

of work in common, and labour more fruitfully for the progress of those studies which are dear to us, and for the amelioration of the fate of those unfortunate beings who are the objects of our solicitude.

So far M. Ritti. We hope to utilize in future numbers of the Journal some of the valuable materials which the Congress had before it.

4. *Austrian Retrospect.*

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Criminal Anthropology, being a digest of the writings of Professor Benedict, of Vienna.

(Continued from Vol. xxxv., p. 281.)

I have sub-divided mankind into the following classes according to his moral condition, in order to understand the relations of the abnormal:—

- I. Homo nobilis.
- II. Homo typicus.
- III. {
 - A. Homme canaille.
 - a. Brutal.
 - β. Perfidious.
 - B. Homo vitiosus—moral neurasthenia.
 - C. Homo criminalis.
 - a. Homo criminalis—with normal disposition.
 - β. Homo criminalis neurasthenica—professional criminals.
 - γ. Homo criminalis—from disease or intoxication.
 - δ. Homo criminalis—degenerated.

I. HOMO NOBILIS.—The type of this class is the Sage of Nazareth. The mirror which the Homo nobilis holds up to society shows its mental and moral infirmity. Nowadays, the punishment of the mentally advanced and purified is not scourging of his body, but contempt for his views and conduct.

II. HOMO TYPICUS.—This category comprises the great majority of mankind, who, on the one hand, draw back from the boundary line at which greatness of mind is threatened with a martyr's crown; and, on the other hand, from that lower boundary line of ethics, at which the law keeps watchful guard. Of course, passion, despair, and other causes may force men from this group into the arms of criminal justice.

III. A. HOMME CANAILLE.—This sub-division of the third class comprises men of low ethical standing, but protected by power, or wealth, or talent. They know how to take advantage of human qualities for their own benefit, and possess a stubborn egoism and

unscrupulousness. I have not been able to fit a Latin name to this group.

B. *HOMO VITIOSUS*.—This is the second sub-division of the third class, and here also the criminality is compensated. There is usually a characteristic moral neurasthenia, or the individuals are depraved by example or education. These conceal their criminal behaviour, or render it unassailable and unpunishable.

C. *HOMO CRIMINALIS*.—In this last sub-division of the third group appears the *Homo criminalis*—the “Uomo delinquente” of Lombroso, and it may be again sub-divided into four classes—the criminal with normal disposition, the neurasthenic, the diseased, and the degenerated.

The best insight into the psychological nature of man is obtained by two methods. The first investigates the *historical* development of mankind—the development of the ethical, mental and æsthetic qualities, how these individual improvements are broadened and made universal, how they are imposed upon all by laws and institutions, and thus become common property. Thus we are taught that the vices of egoism are primary, while those sentiments which owe their existence to the fact that man is a social being, are only developed gradually. The second method is *biological*, in so far as it teaches us to recognize the structure and functions of the brain—the outer and exact cast of which is the skull. Modern science has begun to translate the language of psychology into the language of physiology; and to study without reference to metaphysics the laws of action of the psychical processes which are confirmed by the science of statistics.

What positive results, then, have been attained by the criminal-anthropological school? Have these results a direct, practical value, and can they be incorporated with the practice of law? The most important outcome of these methods is the mode of observation and the unprejudiced nomenclature. The chief question of criminal anthropology is whether the conformation of the skull gives any indication of a possibly changed organization of the individual. This offers great difficulties. There is no sufficient material at hand; for anatomical collections mostly contain skulls of degenerated individuals, such beings in general as have failed to raise themselves, even to a modest height, on the ladder of life. Notwithstanding, it is found that the skulls of criminals are always furthest removed from the accepted type. But we have to assume a very great typical breadth, and the results of these investigations must be received with great caution, for very pronounced phenomena of relapse into the world of lower animals may occur, and, may be devoid of psychological meaning. Thus, an abnormally massive development of the facial skull is, I suppose, of much more common occurrence among those who commit crimes of violence than among normal men. Yet such excessive development

will be without psychological significance if, at the same time, the cranium and brain are properly developed. Abnormal forms are of no consequence if they are only the manifestations of compensation. Nature thus averts the threatened danger of a partially wrong formation of the brain.

The phenomena of craniometry are but rarely perfectly unambiguous. In general, there is no special anthropology and no special craniology of crime. An abnormal state of the skull, however, indicates an abnormal or defective psychological development, and it is an established fact that the capacity of the skull is deficient in criminals. This corresponds with the data of descriptive psychology, which informs us of more facts having their source in inferior development than in perversity. The question arises—is any given case an individual with an actively abnormal development, or with a predisposition to abnormal cerebral activity, or to cerebral diseases, or is he a member of an affected family? According to my experience, members of an affected family show quite the same irregularities as criminals.

My book of “Anatomical Studies on the Brain of Criminals” contains no anatomical characterization of the criminal brain. I have, indeed, proved from the study of these brains that the hitherto authoritative school type marked by disconnected sulci does not exist. It is merely an ideal, representing one extreme, while the other would be indicated by a type of brain in which the sulci usually communicate with one another. This proposition has now met with universal confirmation, especially by the researches of Giacomini. I have specially emphasized the fact that certain confluences of the sulci in the brains of criminals examined by me are incomparably more frequent than in the normal state: and, moreover, that these are the confluences, the absence of which is characteristic of the type *homo sapiens*. But these atypic observations were probably and generally made in respect of abnormal and defective individuals, and not specially in respect of criminals. It will be evident that no certain conclusions can be drawn from abnormalities and irregularities of the brain and skull as to actual criminality. These merely mean predisposition: opportunity and social factors must contribute to the criminal act.

