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AMNESIA FROM A MEDICOLEGAL STANDPOINT

ALFRED GORDON¹

The most important medicolegal problems are those concerning human will and intelligence. The questions of culpability and responsibility in civil and criminal cases can be determined upon a careful and scientific analysis of facts dealing with the great variability of human intellect.

The extraordinary diversity of the latter prevents me from embracing the entire subject in one discourse. Among all the elements constituting intelligence there is one particularly that is of special importance, and this is the integrity or disturbance of memory.

The alterations of this faculty may present the most peculiar and various forms. But before entering into the substance of the subject I wish to relate an example of the most curious form of amnesia, a form which is rare in the medical annals, difficult and embarrassing from a legal standpoint.

Case 1. F. E. committed murder. He killed a girl with whom he had relations at various intervals within the last few years. Immediately after the shooting he turned the revolver to his right temple and shot at himself. The bullet entered his brain. He fell unconscious. On admission to the hospital he could not be aroused; would groan frequently. The right eye was swollen and ecchymotic. The bullet wound was dressed temporarily, and it was decided that if the man lived for at least two hours it would be advisable to probe for the bullet by an operation. His condition improved in the course of two hours and he was taken to the operating room, where the wound was enlarged, the track of the bullet traced to the opening in the skull, the latter being in the temporal bone just behind the bony orbit. The bone here was depressed and fractured; brain substance was found to be emerging from the opening. The bullet was probed but not located. A gauze drainage was then put down just over the opening in the skull and the wound was partly closed. The wound gradually healed. An x-ray examination showed the bullet in the left temporal region. As he refused an operation, he was discharged from the hospital about two months after admission. He was then taken to Moyamensing prison.

¹Psychiatrist, Philadelphia, Pa.: Read at the January meeting of the Medico-Legal Society of Philadelphia.

Since the patient regained consciousness after the shooting up to the time of the trial he would not believe that there was a bullet in his brain; even the x-ray picture shown to him would not convince him.

The other peculiarity in this case was the fact that the man had no recollection of having shot at himself or the woman. When spoken to about it, he ridiculed the idea. A man cannot, said he, be a carrier of a bullet in his head, as he could not live with a foreign body in the brain. That the girl lived he was absolutely certain, and he could not understand why he was detained by the authorities.

I saw the prisoner on two occasions. Physically he was in an excellent shape. There was no indication as to localized symptoms. The absence of the latter pointed evidently to a location of the bullet in some silent region of the brain. His faculties of seeing, writing, reading, hearing, tasting, smelling, his power of motion and sensation, were all preserved and intact.

The examination for his mentality proved also to be negative except for his memory as to the act of shooting and death of the woman killed by him. He could comprehend every question asked of him, was able to give an account of his boyhood, of all the events of his life. I made him go over his life for the past few years. I made him describe his relations with the woman he killed from the day he became acquainted with her to the day of the shooting. Correct or not correct, the recital of the facts connected with her were given by him in the most coherent and connected manner. He stated that several years ago they had been living in the southern part of Russia. The girl was then in love with him, but she was being forced into a marriage with an older man. Once she requested him to kill her in preference to marrying this other man. He complied with her request, because if he could not have her, no one else should. Having a military pistol in his pocket (he was in the army at that time), he shot at her, but the girl was not killed. He then went into the next room and picked up an axe or mallet and hit her on the head. Her father happened to come in at that time and tried to take him, but fearing a calamity, he did not persist. Frank was arrested and convicted of murder in Russia. Upon appeal the girl admitted that she had requested him to kill her and for that reason he was given a term of two years' imprisonment. He only served a short term. In the meantime the girl left for America.

For some reason he went to Paris and from there came to this country. He did not come, he said, for her sake, but nevertheless

he never ceased to inquire about her. In Philadelphia they met again and became intimate. On one occasion, after spending the night together, he noticed that his watch and a sum of money, over \$800.00, had disappeared from his room. In the meantime having learned that she was going to leave town, with another man, he brought charge against her for theft. She in turn brought an action of rape against him and he was arrested. Through some arrangement the rape action was squashed. He followed her out of the court and that was the last time he says he saw her. The crime was committed on the same day.

