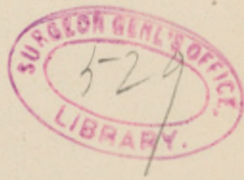


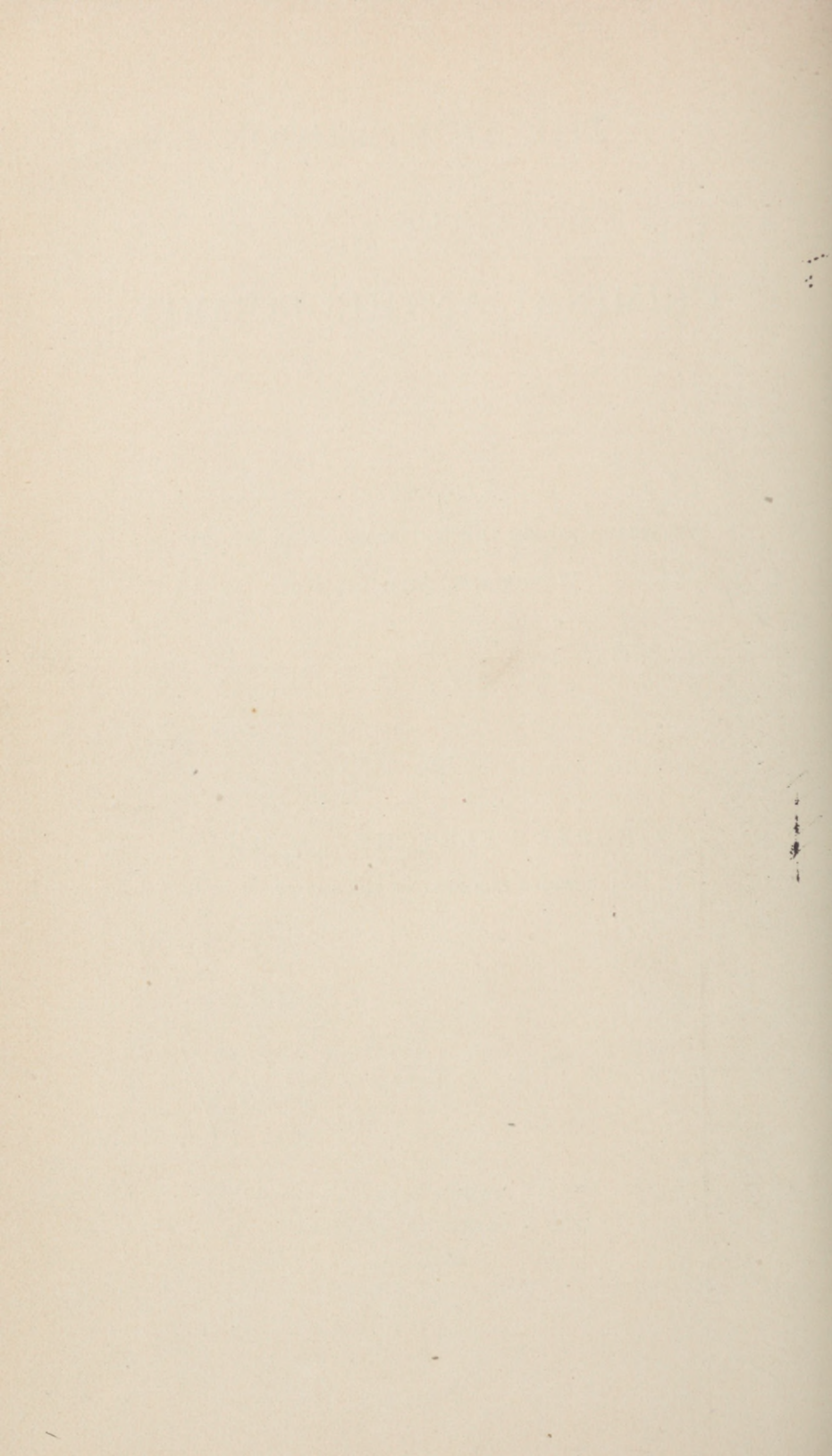
THE NEW SCHOOL
OF
CRIMINAL ANTHROPOLOGY.

AN ADDRESS
DELIVERED BEFORE THE ANTHROPOLOGICAL SOCIETY OF
WASHINGTON, APRIL 21, 1891.

BY
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RETIRING PRESIDENT OF THE SOCIETY.



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THE NEW SCHOOL OF CRIMINAL ANTHROPOLOGY.

BY ROBERT FLETCHER, M. D.*

History revels in the description of a battle. The slaughter of the combatants is carefully summed up, the ghastly total announced with judicial gravity, and the glory of the successful commander is proportionally resplendent.

In the cities, towns, and villages of the civilized world, every year, thousands of unoffending men and women are slaughtered; millions of money, the product of honest toil and careful saving, are carried away by the conqueror, and incendiary fires light his pathway of destruction. Who is this devastator, this modern "Scourge of God," whose deeds are not recorded in history? The criminal! Statistics unusually trustworthy show that if the carnage yearly produced by him could be brought together at one time and place it would excel the horrors of many a well-contested field of battle. In nine great countries of the world, including our own favored land, in one year, 10,380 cases of homicide were recorded, and in the six years extending from 1884 to 1889, in the United States alone, 14,770 murders came under cognizance of the law.

And what has society done to protect itself against this aggressor? True, there are criminal codes, courts of law, and that surprising survival of the unfittest, trial by jury; vast edifices have been built as prisons and reformatories, and philanthropic persons have formed societies for the instruction of the criminal and to care for him when

*.An address delivered April 21, 1891, before the Anthropological Society of Washington, as its retiring President.

his prison gates are opened. But in spite of it all, the criminal becomes more numerous. He breeds criminals; the taint is in the blood, and there is no royal touch which can expel it.

Of late years there has sprung up in Italy a new school, which has studied the criminal rather than the crime—which has investigated his natural history. It is known as the School of Criminal Anthropology, or, as it is sometimes called, the Neo-criminalistic School.

It may be said to have sprung into existence in 1876, when the first volume of the now famous book of its acknowledged leader, Professor Cesare Lombroso, of Turin, was published under the title of: *L'uomo delinquente*, or, *Criminal Man*. The greater part of the literature of the subject is still in the Italian language only; a few of the more important works have been translated into French, and many distinguished Frenchmen have pursued the investigation on their own account, the results of which have been published within the last five years. In Germany one valuable publication has appeared in relation to criminal craniology. In England, very little seems to be known of this new school, although Professor Maudsley's well-known works are frequently quoted by both Italian and French writers. Recently a small volume has been published in London by Mr. Havelock Ellis, with the title of "*The Criminal*," which gives a summary of the views of the new school. Nothing has been published in the United States in relation to it, and the purpose of this evening's address is to give some account of the rise of this Italian school, which has already been represented in two international congresses, and to state the opinions which its adherents hold in regard to the criminal. These opinions are not held without much variation as to subordinate details; but as quotations from numerous sources are generally tedious to an audience, and are necessarily to some extent unconnected, I shall endeavor to give you an impartial account of these new views in a connected narrative.