Pathological states of the brain preclude the possibility of a normal psychology, and such criminals as sensational murderers and incendiaries must now be regarded as diseased individuals much more frequently than heretofore. That the most frightful criminals are not degraded (*gesunkene*) individuals, but rather predestined to the act, is certainly a comforting fact.

THE CONCLUSIONS at which I have arrived, and which I laid before the Congress at Antwerp in 1885, may be stated as follows:—

1. It is not justifiable, nor is it useful, to confound professional criminals with the insane.
2. In the case of professional criminals there is a feebleness or

narrowness of psychic qualities which renders them ill-balanced. In such a condition the superiority of a normal quality becomes troublesome, for compensatory qualities are deficient or enfeebled.

3. No penalty and no education can correct the vices of these individuals, and this experience proves that they are incorrigible, because diathetic—born such or become such in early infancy.

4. Magistrates would be more just and more useful if they would seek to know if a person is dangerous to society, and if he can be corrected or rendered harmless.

5. The psychology of criminality is linked to normal psychology by the series of accidental crimes. Vice, or an absence of noble sentiment joins a number of normal persons to the criminals.

6. Crimes committed by those in a state of disease or intoxication are to be regarded as accidental. Such a criminal is a pathological individual, and should be regarded as such.

7. Crimes committed by degenerated individuals must be classed with those of the epileptic and the insane by diathesis. The congenital degeneration, or that acquired in early infancy, does not permit of a development of the sentiments and the reason sufficient to maintain the psychical equilibrium in even slightly critical situations.

To sum up the difference between the insane and the criminal, one may say that the action of the latter resembles either a defeat on account of feebleness after a psychic combat more or less excruciating, or a failure on account of the superiority of the intelligence, and the organization of society; while the action of the former resembles either a defeat without possibility of combat, or a failure without calculation of success.

It is significant that the Congress in Antwerp, which met under the patronage of the Belgian Government, passed a resolution that a Committee of Inquiry should be appointed to examine all criminals who are suspected of mental aberration, and to subject to closer study all great criminals and all relapsed criminals. Still more important is the resolution of the Austro-Hungarian Psychological Assembly to demand statistics as to the reception of the mentally diseased into prisons, and to take into consideration whether certain of these were insane before or during the criminal act; to ascertain if criminals are specially predisposed to insanity; to discover if certain ways of executing the sentence favours mental aberration; and what symptoms of disease have been manifested only after the act. Of course a perpetuation of the sentence on insane prisoners is senseless, for the feeling of "atonement" cannot be implanted in them. On the other hand, it is not advisable to set them at liberty, while still less is it justifiable to transfer them to ordinary asylums.

Exact science has shown that many criminals are not possessed of normal mental powers, and the more frequently that it is stated that the crime was committed under an "irresistible impulse," the wider

becomes the breach in hitherto accepted principles of justice. As previously indicated (Vol. xxxv., p. 277), the results of the Criminal Anthropological School can be adopted in the law courts at once, since it is only necessary to free science and the codices from prejudiced expressions. The words "proved dangerousness" should be substituted for the term "guilty." The question then arises whether we have to deal with a normal or an abnormal individual; and, in consequence, for "punishment" must be substituted "treatment," or, if that sounds too pathological, "procedure." The first necessity is the protection of society. If we have to deal with a degenerated individual, there can be no hope of education to a normal state. He is permanently dangerous, and so are the neurasthenic. If the criminal be of a normal disposition, it must be ascertained if the act has been committed during an attack of an acute or chronic nature. The severity of the form of treatment must leave behind it an abundant notion of retardation. For instance, if a murder be committed by a young man owing to passionate jealousy, he will be dangerous from that cause until the period of sexual decrepitude.

The statement of the *psychological equation* is the most important task of the prosecutor and judge. A certain amount of uncertainty attaches to the verdict, for the psychological equation is obscured in various ways, and for various reasons, and the justice of the future will depend greatly upon properly qualified observation of criminals in prisons. The unnatural education of lawyers, which may be compared to that imparted to medical men before the days of clinical instruction, frequently falsifies the psychological equation before the court, and this state of matters must be rectified. But even then the judgment of prison officials will be nearer the truth than that of courts of justice. The judgment of the experts of the future will guide with much greater certainty the proper treatment of criminals whose verdicts require alteration. Proved permanent dangerousness may only be discoverable in prisons, and a too unfavourable sentence may have to be corrected in a more scientific manner than by the usual acts of pardon.

Hearing the clamours raised against the Criminal Anthropological School, one would have expected that its doctrines could only make their way over subverted thrones and smoking ruins of halls of justice. The objection may be raised that these reforms, simple as they are, will not soon be received into legal practice. But the truth will prevail, the judgment of experts will be more and more sought; one will not be abashed in the presence of the proof of an irresistible impulse, nor as a protection place his fist in the eye of the rights of society. Words will not yet be changed; but conceptions will alter, and therewith the judgment. Calamities caused by erroneous scientific beliefs will vanish, according as they paralyze justice, or guide it into wrong courses.

Melius adhuc est iudici, cognoscere corpus et animum humanum,
quam cognoscere corpus juris.