir William Follett, the solicitor general, who was somewhat limited in the florid oratorical style of a Victorian courtroom. Follett was forced to concede the defendant was mentally ill, but legally responsible. Otherwise, the prosecutor would have been placed in the untenable position that McNaughtan’s alleged delusions of persecution were valid and motivated him to want to kill the prime minister. Then he would have had to expose the government’s network of political persecution and espionage to produce the necessary evidence for conviction.

According to Moran [2], Daniel McNaughton probably had the best financed defense in the history of the Old Bailey. Daniel’s father retained two distinguished solicitors for the arraignment. Daniel acquired large sums of money that Moran shows could not possibly have come from his wood-turning business in a failing economy. The enormous sum of 750 pounds (worth more than a quarter of a million U.S. dollars in 1981) was released from Daniel’s bank account, which made it possible to assemble four of the most able barristers in Britain, nine prominent medical experts, and eight lay witnesses from Glasgow, including four public officials. Alexander Cockburn, perhaps the most eminent counsel to practice before the Central Criminal Court of London since the days of Henry Fielding (who wrote “Tom Jones”) appeared for the defense. Cockburn proceeded to unravel the prosecution’s case then selectively presented facts to show that, rather than a political criminal acting as a responsible agent, McNaughtan was a criminal lunatic who had no rationale for wanting to murder the prime minister.

The claim of insanity was based on the fact that he killed the wrong man and that he thought he was being persecuted by the Tories. But McNaughtan’s mistake was understandable since Peel and Drummond looked similar, traveled together, and there were no media like we have today to show everyone what they looked like. And what was not dealt with in court is whether or not McNaughtan was in fact being persecuted by the Tories, who had the motive and means to do so. The doctors concurred, the judge misdirected the jury, the prosecution rolled over, and the jury returned the verdict without even retiring—not guilty on ground of insanity. The government was not embarrassed and McNaughtan was not hung. However, Daniel McNaughtan spent the rest of his life in confinement, largely forgotten. On March 26th, 1864, at the age of 50, he was transferred to the Broadmoor Criminal Lunatic Asylum, where he died on May 3rd, 1865 at the age of 52.



Sir Robert Peel, photograph of two-dimensional work of art.

CONCLUSIONS

Moran’s research is convincing. McNaughtan wanted to murder the prime minister and may have been financed because of his desire, but botched the assassination. An insanity defense saved him from the gallows but took away his dignity. Moran makes a case for introducing a new political defense that would give such people an alternative to the insanity defense. If McNaughtan had pleaded that he was justified in wanting to kill the prime minister, he could have had his day in court and explained what was wrong with the system and why he wanted to change it. This way his purpose would have been made clear and he could have taken his sentence with pride. Moran concludes furthermore that it was the Victorians, not the young Scotsman from Glasgow, who failed to appreciate the nature and quality of his act. Moran views Daniel McNaughtan as a hero and a pioneer of civil rights. McNaughtan’s vision for England was gradually fulfilled, whereas Sir Robert Peel’s world, based on privilege for the aristocracy, disintegrated. Moran dedicates his book “To the young Scotsman from Glasgow whose search for political and social justice brought him face to face with the ultimate question of right and wrong.”

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