Italy has from a very early period been remarkable for the production of works upon penal law and its cognate subjects. The first printed work on medical jurisprudence appeared in an Italian town, Imola, in 1597. The author signs himself at the end of the book: "I, Baptistus Codronchi, the humblest of the physicians and surgeons of Imola." Times have changed since his day. If he were living now, instead of the modest colophon we should probably

see his name on the title-page surmounting an inverted pyramid of titles and distinctions.

Italy is an especially rich field for researches into criminal history, for assassination is ten times more prevalent there than in France, and still more so than in England. It must be admitted that many of these homicides are inspired by adherence to tradition rather than by merely savage or ignoble motives.

Two comparatively new studies, fecund in results, namely, anthropology and statistics, have been followed up with great earnestness by those who form the Neo-criminalistic School. The views of the philosophic thinkers of our own day in England and France have been carefully applied to the investigation, as well as the remarkable results obtained in physiological psychology by Charcot and his followers.

Before entering upon the subject of the special views held by the new school, it is proper to say a few words as to the *personnel* of some of those who hold them.

Cesare Lombroso is the professor of medical jurisprudence in the University of Turin. His opportunities for observing the criminal classes have been very extensive, and his collection of crania from these sources is the most important one of its kind in existence. He is regarded as the chief of the new school. Among his adherents are Ferri, professor of criminal law at the University of Rome, and a member of the Italian Parliament; Baron Garofalo, professor of law and criminal procedure at the University of Naples; Marro, superintendent of the Insane Asylum at Turin; Moleschott, professor of physiology at the University of Rome, and a Senator of the Italian Parliament; Virgilio, professor of psychiatry at Aversa; Bodio, director-general of statistics, and many other men of note.

In France, those who have given a more or less qualified adherence to the new doctrines are: Despine, Motet, Bordier, Ribot, Letourneau, Ch. Richet, Roussel, Lacassagne, Magitot, Brouardel.

In Austria, Benedikt, Flesch, and Krafft-Ebing.

In Germany, Virchow, Knecht, and Listz.

In England, Maudsley and Bruce Thomson from their writings are claimed as belonging to this school.

In Spain, Portugal, and Russia, and in the Argentine Republic, some good work has also been done.

This brief catalogue of names might be much extended, if it were made to include all those who have debated the subject

at issue, with extreme or modified divergence from the views of Lombroso.

Three schools may be described as engaged in these investigations: (1) The classic or spiritualistic school, which denies that congenital development, race, or climate are factors in the production of crime; (2) The socialist school, which declares the physical and moral surroundings, the "milieu," to be the sole cause; hence they are sometimes termed mesologists, from *μέσος* and *λόγος*; and (3) the positivist criminal school, the school of Lombroso, which insists that crime is the result of three orders of factors, namely, anthropologic, physical, and social. If social causes alone produce crime, why is it, they ask, that of one hundred persons living under the same conditions of abject poverty, only five will become thieves? Why do the other ninety-five prefer mendicancy, hunger, or suicide? The social factor is the same for all, but the impulse to crime, born of the surroundings, becomes decisive only when the anthropologic and physical factors are found, the organic constitution and the abnormal brain. Crime, then, they emphatically assert, is the accumulated result of the individual constitution, bodily and mental, and of the physical and social surroundings.

What, then, is "Criminal Anthropology?" It is the study of the being who, in consequence of physical conformation, hereditary taint, or surroundings of vice, poverty, and ill example, yields to temptation and begins a career of crime. It is to study the anatomy, the physiology, the hygiene of the criminal, his productivity, his capability of amendment, to examine into his condition, and to recognize his rights.

At the outset of the inquiry we are met with the difficulty of deciding what constitutes crime. True, the criminal law of every country answers the question; but that which is a crime under one government is not so regarded under another. Duelling, for example, which, if fatal, is punished as murder in many countries, is not cognizable by law at all in others if the encounter has been fairly conducted. So, also, what was formerly regarded as a crime becomes diminished in its gravity or may disappear altogether as public opinion changes. Sorcery, sacrilege, heresy, and blasphemy have practically disappeared from the penal codes of the civilized world.

Baron Garofalo, a distinguished jurist of Naples and an earnest advocate of the doctrines of the new school, argues in favor of what he

terms "natural crime" as distinct from "statute crime," which latter varies with the codes in which it is found. Natural crime is that which is at variance with our "moral sense." Whether we are to regard this last-named sentiment, with Darwin, as innate, or, with Spencer, as the result of reasoning, is not vitally important. If it be inherited it becomes, to some extent, innate, and can alone explain the sacrifices which men will sometimes make of their gravest interests rather than violate their sense of right. To say that in such instances altruism is only enlightened egoism would imply an intellectual grasp of the matter which our experience negatives. Many are the instances of acute intellect associated with depraved morals, and of limited intelligence combined with a sturdy and unyielding sense of duty.

Admitting, then, the existence of a moral sense the result of evolution and transmission, it is obvious that, like other psychical sentiments, it may be subject to change, to disease, or, in extreme cases, it may be absent from birth, as in analogous cases of congenital physical monstrosity.

If we can find that certain parts or characteristics of this moral sense are common to all nations and all ages, it becomes clear that violations of this universal sense constitutes "natural crime." The author I have referred to takes this broad ground, believing that the moral sense consists in the aggregation of altruistic sentiments, even though these may in the end tend to the advantage of the individual. This, it will be seen, is consistent with Spencer's theory that the highest development of the moral sense is the equal compenetration of the altruistic and the egoistic sentiments.

Since crime, then, is a violation of the common sentiments of compassion or probity, it follows that in the criminal there is either absence, temporary relapse, or weakness of one or other of these sentiments; but these sentiments form the substratum of the average morality of society, and the man who violates them is in a condition of incompatibility with that society. In narrower circles of greater intelligence and refinement other sentiments besides these two form parts of a more elevated morality, such as the religious sentiment, patriotism, a high sense of personal honor, refined manners, and other indications of sensibility; but for the great mass of mankind the sentiment of compassion or tenderness, which abhors bloodshed, and of probity, which condemns theft, suffices.

The next question to be asked is, are there two varieties of our race who answer physically to the idea of these two crimes—are there men who are destitute of all feeling of pity or of all sentiment of honesty? And it is here that, practically, the investigations of the new school begin.

