TRAUMATIC AMNESIA—A CASE OF MEDICO-LEGAL INTEREST.*

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The case of Frank Endrukat, who was tried for murder in the Philadelphia courts in December, 1907, is believed to be unique from a medico-legal standpoint, and is for that reason reported to this Association.

The following is the patient's story as he tells it at the present time. It is practically the same as told many times previously to others.

Frank Endrukat was born in Germany of healthy parents. He knows of no mental nor nervous taint in his ancestors. He is the seventh child of a family of seven, none of whom showed abnormalities or nervous disease. When he was two years old the family moved to Russia, where he was reared.

Endrukat and the girl, Martha Corias, whom he murdered, were school-mates in Russia and early became attached to each other. Upon reaching manhood he became a newspaper correspondent. He states that at times he and the girl traveled together, registering at the hotels as man and wife, but that at this period there was nothing improper in their relations.

When the girl was eighteen years old, they decided to marry, but the father of the girl repeatedly refused his consent on the ground of religious differences.

On the morning of May 16, 1905, he went to the girl's house to renew his suit. Before he saw the father, the girl avowed her intention to kill herself if the father refused his consent. The father did refuse and, when Endrukat returned to the girl with this news, she turned pale and he heard her say, "This is the murderer's moment." He thought from this remark that she was going to kill herself, and, as he was wearing his military pistol (being in the Russian Army at that time), he drew it and shot her twice. The father rushed in with a hatchet at the shots. Endru-

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kat shot him, wrenched the hatchet from his hand, struck the girl several times over the head and then shot himself in the neck. (In corroboration of this part of the story it may be said that he carries a large scar at this point.)

The girl recovered, but the father died four days later. After lying in the hospital ten months, Endrukat was tried and sentenced to two and one-half years imprisonment. His sentence, however, was lightened by the Douma and, further, he was one of the prisoners freed to celebrate the birth of an heir to the Czar, so that he actually served only eleven days in prison.

Shortly after the girl recovered she sailed for America. He heard of this and in December, 1906, also came to the United States, though not, he claims, with any idea of finding the girl.

He landed at Baltimore, came to Philadelphia and learned, quite by chance and with surprise, that the girl was in the city, knew of his arrival and wished to see him. They met and became very intimate; in fact spent several nights together. One such night was spent in his room, and on this occasion he showed the girl a large sum of money (\$800) which he had.

After she left, he found that his money was missing and later accused her of the theft. She gave him an evasive answer and, as he had heard that she intended to leave the city with his money and another man, he had her arrested on a charge of larceny. She retaliated by lodging a charge of rape against him, claiming that she had been detained against her will at his room and, through threats of death, had been dishonored. They later met in court, an exchange of money took place, each charge was withdrawn and they separated. This occurred on April 24, 1907, and Endrukat claims that he never saw the girl after that date.

He states that on the date of the murder, April 29, he rose about 9 a. m., breakfasted, remained about the house until 2 o'clock p. m., took the street car for the Pennsylvania Hospital to be treated for rheumatism, was admitted and put to bed. After he had been there three days he was restrained mechanically. Upon inquiring the reason for this he was told that he was insane. In addition, police officers were kept near him day and night. On May 28 (one month after the homicide) a woman acquaintance visited him, told him of the murder of Martha Corias; that he

had killed her and shot himself. This, he claims, was the first he knew of the death of the girl.

The actual facts in regard to the homicide, as developed at the trial are these:

At about half-past seven o'clock on the morning of the 29th of April Martha Corias was in a bakery, buying bread. As she started to leave, Endrukat entered and addressed her in German. She said, "let me go," and upon this he drew his revolver, shot her twice, then shot himself in the right temple.

The girl died almost immediately and he became unconscious at once.

The testimony of the physicians as to his history while at the Pennsylvania Hospital is briefly as follows:

Patient was brought in, unconscious, at 8 a. m. A bullet wound was evident in the right temporal region. This wound was enlarged under ether about 11 a. m. and was found to penetrate the temporal bone just back of the orbit, the bone being depressed and somewhat comminuted at this point. Brain substance exuded from the opening in the skull. As moderate probing failed to locate the bullet, the wound was closed with gauze drain.

The patient regained consciousness about 8 p. m. (12 hours after the shooting) and was able to recognize a friend who called. Nothing coherent, however, could be learned from him at this time. In answer to a question as to the shooting of the girl he gave a somewhat confused reply to the effect that he had not killed her.

For about two weeks he lay in a semi-conscious condition with intervals of more complete consciousness. During this period he at times was critically ill. Soon, however, he began to gain; his wound healed rapidly and his only complaint three weeks after the injury was double vision.

About this time a skiagraph was taken, disclosing a bullet in the left temporal region. (Unfortunately, the plate has been lost and I could get no more definite information than this.)