The recital of events of his life in connection with the life of the woman up to the commission of the crime was clear and without the least trace of incoherence or inconsistency. It was the recital of a man of sound mind. A more detailed examination with reference to other facts of his life, also the present manner of speaking, acting, and feeling, the complete freedom from delusions, hallucinations or illusions, the perfect and gentlemanly behavior in my presence, my inability to confuse him while he was giving me the history of his life—all these circumstances corroborated my former conclusion, viz., that I was in the presence of a perfectly sane man. Moreover, he impressed me as being a man of some culture and refinement.

Case 11. Mrs. R. D. M. was twenty-five years old. She received her education in high school and art school. From seventeen to the age of twenty-one she occupied clerical positions. During that time she became extremely friendly with a young man. At the end of the second year of this warm friendship their relations were broken off. She became depressed, exceedingly nervous, could not sleep and lost interest in everything that formerly appealed to her. Her condition remained unaltered for an entire year. Upon the advice of her physician (Charles Manning) she took a position with short hours of service which she held for a brief period. In 1923 she entered the employ of a bank as a clerk and soon changed for a position in a News Bureau which she held for a whole year. In 1924 she married.

It was noticed that within the two years before her marriage her disposition underwent a considerable change. She became domineering, refused to listen to reasoning and considered herself superior to anyone with whom she came in contact, including the members of her family. It was also noticed that during the last year before her marriage, that is from October, 1923, to October, 1924, when she was working in the News Bureau she would remain frequently

at the office during the evenings and would do the work also on Sundays and on all holidays. She would return home exhausted and go to bed at once. She would get up early, spend over an hour in the bathroom and start off for the office before eight o'clock. When reminded by her parents of the uselessness of doing late and very early work, she would ignore them and repeat the same actions, and behavior. She avoided every member of the family and all her friends. The officials of the News Bureau often spoke to her of the futility of doing unnecessary work at nights and on holidays, but she apparently did not pay attention to their advice. She was well thought of by the office force; her work was considered highly satisfactory and characterized by extreme precision and accuracy. Her acquaintances and friends, all her relatives were always fond of her because of her charming manners combined with her serious outlook on life, and particularly because of accuracies in her statements, remarks, and dealings. She could be relied upon in every respect. She was considered exceptionally truthful. The parents and the officials of the News Bureau did not interfere further with her unusual close attention to the work, but they were concerned about her tired appearance, pallor of the face, her poor appetite and progressive loss of weight. She absolutely refused to consult a physician or to relax in her application, claiming that the work must be done. Towards the end of 1924 the News Bureau commenced to observe a shortage of money. Investigation at first failed to reveal the cause of it. Suspicion fell on our patient. It was shown that the sum of about two thousand dollars was missing. The parents were approached on the subject and while there was no direct proof, nevertheless they were threatened with arrest of their daughter. The patient was discharged. At that time her physical condition was extremely poor and for this reason her physician counselled not to question her on the shortage of money. Every effort was made by the parents to avoid publicity. At that time she met with an accident and fell, being considerably confused and frightened. She became exceedingly nervous, developed obstinate insomnia, would cry without provocation. The parents decided then to interrogate her on the shortage of money. She was unusually surprised at this revelation and became much depressed and was worried. She said she knew nothing of this occurrence. Moreover she never heard of the News Bureau and of her being employed there. All she recalled was that she worked last in a bank, but when told that she left the bank in October, 1923, and that she was employed by the News Bureau from October, 1923, to October, 1924, she became perplexed. All the in-

cidents concerning the character of her work and the extraordinary assiduity by working every day until late at night were pointed out to her. She showed considerable amazement. She showed special distress when told that she was accused of having appropriated money belonging to the News Bureau. She could not believe that the accusation was genuine especially in view of her scrupulous honesty. She never knew of the existence of the News Bureau and was particularly disturbed when told that she had been employed there a whole year. She had no knowledge of working there and of having done extra nights' and holidays' work. She had no recollection of the warning of her parents and of the officials against overwork. She was extraordinarily amazed and astounded when she was told of being married. She did not remember having seen the minister who married her; she did not recall having obtained a marriage license nor having roomed with her husband.

At present she knows nothing that occurred during the year from October, 1923, to 1924. It is only since the accident of the fall that she commenced to realize that there was a lapse of an entire year in her life and that she presented a different personality during that time. When questioned with regard to her married life it was singular to observe that she had no knowledge whatsoever of the most emotional incidents connected with it. She remarked that soon after the accident she woke up in the morning and was painfully surprised to find a man in her bed. Indignantly she ordered him to leave; but when the situation was explained to her she broke down and cried. She knew the man for several years as a friend of the family, but she had no knowledge of having cohabited with him during an entire year.