The conception of the criminal as a variety of the human species who has degenerated physically and morally is a quite modern one. Careful researches have been made to establish an anatomical type of the criminal, but it must be stated that some of the most eminent of the advocates of the new school have declared positively that there is no such type; that there is no constant physical characteristic which distinguishes the criminal from the non-criminal. There are, however, certain abnormalities which, while found to exist among the supposed honest class, are much more frequently observed among criminals.

Lombroso thus describes the type of the two criminal classes: Of the murderer, he says: He has a cold concentrated look; sometimes the eye appears injected with blood; the nose is often aquiline or hooked, always large; the ears are long; the jaws powerful; the cheek-bones widely separated; the hair is crisp and abundant; the canine teeth well developed, and the lips thin; often a nervous tic or contraction, upon one side of the face only, uncovers the canine teeth, producing the effect of a threatening look or a sardonic laugh.

He represents the thief as having less cranial capacity than the assassin; but this is not sustained by other observations. As regards other peculiarities, he describes him as having a remarkable mobility of countenance, the eye small and restless, the eye-brows thick and meeting, the nose flat, and the forehead always low and retreating.

Garofalo speaking of these characteristics, which I have very concisely summarized, says: One has but to go into a prison, and by the aid of this description one can distinguish almost at a glance those condemned for theft from those condemned for murder.

Naturally the objection has been made that the so-called criminal type is not exclusively characteristic of the criminal. In reply, it is asserted that to show that the proportion of abnormalities is much greater in a given number of criminals than in an equal number of non-criminals is the vital point. For example, Ferri compared 711 soldiers with 699 prisoners and convicts, and found that of the first 32.2 per cent. were absolutely free from abnormalities of any kind, but

of the second 10 per cent. only. The largest number of abnormalities observed in any one soldier was 4, but 7 or 8 was a common figure among the criminals.

It is right to say that all those observers who are connected with great penal institutions, such as Lombroso, Marro, Virgilio, and Ferri in Italy, and Lacassagne at Lyons, agree that abnormalities of head and face of the most marked type of degenerescence prevail in greatest abundance among those guilty of the most atrocious crimes.

The influence of heredity in the formation of criminal character has been long since admitted, and the neo-criminalists have made it an important factor in their statistics. The researches of Galton and the observations of Ribot and others have resulted in the establishment of a belief in the inheritance of physical and mental qualities, especially the latter. Weismann, it is true, denies that acquired qualities can be transmitted to offspring, and the views of this philosophic writer are entitled to high consideration; but his argument refers mainly to intellectual or æsthetic qualities, and he has little to say in regard to the inheritance of criminal propensities. In this inquiry we are met at the outset with the difficulty of properly distinguishing between inherited propensities and vices which are the result of simple surroundings. Nevertheless, so striking is the evidence in many cases, as in that of the well-known Jukes family, that it seems impossible to doubt that criminal propensities can be and are transmitted by descent.

The case of the Jukes has been referred to by all writers upon this subject, and a brief summary may be given of their history: In 75 years, the descendants of a single pair, amounting to 1,200 persons, all, or very nearly all, became devoted to a life of crime. It has been estimated that over a million and a quarter of dollars of loss was caused by them, without taking into account the entailment of pauperism and crime on the survivors in the next generation, and the incurable diseases, idiocy, and insanity growing out of this debauchery and reaching unto the third and fourth generations.

It has been observed by physiologists that the offspring of parents who had married late in life, especially when the father was advanced in years, was apt to present marked psychological peculiarities. Marro found that 24 per cent. of the non-criminal class were descended from old parents, and 32 per cent. of the criminal class; but taking assassins alone from the latter, the proportion ran up to the

surprising figure of 52 per cent. ; ordinary murderers showed 40 per cent., and swindlers 37 per cent. In the case of the thief, the figure was much below the average. His explanation is that with maturer age comes increasing selfishness, habit of calculation, and avarice—mental peculiarities which are transmitted to offspring, and which furnish a predisposition to vicious habits, especially when combined with physical abnormality. It is thus that the assassin and the murderer, who are destitute of pity, and the swindler, who has need of skill and prudence in his pursuits, give such a high percentage, while the thief, who steals only to obtain means to gratify his self-indulgence and laziness, is below the average.

Ribot observes that antiquity, while it had not our statistics, had wonderful intuition as to great natural laws, and the biblical text, which extends a malediction to the fifth generation, is justified by our knowledge of to-day.

The congenital physical and moral degeneracy or abnormality of the criminal being admitted, the problem of his inevitable return to crime, or his recidivism, is solved. It has hitherto been attributed to his prison life, his surroundings, the wretched condition of prisons, and the defects of the penitentiary system. No doubt all these matters had some influence ; but the vast improvements of late years in the regulation, discipline, and hygiene of jails has had little or no effect on the relapsing of the criminal into crime.

In French criminal jurisprudence the “*récidiviste*” plays a most important part, and it is necessary to define the meaning of the term and to select, if possible, an analogous English expression. “*Habitual criminal*” does not express it. The French term means a relapser, a man who, having served his time according to his sentence, upon his release betakes himself again to a criminal course. “*Ex-convict*” will not do, as an *ex-convict* may be leading the life of a reformed man. *Backslider* comes nearer to it, but it is a feeble term, and, besides, it is monopolized by the pulpit. The French word itself has become anglicized, and, upon the whole, is the most satisfactory designation. So we shall speak of a relapsed convict as a *recidivist*.

The new school is at variance with the psychiatrists as to the existence of moral insanity. It admits the existence of certain pathological conditions, as *idiotcy*, *insanity*, *epilepsy*, and *hysteria*, with which criminal propensities are sometimes joined—conditions which may be congenital or acquired ; and also exclusively moral ab-

normity characterized by the perversion or absence of all moral instincts, but which is not, they contend, a disease. If there be no disturbance of the faculty of ideation, the absence of the moral qualities cannot justify the denomination of insanity. If the latter distinction were permitted, every slight peculiarity of character would be, on the same ground, pronounced to be pathological, and health would become a mere ideal standard. The New Zealander and the Fijian slew for the mere pleasure of slaying, being absolutely destitute of pity, and the native blacks in Africa steal upon all occasions; but shall we pronounce the savage man, whom the criminal resembles, to be morally insane therefor?

They do not deny that there are extreme cases of perversity which may be truly pathological; but these are cases in which the perversity is only the obvious symptom of some great neurosis, such as epilepsy, hysteria, or progressive paralysis. When there is no derangement of the psychical functions accompanying the perversity, it is not a case of disease.

