

LOOKING BACK TO LOOK FORWARD

## THIS MONTH IN PSYCHIATRY

SERIES EDITOR, GREGORY EGHIGIAN, PHD

# Assassins in London and Washington Force Changes in the Insanity Defense March 1843 and 1981

» Kenneth J. Weiss, MD || For the Group for the Advancement of Psychiatry Committee on Arts & Humanities

Across the centuries, March has been an eventful month for the insanity defense on both sides of the Atlantic, and the McNaughten rule remains the prevalent standard to this day.

On March 2, 1843, Daniel McNaughten went on trial for murder, leading to a ruling of not guilty by reason of insanity. The McNaughten Rule has influenced insanity defenses ever since.

In the 1840s, Britain was the scene of protests over the Corn Laws, which stressed lower socioeconomic classes by taxing grain. Prime Minister Robert Peel of the Tory Party was vilified as an oppressor. A Scottish woodworker, McNaughten, became obsessed with Peel, believing he and the Tories were persecuting him, directly and severely enough to threaten his life. Under that fixed idea in 1843, he came to London to study and assassinate Peel in order to save his own life.

On January 20, 1843, McNaughten lay in wait near Peel's home. A man left the home, and McNaughten shot him from behind. The victim, however, was not Peel; rather, it was his secretary, Edward Drummond. Though it remains controversial whether McNaughten knew he was shooting the wrong man,<sup>1</sup> sources say the shooter believed he had shot Peel.<sup>2</sup> Regardless, the shooting was intentional. The victim died less than a week later, making it a murder case.

On March 2, 1843, McNaughten's trial began at the Central Criminal Court of London. He had a tal-

ented lawyer, Alexander Cockburn. Expert testimony said that as a result of his delusions, McNaughten did not know what he was doing was wrong. Cockburn, who had read *A Treatise on the Medical Jurisprudence of Insanity*<sup>3</sup> published in 1838 by American physician Isaac Ray, relied on Ray's idea that there should not be a single test for insanity. The defense so persuaded Lord Chief Justice Tindal that he directed a verdict of not guilty on the ground of insanity. McNaughten, considered dangerous, was civilly committed, the custom that began in 1800.<sup>4</sup>

The verdict did not sit well with Queen Victoria, who had been the object of threats and attempts to harm her. She was incredulous that a man who opposed the conservative government would be considered insane and not responsible. The House of Lords promptly held an inquiry asking legal experts a series of questions. For example: What is the proper test for criminal responsibility?

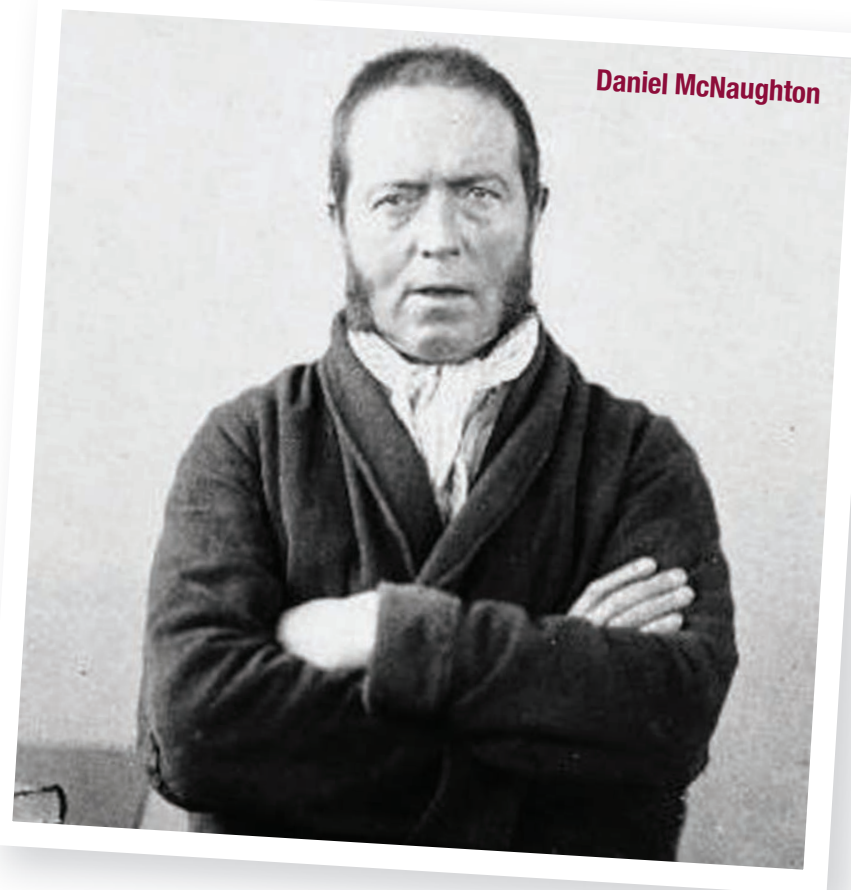
The consensus was that the correct test is whether the defendant, at the time of the act, labored under such a defect of reason from disease of the mind as not to know the nature and quality of the act he was doing, or as not to know what he was doing was wrong.<sup>5</sup> This was a *cognitive* test (knowing right from wrong), in contrast to the *volitional* test (not having the will to resist an impulse). The new standard became known as the *McNaughten Rule*, even though McNaughten was not tried under it. It quickly caught on in America, where it remains the pre-

dominant standard for insanity.

In the mid-20th century, Dr Ray's advice was evident. First, federal jurisdiction in 1954 permitted juries to consider a standard Ray supported in 19th century: "an accused is not criminally responsible if his unlawful act was the product of mental disease or mental defect."<sup>6</sup> Then, in 1972, the federal jurisdiction adopted the American Law Institute's standard (a volitional test in addition to a cognitive test).<sup>7</sup>

On March 30, 1981, John Hinckley Jr shot and wounded President Reagan and his press secretary, James Brady. He was tried and acquitted by reason of insanity under the federal standard. This troubled Congress, just as it did the Crown after the Drummond assassination. The result was the removal of the volitional standard in new legislation—the Insanity Defense Reform Act of 1984—and a return to the McNaughten Rule.<sup>8</sup>

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