Mental Health as a Foundation for Suit or an Excuse for Theft in Medieval English Legal Disputes

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In the first half of the thirteenth century, in legal disputes—either concerning royal lands or in areas under common law—when a party happened to be mentally incompetent, the king or his proxy presided over the quarrel or case with mental competency, or lack thereof, in mind. While the king and his representatives did not seek out mentally incompetent persons, the crown considered the care of mentally incompetent landholders to be part of royal jurisdiction; although, some lords still considered this responsibility to be part of their feudal duties with a right to income from those lands until the early fourteenth century. Late in the thirteenth century, the crown began to pay more attention to these potentially lucrative lands, claiming all mentally incompetent landholders as the prerogative of the crown. The importance of these guardianships of mentally disabled persons—as opposed to those of children for instance—was that they had the potential of lasting many years or decades.

From the mid-thirteenth century, the king controlled appointments of guardianship over mentally incapacitated individuals and their properties. In the last few years of the thirteenth century and certainly by the fourteenth century, the system for placing a mentally incapacitated landholder in

wardship was institutionalized via “statute.” Stemming from Roman law, this system allowed for those persons born with their conditions to have the crown manage their properties for a fee, claiming all profit, and in exchange providing for the care of the mentally incompetent person. In the case of persons who became mentally incapacitated later in life, even as children, the crown exacted a fee for the guardian, but saved the profit for the disabled individual in the event that he or she got well. The king often placed relatives in the position of guardian, especially in cases of people who became mentally disabled as adults. This seems to be in part for the comfort of the mentally disabled individual and to wrap as much of the wealth from the land back into the family.

2 The so-called Prerogativa Regis claimed custody of all mentally incapacitated landholders as the responsibility of the crown. For example, John Heton became a royal ward in 1355 “pursuant to the statute.” This phrase was not uncommon in records at the end of the thirteenth century and was still in use in the mid-fourteenth century. TNA: PRO C 66/245, m 13; CPR, Edward III, 1354–1358, pp. 200–01. The Prerogativa Regis, though, does not read like a statute. I have argued elsewhere that this announcement—a summary of particular royal entitlements that includes mentally incapacitated landholders in chapters 11 and 12—from Parliament or Great Council probably came around the time of Henry III’s death while Edward I was still out of the country. Prerogativa Regis in A. Luders, T.E. Tomlins, J. France, W.E. Taunton, and J. Raithby, eds., Statutes of the Realm (London, Dawsons of Pall, Mall, repr. 1963), v. 1. See also Turner, Care and Custody, ch. 2.


4 Landholders needed the income from the land to support their families and, if a landholder was mentally incompetent from birth, it was likely that he would not produce an heir. If a family wanted a line to continue, someone else needed to procreate within the bloodline and the most likely individual was the next heir in line for the land. For more information see: W.J. Turner, “Town and Country: A Comparison of the Treatment of the Mentally Disabled in Late Medieval English Common Law and Chartered Boroughs,” in Madness in Medieval Law and Custom, ed. Turner (Leiden and Boston: Brill, 2010), pp. 17–38; Donald W. Sutherland, “Peytevin v. La Lynde,” Law Quarterly Review 83 (1967): 527–546; W.J. Turner, “Mental Incapacity and Financing War in Medieval England,” in The Hundred Years War, Part II: Different Vistas, ed. Villalon & Kagay (Leiden and Boston: Brill, 2008), pp. 387–402; and C.F. Goodey, A History of Intelligence and ‘Intellectual Disability’: The Shaping of Psychology in Early Modern Europe (Farnham, Surrey & Burlington, VT: Ashgate, 2011), p. 142.