Further, it is argued, in the imbecile or insane, perceptions of external things produce exaggerated impressions; a mental process is engendered which is not in accord with external causes, and an incoherence is the result. This explains the frightful murders committed to escape from slight annoyances, oftentimes entirely imaginary, as in the case of Grandi, who, provoked at the noise made by his neighbors' children before his shop, decoyed them one at a time into a back room, where he shut them up, and at night buried them alive. In this manner he destroyed ten children, believing that he should thereby be enabled to work in peace.

But, in the born criminal, the mental process is in accord with the external impressions. If the motive was vengeance, the injury really had been inflicted. If the crime was to bring profit, the profit was real. If to obtain a certain pleasure, the pleasure was tangible. The hope of obtaining the desired end is logical, but the process is criminal and reveals the absence of the moral sense.

Is the criminal the representative of prehistoric man, or is he like the modern savage? Lombroso and his followers take the first view, insisting that the criminal exhibits regression to a former type, or atavism. It is, I think, clear that while this view *may* be correct, it is purely hypothetical, and it would be wasting time to follow out the argument. Garofalo, siding with Tarde, doubts the correctness of the atavistic view, and points out this essential difference: That

while prehistoric man, living alone with his family, could have no conception whatever of altruistic sentiments, the criminal from birth lives in social surroundings, degraded no doubt, but of which he deliberately ignores the duty. It has also been asserted that atavism is not a recurrence to the type of prehistoric man or savage man, but to a bestial type anterior.

It is one of the tenets of the new school that it is the criminal and not the crime which should be subject to study. The jurists say, without a crime there is no criminal. On the contrary, says the anthropologist, the criminal is here with the intent to commit crime; though his attempt may fail, he is as much the assassin or the thief as if the act had been completed, and he must be hanged or secluded accordingly. They ridicule our graduated scale of penalties, which they assert only tempts to crime. The very definiteness of punishment leads to a commercial view of the offense. The cashier who steals a million can well afford the risk of ten years imprisonment with a liberal rebate for good behavior. The new school insists that the criminal shall merely be sent to prison. His coming out should depend, not on a sliding scale, in supposed proportion to the gravity of his crime, but upon the proof of his amendment. We do not send a sick man to the hospital for a definite period, but for treatment and for discharge *when cured*, as pronounced by competent authority. The criminal, they argue, should have the right to demand from this competent authority an examination into his case and a decision based upon regard to the safety of society. Clearly, they continue, the criminal should, by his labor, discharge his indebtedness to his victim as far as it would be possible to ascertain its extent. At present, the State locks up the thief, appropriates to its own use the products of his labor while in prison, and leaves the plundered victim to ponder upon the mysteries of a paternal jurisprudence. At the end of his imprisonment the offender is said to have "expiated" his crime—to have paid his debt to society—when, in truth, it is society who has paid his debt for him by housing, feeding, and clothing him, and not always even demanding the poor equivalent of his labor.

The spiritualistic view of punishment is that there must be expiation for crime. By suffering, the expiation of those who feel remorse is completed, and by it remorse is awakened in those who are, as yet, insensible. To this it is replied that long experience has shown that the ordinary criminal is incapable of remorse, al-

though he may feign it for his own purpose. No doubt suffering may cause repentance of the crime, because it has brought suffering ; but there is a vast difference between this and the remorse felt for the invasion of the rights of another. It is difficult to separate the idea of vengeance from that of expiation. What society really demands is the elimination or the segregation of the abnormal man, unassimilable with his social surroundings.

It is a biologic principle that a being disappears who cannot live in unison with his surroundings. The difference between the biologic and moral law is, that under the first the selection takes place spontaneously by the death of the individual unsuited to his surroundings ; in the second, the selection must take place artificially—that is to say, by the social power which acts in its own defense as nature operates in biologic order.

In the case of assassination or murder, elimination forms the ordinary protection to society. To those who advocate imprisonment for life rather than the infliction of capital punishment, it is replied that it is not protection, for prisoners slay their jailers and escape.

While punishment should not be inflicted for the sake of terrorizing, yet its influence as a deterrent is established by overwhelming proof. In Belgium, where for nearly 40 years no execution has taken place, crime is constantly on the increase. In Italy no capital punishment has been inflicted, except in the army, since 1876, and the highest grades of crime have attained to an astonishing number. In England, where murderers are promptly hanged, the average number of murders annually is about 250, while in Italy, in 1880, according to Baron Garofalo, 3,636 murders were committed, of which 1,115 were assassinations. The same writer refers to a pregnant example of the effects of capital punishment. In 1884, a soldier in barracks, in the desperation of homicidal fury, fired upon his sleeping comrades and killed ten of them. He was tried and condemned, but laughed at the idea of execution following, boasting that no one was now executed in Italy. A few days after this massacre, elsewhere soldiers assassinated their sergeants. They were one and all shot ; and the offense has never since been repeated in the Italian army. If, the writer adds, the fear of death had so potent an influence on soldiers, men accustomed to face it, how much more should we expect that it would deter others.

The Duc de Montausier said to Louis XIV in relation to a man

who was executed after committing 20 murders: "This man only committed one murder, his first; it is you who committed the other 19 by suffering him to live."

But there is no doubt that there is in all civilized countries a growing feeling of opposition to the infliction of the death penalty. A philosophic jurist, M. Tarde, well expresses the sentimental view of the question:

"Capital punishment, at least as it has heretofore been inflicted, is, to me, repulsive—invincibly repulsive. I have for a long time tried to overcome this feeling of horror, but I have not been able to succeed. If all those who refuse to admit the arguments of the partisans of capital punishment would be sincere with themselves, they would recognize perfectly that their chief objection is their disgust at witnessing legal murder, above all, in its most usual mode, that of decapitation . . . That repugnance, that rising of the gorge, is not a singularity of certain natures only; a great number, a number always increasing, of our contemporaries feel it also, and amongst those who speak in favor of the death penalty in theory, probably half of them, if present at an execution, would cry for pardon for the doomed man if they could obtain it."*

The reply to this statement is obvious. People of sensibility need not be present at such scenes, and there is a growing tendency the world over to restrict the attendance upon such occasions to those whose presence is officially required. The feeling of pity for the doomed man has nothing to do logically with the broad question of the protection of society, and M. Tarde himself, after a long discussion of the benefits or evils accompanying capital punishment, argues forcibly in favor of its continuance in the present condition of our civilization. It is a misfortune that this question, which should be regarded from a high sociological standpoint, is too often obscured by misplaced sentiment and undeserved sympathy.