A repeated examination made six months later reveals the same amnesia of one year's duration. She still cannot recall a single incident in her life during that period. No surprise questions nor the free association method could be of any assistance in this direction. She disclaims all knowledge of the amnesic year. She is much distressed over her inability to recall a single event, neither with regard to her employment, nor to her having lived with a man without knowing it. She became frequently depressed and was exceedingly anxious for medical assistance in order to bring back to her memory all that happened. She was perfectly lucid at time of examination, she showed no trace of mental disorder. She was free from delusions or hallucinations. Her judgment was excellent. The crucial question is how to explain the astonishing fact as to the absolute loss of memory of the crime and of the attempt at suicide. In the first case and of total loss of

memory for events of the most emotional character in the second case.

The problem is certainly a difficult one from a medical as well as legal standpoint. On one hand, how to prove that the amnesia is genuine or simulated? What are the elements of a correct diagnosis? Memory is the result of impression of facts upon the cerebral tissue. It is a general function of the intellect, which consists of reproducing images, ideas, emotions, and sensations previously acquired. It is the basis of the entire intellectual edifice. Without it, says Ribot, there can be no judgment, reasoning, conscience, or personality; without it formation of ideas is impossible.

In studying the mnemonic faculty two main elements are therefore to be considered, viz., fixation of facts, images, etc., and their reproduction.

The external manifestation of these impressions, if they are intact, otherwise speaking, recollection of events, depends upon the will of the individual himself. The memory for certain facts may therefore be admitted or denied. On the other hand, diminution or complete loss of mnemonic faculties (amnesia) is a well known fact in cerebral nosology.

Amnesia in its broad sense embraces many varieties of alteration in cerebral impression pictures. From a pathogenetic standpoint amnesia may be functional or organic. Each of these varieties can be partial or general. From the point of view of its evolution, amnesia may be temporary or permanent, sudden or progressive, periodic or intermittent.

The essential distinction between the organic and functional amnesias lies in the fact that the former are progressive and intimately associated with the gradual deterioration of the psychic functions, while the latter are sudden in their onset. The former are incurable, the latter may be curable.

When a crime or any illegal act is committed by an individual suffering or having suffered from any of these forms of amnesia the first step is to determine whether it is dependent upon any cerebral irreparable lesion, upon any of the forms of insanity, of which amnesia is a grave symptom—or else the loss of memory is functional as, for instance, in hysteria, with its periodical attacks of double consciousness.

When an individual is mentally deranged, when he presents delusions, hallucinations, illusions, the crime committed by him cannot

be punishable on the basis of his general mental irresponsibility and not exclusively upon his amnesia, in case the latter occurs.

In all these cases impulsive acts of all varieties are not infrequently committed, and the individuals may not have the least recollection of the commission of a crime. Whether the amnesia is simulated or genuine, such a criminal is a diseased individual, and full penalty cannot be imposed on persons whose mentality is impaired.

In epilepsy a convulsive attack may be followed by an impulsive act of which the patient has not the least recollection after he regains consciousness.

In such cases there is no special difficulty in establishing the genuineness of the attacks of unconsciousness and consequently of the amnesia. It should, however, be borne in mind that the influence of epileptic seizures upon the memory is variable. In the majority of cases epileptic amnesia concerns the attack itself, but there is a large number of cases in which the amnesia may be retrograde, viz., affecting a certain period of time preceding, also a period of time following a seizure. Such periods may be of an hour, a day, a week, one month or several months' duration.

The legal importance of such a case is too obvious to dwell upon.

Feeble-minded individuals, imbeciles, idiots, whose mentality has never developed above a certain degree, whose low mentality due to congenital anomalies of the brain, present all varieties of amnesia. During their entire life they are frequently seized with morbid impulses of the most criminal nature, and then present amnesias, complete or partial, anterograde or retrograde. Such individuals cannot be held responsible.