He refused permission for an operation to remove the bullet, refusing to believe that the skiagraph shown to him was taken from his own head. His conduct while in the hospital revealed no abnormal features. His answers to questions, especially when

relating to the crime, were irrelevant or evasive, though not incoherent.

When told by the woman visitor, one month after the homicide, of what he had done, he denied all knowledge of the matter and volunteered that the police officers who were watching him were there because he was thought to be crazy.

After his refusal to have a further operation he was soon (June 7, 1907) sent to prison, being convalescent.

Endrukat remained in prison six months awaiting trial. During this period he was repeatedly questioned by his attorneys and by medical experts in an effort to make him admit some memory of his crime. To all he said emphatically that he did not kill Martha Corias; that he couldn't have killed her, as he was in another part of the city on the day of the murder, as he could prove by his friends. When questioned about the bullet wound in his temple he said he had had a cancer, which was cut out at the hospital. He laughed about the bullet in his brain and said that a man couldn't live with a bullet in his head.

His conduct while in prison is stated to have been natural in most respects, though he manifested irritability at times, especially if other prisoners were noisy. The prison physician testified that there was nothing in his conduct or speech while in prison to make him think that the prisoner was of unsound mind.

At the opening of the trial (December 12, 1907) the court considered a petition from the defendant's attorneys asking that an inquiry be first made into the state of mind of the prisoner, it being averred that Endrukat had no recollection of his crime and for that reason could not comprehend the proceedings, could not properly confer with counsel nor make a rational and proper defense. However, the defendant, in answer to the court's questions, stated that he knew he was in a court-room and that he knew he was charged with killing Martha Corias. The court then overruled the petition of the defense, directed that a plea of "not guilty" be entered for the defendant, and the trial proceeded.

There was no contention in regard to the facts of the killing, as detailed above, which were proven by the commonwealth.

For the defense, several witnesses were first called who had been associated with the defendant at the hospital and prison, to

confirm the contention that the prisoner had never at any time admitted any knowledge of his deed. An attorney who had formerly been connected with the case testified that the prisoner had told him of having several thousand dollars at his disposal, which money was at the house of a friend. However, this friend could not be found at the address given.

The main reliance of the defense was upon expert testimony. The first expert called for the defense testified that in his opinion the defendant was suffering from traumatic amnesia, covering the period of the commission of the crime as a result of the gunshot wound. The following question was asked him by the counsel for the defense:

"Assuming that lunacy, as used in Section 67 of the Act of 1860 (Statutes of Pa.) is defined to be the inability of the prisoner to understand and comprehend sufficiently his position to be able to confer with counsel and prepare a defense; assuming that and assuming that the prisoner has traumatic amnesia, would you consider that that person is a lunatic within the meaning of the word as I have defined it in this question?"

The answer was: "In my opinion he would be." He further testified that, outside of his traumatic amnesia, he saw no evidence of mental abnormality in the defendant.

On cross-examination, he stated that the fact that the prisoner refused to accept the testimony of creditable witnesses that he had committed the crime served to differentiate this case from one of simple alcoholic amnesia and suggested more impairment of mind than mere traumatic amnesia. He felt that the defendant did not realize the gravity of the proceedings or comprehend fully the situation in which he was placed. He thought that, having no knowledge of his crime, the prisoner was not competent to conduct his defense.

The other alienist for the defense was also asked the hypothetical question embodying the definition of lunacy as given above and answered that he regarded the defendant as a lunatic "in that broad meaning." He thought the defendant comprehended his surroundings and the proceedings as far as a foreigner could and that he could reason properly about all matters save the crime itself, of which he remembered nothing. He also thought that

a man could not confer with counsel and prepare a defense for a crime about which he knew nothing.

Two experts were called in rebuttal by the commonwealth.

The first witness testified that, from his examinations of the prisoner, it was his impression that the loss of memory was real, though he knew of no way to prove it. There was one point, however, in which, if real, this amnesia differed from most cases of a traumatic character and that was in the fact that the prisoner had fabricated a series of events to fill in the lapse of memory (or part of it).

He qualified his answer to the hypothetical question of the defense, defining lunacy as the inability to confer with counsel, etc., by saying that he thought the defendant fully able to confer with counsel as to his defense unless the term "confer with counsel" meant that he must necessarily remember his deed. If the latter interpretation were the right one, then he must answer as did the witnesses for the defense. He felt that the defendant was much above the average grade of intelligence and was not insane in any sense of the term.

The testimony of the second expert for the commonwealth was briefer and practically the same in the opinions expressed as that just given.

The charge of the court tended toward a verdict of murder in the first degree as far as the crime itself was concerned. The court, however, charged rather strongly in favor of the prisoner as far as related to his mental condition at the time of the trial. The following points were incorporated in his charge, at the request of counsel for the defense.

1. "If you believe that the defendant's mental condition is such that he cannot confer with counsel or prepare his defense, you must find him a lunatic."