A professor of "applied ethics" in Clark University said recently that over 5,000 persons are killed yearly in the United States at railroad grade crossings, most of whose lives might have been spared had either the road or the railroad passed the one over the other. . . . "If a brutal murderer is to lose his life, and there is the least doubt as to his premeditation, a large part of the community is often aroused into moral excitement, if not into indignation,

* G. Tarde. *La philosophie pénale*, p. 546.

while the innocent murdered railroad passenger excites little more than a murmur."*

Before entering upon the subject of the classification and characteristics of criminals it is necessary to advert to a question which the anti-positivist criminologist is certain to propound, that of responsibility.

The "fatalist" feature has led many to suppose that the new school would take the ground that if crime be the result of mental and physical abnormality, the irresponsibility of the criminal and the injustice of punishing him would inevitably follow. The baselessness of this apprehension will be seen as we progress in our investigation.

Into the question of free-will I do not propose to enter. Centuries of discussion have not made it clear, and while, logically, we must admit that our acts are the results of controlling impulses, perhaps congenital, certainly acquired, practically we know that we can master them. It is a case where our emotions are stronger than our logic.

"Everywhere," says Carlisle, "the human soul stands between a hemisphere of light and another of darkness; on the confines of two everlasting hostile empires, necessity and free-will." And the Persian Hafiz writes:

" 'Tis writ on Paradise's gate,
'Woe to the dupe that yields to fate.' "

The neo-criminalist meets the question in a decidedly practical way. "Granting that the criminal has an irresistible propensity to crime, normal man, detesting bloodshed and rapine, yields to an equally irresistible propensity to shut the other up where he shall perform be harmless."

The classification of criminals proposed by Professor Ferri and generally accepted is as follows:

- (1) The criminal by instinct—the born criminal.
- (2) The passional criminal, who commits crime under the influence of passion.
- (3) The criminal from chance.
- (4) The criminal from habit.
- (5) The insane criminal.

* Macdonald (Arthur). Ethics as applied to criminology. *Journal of Mental Science*. Lond., 1891, XXXVII, 10-18.

The characteristics of these different classes are, briefly, as follows :

(1) The born criminal is distinguished by an entire absence of the moral sense and an utter heedlessness of the consequences of his act. The prominent types of this class are the murderer and the robber. The suggestion of crime meets with ready acceptance, and the consequences to the victim—the destruction of life, the agony of the survivors, the loss of property—are regarded by him with imperceptible indifference. This insensibility is evinced also in endurance of pain in surgical operations and in his stolid demeanor at the place of execution.

It is not unusual to find in the instinctive criminal the existence of what are commonly termed the better qualities of the human mind, but they are all dominated or transmuted by the absence of the moral sense. He is always enormously egoistic, but he may be ego-altruistic or even altruistic. He will kill or rob to save a comrade, or even to obtain money to bestow in charity, for the altruistic sentiment, in the absence of the moral sense, leads him without compunction to the adoption of the most direct and violent means to obtain his end. He may be generous and loving to his family, and may be, as many of them are, endowed with a certain religious feeling, for the latter, which is an additional safeguard to the moral sense, cannot supply its place ; hence we see so constantly men who take delight in the exercise of religious duties, but who are destitute of the moral sense, and a still greater number who are honest and moral, but have no religious belief whatever.

Heedlessness or astonishing want of foresight as to the consequences of his acts is as characteristic of the born criminal as his want of moral sense. We wonder why he should not foresee the inevitable detection and punishment which must follow and which is perfectly clear to us from the premises, but his indifference to the suffering which he produces seems to extend to his own risk in the matter. "I never thought of the punishment," said a criminal to Professor Ferri ; "we never think of anything."

Mr. Francis Galton, in his *Inquiries into Human Faculty*, has expressed similar views : "The ideal criminal is, unhappily for him, deficient in qualities that are capable of restraining his unkindly or inconvenient instincts. He has neither sympathy for others nor the sense of duty, both of which lie at the base of conscience ; nor has he sufficient self-control to accommodate himself to the society in

which he has to live, and so to promote his own selfish interests in the long run. He cannot be preserved from criminal misadventure either by altruistic sentiments or by intelligently egoistic ones."

(2) The criminal from passion is, in most respects, the opposite of the instinctive criminal. He commits a crime in an explosion of passion; never from lust of gain, but from some disturbance of the social passions, as love of honor. It will often be the case that his preceding life has been stainless in its conduct, and the crime is not unfrequently followed by acute remorse, leading even to suicide. The moral sense, which is strongly developed, is obscured for the time being by the overwhelming passion, but is speedily restored to its habitual predominance. The sense of guilt and the repentance that follows is in striking contrast to the sullen indifference of the born criminal or to his clumsy affectation of penitence.

(3) The criminal from chance is a reduced type of the instinctive criminal. In him the absence of the moral sense assumes the form of weakness, and it is more to his surroundings than to any active disposition that his embarking in a career of crime is due. The normal man, to whom these surroundings would offer inducements to commit a crime, resists either from his moral sense or from his perception of the consequences of his action. The criminal from chance yields from his deficient moral sense and from his inability to foresee the result.

(4) The habitual criminal is an intermediate type without marked psychologic characters. From continued relapses he acquires more and more the character of the instinctive criminal, until, from frequent prison experience, there is but little distinction observable between them. There is this remark to be made in regard to these two classes: That while the instinctive criminal feels no repugnance to engage in any crime, no matter what its peculiarity, there are others who resist stubbornly all temptation to commit certain crimes for which they have an aversion. For example, there are assassins who will kill in order to rob; others who, if the victim resist the attempted robbery, will slay him without hesitation. But there are murderers, especially those who assassinate from motives of hatred or vengeance, who will not steal, and are affronted at the suggestion, even, of so base a crime. On the other hand, most thieves of the lower class, pickpockets, confidence men, forgers, and the like, have an invincible repugnance to the shedding of blood.

(5) The insane criminal is, anthropologically, identical with the instinctive criminal in a great many cases of insanity or imbecility, and in a large proportion of cases of epilepsy, but differs from him, if not in the origin of his degradation, yet certainly in the confusion of his ideas and many other psychological characters.

The incentive to action in the criminal insane is sometimes very obvious; it may be hatred, vengeance, or lust, but in either case it is due to a confused perception and a desire to remove the victim from temptation or suffering, or a determination to incur sentence of death rather than to commit suicide.

The mode of action of the criminal insane in carrying out a crime often shows a wonderful astuteness. He plans an *alibi* beforehand and provides the means for escape after the deed—Guiteau, it will be remembered, engaged a carriage in which to escape after the murder of the President—but, like the instinctive criminal, he exhibits no remorse for his act, looks with serenity upon the sufferings of his victim, and may express regret even at the incompleteness of his crime.

Between these five divisions of criminals the distinction is not absolute, and, as a consequence, there are intermediate shades.