A very large field for the study of amnesia is presented by hysteria. Here we find multiple varieties of disturbances of memory. It may be systematized when remembrance of a certain group of ideas concerning one subject or one person is lost. It may be general (rare, however,) in which the person thus affected has completely lost the memory for all past events of his life, and like an infant must be taught to acquire new knowledge. An example of such a remarkable condition can be found in the history of the Rev. Hanna (Sidis and Goodhart), or in the old celebrated case of Mary Reynolds (Weir Mitchell). The amnesia may be partial. Examples of this variety can be found in cases of double personality. The characteristic feature of them lies in the fact that the psychomotor sphere is not inhibited in either state. Each personality in its own state acts in response to inner stimulations and one state has not the remotest association with

the other. It may happen that the lives the two personalities lead are diametrically opposite to each other. In the case of the Rev. Mr. Hanna consciousness was so profoundly dissociated that the two personalities he presented before treatment was instituted, had individual systems of psychic states, which carried on their functions in an absolutely independent manner. If such patients recover, one state gradually becomes aware of the existence of the other, and the two egos may finally become synthetized into one personality. Those patients who do not recover present during their entire life the before mentioned alterations of personalities, with complete amnesia of each preceding state.

A patient, whom I still have under observation, is otherwise an intelligent man of thirty-nine and occupies a responsible position in a newspaper office. Several years ago he drank excessively, but he gradually learned how to overcome the desire for alcohol. Instead of it, however, he developed double consciousness. He related that with his total horror and repugnance for alcoholic drinks he suddenly wandered off, disappeared for several hours, entered bars and drank. He found it out only a few hours later by tasting whiskey. He could not give an account where he received the money from, to buy the drink and what places he visited. This happened on several occasions when after leaving his office, he disappeared instead of going home, as he intended to do.

In this state the ego No. 1 does not remember No. 2, and No. 2 has no knowledge of No. 1. Amnesia for No. 2 is complete. Sometimes the number of personalities may be multiple.

Among other conditions in which amnesia may be encountered we find intoxications. . . . Insulation may be also placed here. Each of these morbid conditions may produce cerebral disturbances, among which amnesia is met with. In one of my cases (New York Medical Journal, March 3, 1906) a man of forty-seven slept in a room filled accidentally with gas from a radiator. He remained unconscious for thirty-six hours. For the following six weeks he was in a stuporous condition, and since then it was impossible for him to recall the occurrence, also the fact that his two children slept in the same room.

A very important chapter in the history of amnesias presents traumatism, accompanied or not by loss of consciousness. It is not at all necessary that the injury be severe. Insignificant traumata are sometimes followed by genuine amnesia. Sometimes after a physical exertion without trauma amnesia may develop, as it can be seen from Ch. Féré's case (Compte rendu de la Société biologique, 1897 p, 154),

in which a young man of eighteen after a long ride on a bicycle slept fourteen hours; when he awoke he could not recall what occurred four hours prior to his sleep.

The majority of cases with traumatic amnesia have reference to instances in which the injury to the head consisted of a fall against the ground or some hard object. Cases with amnesia following penetration and lodging of bullets in the brain caused by attempts at suicide are rare. One of my patients (Medical Record, April 18, 1906) suffering from an attack of acute melancholia attempted suicide and shot himself. The bullet entered the right temple and lodged on the opposite side in the parietal lobe, which was proved by an x-ray picture and an operation. The latter was performed many months later, and during all that time, as well as after the operation, he presented a total amnesia for that act, for events some time prior and some time after the shooting. He therefore had a retroanterograde amnesia.

The cases which form the basis of the present essay are interesting from the latter standpoint. It deserves a special study both from the clinical and legal standpoints. The difficulty for the jurist is and was undoubtedly very great.

The question consequently is reduced to the following proposition: Does or does not the loss of memory for a former criminal act, of which the author was then responsible, destroy his or her responsibility? This question is purely legal and the expert should leave it entirely to the court. From a medical point of view, whatever the degree of loss of memory may be, the amnesia cannot be determined, as by virtue of the amnesia itself the patient is incapable to present properly his or her defense and consequently confer with counsel upon an act of which she is totally ignorant.

The law concerning lunacy as used in Section 67 of the Act of 1860 assumes an inability on the part of the prisoner to understand and comprehend sufficiently his position to be able to confer with counsel and prepare a defense.

In the present cases this inability exists not because of any special form of insanity, but because of the amnesia; a man cannot confer with counsel upon an act, although committed by him, but of which he has no recollection. As the legal definition of insanity, I said in reply to a question, covers practically all forms of mental deficiencies, an amnesic individual must necessarily be placed in the category of lunatics.