2. "For you to find that the defendant is competent to advise with counsel and prepare his defense, you must believe from the evidence that the defendant has *personal knowledge of the commission of the crime* and has sufficient knowledge and memory of the facts and circumstances attending the alleged crime to make a defense thereto."

3. "If you find that the defendant is suffering from or is

afflicted with *traumatic amnesia* and in consequence thereof has no knowledge or recollection of the facts of the crime whereof he is charged, then your finding should be that the defendant is a *lunatic* and *mentally incompetent* to advise with counsel and prepare his defense."

With these points included in the charge, it can readily be seen that if the jury gave heed to the court's charge there was little left to do but to declare the man a lunatic at the time of the trial.

The jury rendered the following verdict: "The defendant, Frank Endrukat is guilty of murder in the first degree, also he is now a lunatic and unable to confer with counsel in regard to the tragedy."

After some two months further spent in prison, Endrukat was finally sent to the State Hospital for the Insane at Norristown, Pa., by order of court. It was reported from the prison that he had grown very violent and he admitted to us that on one occasion he had become very angry and destroyed some furniture in his cell because they would not permit him to see the superintendent of the prison about some matter.

Physical examination on admission at Norristown revealed no evidence of organic nervous lesion of any kind, nor of any other organic disease. He presented no marked stigmata of degeneration, and the contour of his head, facial expression and method of carrying himself showed him to be above the average man in general intelligence. Apart from a few minor ailments, his health has been excellent. He has complained at times of mild headache, but has had no vertigo nor other subjective symptoms. He states that he has never had convulsions of any sort; there is no history or evidence of venereal disease and he claims to have been a very moderate drinker (which his appearance confirms).

After admission he very readily gave the story of his life as told above. He is polite and deferential in manner and at no time has shown irritability of temper. He has shown a tendency to complain about little things. He refused to take his bath because he said he was not allowed to remain long enough in the tub, but when taken by force to the bath-room he laughingly gave in and took his bath as usual. When accused of breaking certain rules he admitted it and said he was willing to take any consequences of

his act. He promised not to break these rules again; was again reported, and this time he lied about the matter. Has taken a dislike to the ward physician and the head attendant in his ward, apparently because they have insisted upon his obeying the rules.

He has never at any time shown delusions nor hallucinations. When asked whether he would go the city to have another skia-graph of his head taken, he refused his consent, saying he would not do so until declared sane by the officials of the hospital. He has given the impression that he expects to be declared sane, serve a few years in prison and then be released. He still insists that there is no bullet in his head. All arguments presented to convince him of the error in his attitude toward his crime are met with polite but skillfully evasive answers. It seems impossible to find vulnerable points in his position, yet he at times gives the impression of one trying to maintain a false position and constantly on the alert to prevent anything being said or done to make that position untenable.

There are several features connected with this case which make it of more than ordinary interest.

First. I have seen no cases of traumatic amnesia reported in which the memory blank was filled in with a fabricated series of events. It is true, as pointed out by Meyer¹ and others, that cases of traumatic insanity are prone to fill in the amnesic periods, when present, with fabrications. However, in such cases the amnesia is usually the least important element in the case and the fabrication tends to disappear if consciousness becomes clear. In traumatic amnesia the lapse in memory is generally complete, clear-cut and usually permanent if induced by obvious organic lesion.

Whether there are enough facts presented in this case upon which to base a diagnosis of traumatic insanity seems most questionable. The man has at times exhibited temperamental tendencies which might perhaps be ascribed to the traumatic element in the case. On the other hand such characteristics might easily have existed previous to the shooting. I allude to his unreasonableness about small matters, history of moderate irritability and a certain attitude of suspicion which is present at times.

¹ A. Meyer. "The Anatomical Facts and Clinical Varieties of Traumatic Insanity," *AM. JR. INSANITY*, Vol. 60.

The chief interest of the case, however, rests in its medico-legal aspects. I have failed to find in medical or medico-legal literature any recorded case where the defense of traumatic amnesia has been employed successfully to convince a jury that a murderer was incompetent to conduct his defense and was, therefore, of unsound mind. The establishing of such a precedent would seem to be a very dangerous one, and, if followed by the courts generally, is likely to lead to many miscarriages of justice in the future. The legal definition of insanity as given in the statute quoted in this case is shown to be defective, since it permits traumatic amnesia for the crime committed to absolve the murderer from punishment for his deed.

The possibility of malingering is constantly to be borne in mind in such a case though, as in most cases, it is extremely difficult to detect its presence. The word-association test, as employed by Jung, Münsterberg and others for the detection of crime, is said to have been tried in this case, but with absolutely no success. It is stated that the answers given were entirely at random and no logical associations nor complexes of any sort could be detected.

[NOTE.—At this date, December 19, 1908, there is no appreciable change in the patients condition.]