There is a general agreement of opinion among those who have had extensive opportunities of observing the criminal born, that his insensibility is one of his marked characteristics. "The assassin," says Felix Platel, "feels no emotion at the sight of the victim before him. His dreams are not haunted by his image. In these dreams he sees only the guillotine." And he goes on to make these curious calculations of the chances which the assassin well understands and builds upon:

"There is, in France and Algeria, an average of one assassination daily. (This is independent of murders). Of these crimes, half are traced out by the police, and half of the perpetrators escape arrest either by suicide, by escape to other countries, or from the clues being insufficient to trace them. Of five accused persons, one, at least is acquitted by the jury, three are condemned to forced labor for life, and one is sentenced to death. Of 32 men condemned to death, 12 only are executed, the remainder being pardoned by the executive. The assassin has then, if he should be found guilty, 130 chances against 12 that he will not be guillotined, but, at worst, be sent to the penal colonies, where food and lodging are provided, and

from which he has the chance of escape. The assassin sees all this ; we, on our part, must see and study the assassin."* "It is easier," says a writer who had passed years among convicts, "to tame a wolf into a house dog than make a thief into an honest man."

Another constant characteristic of the born criminal is his absolute incorrigibility.

Dostojewsky, the famous Russian writer, who passed whole years among convicts, says of them : "This strange family had an air of strong resemblance, which enabled any of them to be distinguished at a glance. All of them were morose, envious, insufferably vain, presumptuous, susceptible, and formal to excess. Vanity was at the bottom of all their sentiments. During many years of observation, I never saw the slightest sign of repentance, or even of disquiet on account of their crimes or guilt." In another place he says : "This brutal insensibility carried to such a high degree would seem impossible, and is certainly phenomenal. In such cases there must be an organic defect, a physical and moral monstrosity unknown at present to science, and not simply crime."

Mr. Chesterton, in his *Revelations of Prison Life*, says : "The sad realities which I have contemplated compel me to aver that at least nine-tenths of habitual depredators have no desire or intention to forsake their guilty course. They love the vice in which they have reveled. 'Lord, how I do love thieving ; if I had thousands, I would still be a thief !' I have heard a youth exclaim."

Mr. Bruce Thomson, who in his official capacity as surgeon to the General Prison of Scotland had observed thousands of prisoners, declared that he had not known one to exhibit any æsthetic talent ; he had never seen a pen-sketch, a clever poem, or an ingenious contrivance produced by one of them. "Habitual criminals are," he says, "without moral sense—are true moral imbeciles ; their moral insensibility is such that in the presence of temptation they have no self-control against crime ;" and among all the murderers he had known, amounting to nearly 500, only three could be ascertained to have expressed any remorse.

Abbé Moreau, the chaplain of La Roquette, the Paris prison at which executions take place, gives the following vivid description of the criminal by instinct :

"It is a fact too well understood and evident to those who, like

* *L'armée du crime*, 1890, p. 6.

myself, have been accustomed to observe prisoners that they may be divided into two very distinct classes—criminals by instinct and those who have been led into crime by surroundings. The first, no matter what may be done, are incorrigible. In prison they devise new plans and recruit new assistants; nothing stops them; no sentiment of regard for their family nor their own interest, not the prison, not the galleys, nothing except the scaffold, can make them change their profession. They are thieves and assassins as other men may be confectioners or tradesmen, and it is impossible to turn their abilities in any other direction. I am almost ashamed to make use of the expression, but it is with them an irresistible avocation. They love their occupation and are proud of it. Take them to a foreign country and they are homesick for a knife or bludgeon. You get them a place, with great difficulty, in a workshop—they escape through the window, and in spite of their promises and your kindness they return to their infamous pursuits. In prison they do not suffer. They are like the painter in his studio—they dream of some new masterpiece. They are upon the best of terms with their keepers and know how to make themselves useful. It is not they, as a rule, who foment revolts or who are unmanageable. They are even very excellent prisoners, knowing their rights as thoroughly as a lawyer could teach them, and the authorities, to some extent, fear them without being able to detect them in default. The officials, indeed, would rather make allies of them than enemies. They give a tone to the prison; they control all other inmates, and it is convenient to have them on the side of authority. Ask a director, a head jailer, “Good prisoner?” and they reply together, “Excellent man; nothing bad about him at all; will listen to what he is told; do no more harm than a fly.” Their papers are generally perfectly satisfactory. They work hard and go out with a good accumulation of savings, but once outside they return to their original occupations.”

The views entertained by the new school as to the anatomy of the born criminal agree generally as to the frequent occurrence of certain abnormalities, but they differ widely as to the conclusions which may be drawn from them. While Lombroso is of opinion that there is a well-defined anatomical type of the criminal, others as strongly deny it. The investigations into the subject by its many observers are accompanied with extensive tabulations, of which only a very brief account can be given.

These abnormalities are much more common among men than women of the criminal class, and it is to be observed that the former are numerically greatly in excess of the latter. In Lombroso's list of abnormalities of the head and face, there are 33 different peculiarities, many of which he admits are even more common among normal persons than among criminals.

The cranial deformity most usually found is the plagiocephalic, or one-sided head. Indeed, asymmetry of the head and face is extremely prevalent in the criminal and, to a less extent, in the insane. In the normal or typical brain, the cerebrum, or brain, not only overlaps, but completely covers the cerebellum; the fissures are distinct and not intercommunicable; the gyri, or convolutions, are prominent, and the sulci, or grooves, which bound them are not connected with other fissures.

Professor Benedikt, of Vienna, in a work on the brains of criminals has endeavored to show that there are two defects which he believes are typical: First, A confluence of many of the primary fissures; and, second, the existence of four horizontal gyri. He illustrates the confluent fissure type of brain by remarking "that if we imagine the fissures to be water-courses, it might be said that a body floating in any one of them could enter almost all the others." This confluent fissure type of brain of course indicates the absence of many little links or bridges of nerve-tissue, and the result is, to some extent, an inferior organ.

In the 22 brains of criminals examined by Professor Benedikt, the communication between the fissure of Sylvius and the fissure of Rolando, two of the most important fissures, was distinct in the greater number, and incomplete in the rest.

The relative shortening of the occipital lobes, which results in the cerebellum not being entirely covered, is of importance when it is considered that in the inferior types of apes, and also in the entire remaining range of animals, these lobes are not of sufficient size to cover the cerebellum.

In 16 brains of criminals, Benedikt found that the covering was "extensive" in 4; "barely sufficient" in 3; "insufficient" in 3; and "in great measure wanting" in 6.

Professor Osler, now of the Johns Hopkins University, but formerly of Montreal, dissected the brains of two executed criminals. In doing this he made a careful examination of fissures and gyri, having regard to the views expressed by Professor Benedikt. He found that in neither case did the cerebrum completely cover the

cerebellum, although in one instance the occipital lobes were very large, the entire brain weighing 56 ounces.