The foregoing remarks appear to be logical when the amnesia is assumed to be genuine. The truth in this, like in any other similar

case, can be ascertained only after a prolonged, repeated, and most minute examination. In mental medicine it is difficult to formulate strict rules, each case requires a special investigation and has to be judged upon its own merits. The variability of the manifestations in different individuals affected with the same mental disorder is considerable. Detection of simulation can be accomplished by a thorough and skillful questioning. It should, however, be borne in mind that an alleged amnesia may be present in a mentally diseased individual, and then the simulation itself constitutes one of the symptoms of the pathological condition.

The discrimination is surrounded with great difficulties, and in order to accomplish this task one must possess a correct clinical knowledge, which alone can procure a scientific solution of medicolegal problems.

The first duty is to determine to what variety the alleged amnesia belongs. The next step is to inquire into all the circumstances which precede, accompany, or follow a certain act of which the individual suffering from the amnesia is accused. If it is necessary and useful to know the circumstances of the crime in all its details, it is especially indispensable to make a thorough study of the criminal himself and build up his biological history. With this object in view the man's manner of speaking, of answering questions, of explaining facts, of arguing, the tone of his voice in his endeavor to show conviction must be closely watched and his facial expression closely scrutinized. Attempts must be made to confuse him and watch at the same time his methods of extricating himself. His memory for old and recent events, manner of thinking and reasoning, his knowledge in a general way and of specific subjects, his moral conception, must be thoroughly and repeatedly tested. We must ascertain that there is no history of infectious diseases or chronic toxic conditions, or else outbreaks of toxicity, any previous mental disorders, any injury to the head or severe shocks, violent emotions, fright, etc. We must determine the question of epilepsy, hysteria, psychasthenia. We must also determine the general state of his mentality, whether the man is an imbecile or only feeble-minded. Finally, we must inquire into the family history and see if there is any hereditary taint, as the latter plays an important predisposing rôle in the life of an individual. Tuberculosis, syphilis, alcoholism, insanity in parent, constitute the most potent influence in the life of the offspring.

This is a general method for investigating any case of amnesia. Simulation will be determined only after complete and prolonged investigation of all the elements just outlined. In the majority of cases a simulator will be detected quite rapidly from his grotesque and awkward attempts of imitating psychic symptoms. With regard to amnesia, he will forget when skillfully questioned all about his amnesia, or else will now and then exaggerate it. He will show lack of frankness characteristic of a genuine patient, will apologize or defend himself when it is not necessary, and will invariably present the picture of a man who is making an effort to acquit himself of a certain given task. The failure of simulation will be particularly noticeable in organic amnesias, where the simulator is ignorant of the fact that the deterioration of memory grows parallel with the general mental decrepitude of which it constitutes an integral part.

Genuine amnesia may develop in all individuals. While it may occur in individuals apparently free from a degenerative taint, nevertheless, neuropathic persons are especially apt to have disturbances of memory, which is the most fragile of cerebral functions. In the presence of such individuals one must admit that there is some deviation from normal. A person may preserve the integrity of individual functions, may answer questions clearly and distinctly, may even exhibit a certain amount of intellectual acumen, may understand perfectly well the great distinction between right and wrong—and still he cannot be considered perfectly normal in the physiological sense of the world. Should such an individual sustain a trauma, a shock, and especially a real destruction of brain tissue, mental deficiencies of all forms will find a favorable ground for their development—and such a fragile mental faculty like memory will naturally be affected first.

These are the deductions to which I was led after a careful analysis of the history of the cases and the thorough examination of the criminals from every possible standpoint.

Problems of such a delicate discrimination like amnesia are unquestionably difficult to both alienist and jurist. The former's task is facilitated by his knowledge of the physiological and clinical phenomena. The jurist is confronted with great obstacles the foremost among which is the question of his own responsibility before the community in his endeavors to show whether a certain amnesia is genuine or simulated.

In the majority of cases he will overcome the difficulty by surrounding himself with competent experts, and especially by allowing the latter to present all the details of the medical aspect of the case without exception, but not restricting them to certain technical questions. This is the only method which enables one to form a correct conception of certain phenomena in which cerebral disturbances are manifest.