Professor Osler also examined the brains of 34 persons who died in the General Hospital at Montreal, and found that the confluent fissure type prevailed in a considerable number. It is perhaps impossible to draw any conclusions from these imperfect premises. The patients who die in a hospital, and whose unclaimed bodies find their way to the dissecting table, probably include many of the criminal class. As Professor Benedikt observes of them, "This material consists of the remains of those who have suffered complete shipwreck in life through low grades of intelligence, imperfect motor development, or through crime and vice."

A cautious observer (Flesch) says: "That he would be, indeed, too bold who should conclude that it has been discovered, with any certainty, that there exists specific abnormalities in the cerebral convolutions in the brains of criminals; but there is no doubt there is a typical condition which is very frequent."

It must be admitted that the brain is a very recalcitrant organ, and gives us an infinite deal of trouble when we attempt to establish positive relations between its substance and the operations of the faculties of the mind and body.

The most common abnormalities in the criminal skull, according to Corre, are:

1. Persistence of the metopic or median frontal suture.
2. Precocious synostosis or bony union of the other sutures.
3. A greater simplicity in the dentitions of the sutures, the edges being smoother.
4. The frequency of wormian bones in the region of the posterior fontanelle.
5. The strong development of the superciliary ridges and the effacement, or even depression, of the glabella, or nasal eminence between the eyebrows.
6. The posterior situation of the foramen magnum.

Other deviations, of less importance or frequency, have been observed.

The average weight of the cranium in murderers is above that of non-criminals of the same race.

Many attempts have been made to compare the total horizontal circumference of the skull in criminals with that of other classes, but it must be confessed with very varying results. Thus, Bordier

found that the cranial circumference of murderers was a little less than that of nobles and citizens, and in the case of men of letters and of science the contrast was still more marked; but with an almost comic air of astonishment and dismay he reveals the dismal truth that the cranial circumference of savants and servants was identical.

The general outline of the criminal skull is more or less characteristic. The "sugar-loaf" head is the predominant type. But the most striking and frequent abnormalities are the asymmetries. These are so numerous that a collection of portraits of criminals has all the effect of a series of caricatures.

In estimating the values of these asymmetries it must not be forgotten that it is very rare to find any cranium or any brain in any class of men of which the two halves are absolutely symmetrical.

There are two customary measurements of the length of the face, the simple length and the total length, the latter including the lower jaw. In both of these the criminal face is found to exceed the normal in large proportion, more especially in the total length, on account of the prominence of the lower jaw. The maximum breadth, or the zygomatic diameter, as it is also called—the breadth of the face across the cheek-bones—is also excessive. There are other dimensions of the face—as the nasal index, the facial index, the orbital and the palatine indexes—which, so far, appear to have no special importance as regards criminals.

Lombroso has pointed out the large size of the orbital cavities in the criminal; and as the collections of skulls of criminals in different museums are now quite extensive, especially in the Musée Broca in Paris and in the museum of Lacassagne at Lyons, opportunity has been afforded for careful comparison, and it may be admitted that in the skulls of criminals, especially in those of assassins, the orbital cavity is unusually deep and large.

Orchanski has attempted to make a table showing the relation of the weight of the jaw to the weight of the cranium, or, as he terms it, the cranio-mandibular index. The result is as follows:

Parisians—women,	. . . . .	12.8
Parisians—men,	. . . . .	13.4
French assassins,	. . . . .	14.78
Negroes,	. . . . .	15.69
Microcephali,	. . . . .	22 to 25
Anthropoid apes,	. . . . .	40 to 46

In like manner and with similar results, the relation of other asymmetries of the face to the cranial capacity have been carefully tabulated.

The lower jaw of the lemurs, instead of a horizontal lower border, as in man, presents two distinct projections, one anterior and the other posterior. The first has been named the parasymphysian apophysis, and the second the lemurian apophysis. There is no doubt that this lemurian apophysis, whether it be considered as atavistic or not, more frequently occurs and is more marked in what Morel termed "degenerate man" than in his normal brother. A comparison was made at the Bicêtre recently of 119 old men in the prison and 140 epileptics. The lemurian jaw was found in 24.36 per cent. of the old men and in 54.28 per cent. of the epileptics.*

The normal ear is shaped like a shell, the lower border being formed by the auditory canal and the free border of the helix. This latter is formed by a folding over of the free border at its anterior and posterior portions, the posterior border being gradually merged into the lobule, or lobe as it is more commonly called. There are eminences and depressions inside of this border, which are respectively termed the fossa of the helix, the concha; the projection which is in front of the auditory opening, and which is generally garnished with a tuft of hair, is called the *tragus*, from its fancied resemblance to a goat's beard, and the tubercle opposite to it is called the *antitragus*.

A well-shaped ear should present all the foregoing characteristics, should lie close to the head without touching it, and the lobe or lobule should be entirely free and not adherent to the adjacent skin.

Dr. Louis Frigerio, who is the superintendent of the Royal Asylum for the Insane at Alessandria in Italy, has invented an ingenious instrument for measuring the diameters of the ear and the angle it forms with the temporal bone. He calls it an *otometer*, and with it he has measured the external ears of a great number of insane persons and criminals. This is a summary of his results:

The investigation of the hereditary character of abnormalities of the ear brought forth some singular facts. Among both insane per-

*Féré (Ch.). Note sur la fréquence de l'apophyse lémurienne chez les épileptiques. *Compt. rend. Soc. de biol., Paris, 1888, 8, ser. V, 739.*

sons and criminals large flat ears standing out prominently from the sides of the head—what are technically termed “winged ears”—have often been observed to exist in persons of the same family. For example, a woman convicted of homicide had the left ear 77 mm. in length, and the right ear 81 mm. The same anomaly, by excess, existed in her father, in two sisters, and in three cousins, all of whom had been condemned to the galleys for life. Frigerio is of opinion that the law of atavism is responsible in all these cases for the deformity.

Professor Marro is of opinion that winged ears are atavistic because they exist in most apes and many of the inferior animals. Nevertheless, he so often finds them associated with degeneracy that he prefers to class them as pathological. He notes especially how frequently the deformity is found in deaf-mutes. This refers, of course, only to the congenitally deaf.

I do not propose to weary you by reading the tables of measurements of the ear in infants, children, adults, insane persons, criminals, and apes, which Dr. Frigerio made, but shall merely state in part the conclusions to which he has arrived. He says:

1. The external ear should be placed in the first rank among the organs which indicate degenerescence.

2. The auriculo-temporal angle deserves great attention from the point of view of the anthropologist as a means of identifying criminals.

3. The mean of this measurement tends to increase from the normal man as you descend the scale to the insane and the criminal.*

Further conclusions in reference to the measurements of the ear are so closely connected with the tables given by Dr. Frigerio that without the latter they would be unintelligible.

In addition to the observations just described as to the normal anatomy and the abnormalities of the ear, some interesting investigations have been made by Gradenigo upon the sense of hearing of criminals. His experiments were made on 110 persons, 82 of whom were men and 28 women. Of the men, 40 were criminal born and 42 were of the class of occasional criminals. The experiments were made with watches of various strengths of tick and with the acoumeter of Politzer.

* Frigerio (Louis). L'oreille externe. Étude d'anthropologie criminelle. Arch. d'anthrop. crim., Paris, 1888, III, 438-481.

His conclusions were that acuteness of hearing in criminal man is much below the average as compared with that in non-criminal man, and the same applies to criminal women, though in a less degree. In the majority of cases this diminution of sensibility depends upon some inflammatory disease of the ear, due mainly to constitutional disease, though doubtless aggravated by intemperance.

The same writer also made extensive observations of the shape of the external ear. To obtain a good standard for comparison, he examined 650 persons (350 men and 300 women) with very great care, and in a more rapid manner 25,000 persons, at Turin (15,000 men and 10,000 women). Of the abnormal class, he examined 526 persons of both sexes, including insane persons, cretins, and criminals. His observations upon the last he reserves.

His classification of the abnormalities of the ear is :

1. Adherence of the lobes, simple or elongated.
2. Projecting ears.
3. The Wildermuth ear, in which the antihelix is more prominent than the helix.
4. Macaw's ear. The helix is not doubled over in the posterior part and ends in a point.

The system he employed for rapid observation of the general character of the ear in large numbers of persons in the streets or at places of public resort was this : He provided himself with a supply of two kinds of small beans, and by means of six or eight separate pockets, into which he dropped the appropriate bean, he was enabled to count the instances of the four varieties just named. In some cases he dropped a bean into a particular pocket to indicate the presence of two peculiarities, and by this ingenious method he recorded the conditions of the ear in 25,000 persons. This was the result :

Adherent lobes—28 per cent. in men, 22 per cent. in women.

Winged or projecting ears—12.15 per cent. in men, 6 per cent. in women.

Wildermuth's ears—6 per cent. in men, 9.12 per cent. in women.

Winged ears are about half as frequent in women as in men, but the Wildermuth ear is less frequent in the latter.*

These statistics as to the peculiarities of the ear, which, as already

* Gradenigo (G.) *Le pavillon de l'oreille au point de vue anthropologique*. Ann. d. mal. de l'oreille, etc. Paris, 1889, XV, 536-539.

stated, are considered as very important diagnostic marks in the study of physiognomy, are, like all the calculations and conclusions based upon them which I am quoting from the various writings of the new school, to be looked at with much interest, but with grave doubt, as to the relation between abnormality and crime. As regards the projecting ear, the winged or bat ear, as it has been called, it must be admitted that it is very common among all classes of persons. It is not impossible that the custom, which has gradually become universal, of leaving the infant's head untrammelled by the old-fashioned night cap or day cap may account, to some extent, for the prevalence of this peculiarity. While the ear was soft and pliable as in the new-born child, the cap which confined it closely to the head may have had something to do with preventing this supposed criminal protrusion.

It is certain that projecting ears are less frequent in women than in men, and it seems probable that it is due, in part, to the head-dresses worn by the former, in which a ribbon generally confines the ears somewhat closely to the head. Certain modes of wearing the hair also contribute to the same result. In some religious orders, in which the head-dress is very close-fitting, it is found that the external ear becomes curiously deformed as years progress, until at last there is nothing but a flat cartilage, without projections or eminences of any kind, lying close upon the side of the head.*

Another Italian writer, Ottolenghi,† has published his observations upon the nose in criminals, insane persons, and cretins, and has further made investigations into the comparative acuteness of the sense of smell. As regards the shape of the nose, it is perhaps just to say that no generalizations have been obtained of any value.

The arched or, as we term it, the Roman nose has been observed to be frequent amongst murderers, and the rectilinear nose in the thief. There is a curious illustration of the supposed relation of this organ to character which is found in Arabia. Certain horses present a malformation of the nose; it becomes arched (*busqué*), and in all the horses which present that deformity ill instincts are found. The Arabs refuse to admit animals into their breeding stables with this malformation of the nose. They believe that such horses transmit their vices to their offspring.

*Julia (J.) *De l'oreille au point de vue anthropologique et médico-légale*. Lyon, 1889, 8vo.

†*Arch. di psychiat., etc.*, 1888.

The test of smell, by means of an osmometer containing twelve solutions of essence of cloves of varying strength, revealed the fact that in criminals the function was less sensitive than in the normal specimens of the race. This was particularly the case in criminal women.

The pupil of the eye was examined by Ottolenghi in 700 normal persons and in 1,500 criminals, and the result was that there was a predominance of chestnut color in criminals, and that chromatic asymmetries were very frequent.

Upon comparing the power of vision of young criminals with that of students it was found that the proportion of color-blind in the former was 6.60 and in the latter 3.09, or less than half.

The same observer continued his observations upon criminals in relation to the sense of taste.

The liquids selected for the tests were three—bitter, sweet, and salt—and of each of them three solutions of decreasing strength were used. The results obtained were so decisive as to justify the conclusion that the sense of taste is much more developed in normal man than in the criminal born. The same remark applies to the difference between normal and criminal women.

Some statistics have been collected as to the comparative prevalence of diseases of the heart and other important organs in the criminal class. Valvular disease of the heart was found to prevail to the extent of 17 per cent. as against 3.1 per cent. in the non-criminal class. In 50 autopsies of criminals Flesch found only one case of healthy liver. The life of danger and the love of strong drink would account for both of these facts, but the data are hardly numerous enough to warrant any general conclusions.

The degree of sensibility of criminals, more especially of murderers, has been compared with that of the non-criminal class by means of the electric apparatus of Du Bois Reymond, and the result has been 49.6 in the criminal and 64.2 in the honest class. Experiments on tactile sensibility have given similar results. It is a curious fact, however, that while the sensibility of the criminal, as tested by the delicate apparatus which has been invented of late years for the purpose, is shown to be inferior to that of non-criminal man, he is, on the other hand, much more sensitive to the magnet and metals when applied to the body, and also to meteorologic surroundings.

Diminished sensibility to pain—disvulnerability, as it is termed—enables the malefactor to recover rapidly from wounds which would

be of long continuance or even fatal to normal man. Some curious hypnotic experiments by Delbœuf tend to confirm the belief that the rapidity of cure depends to a large extent on the absence of pain. This comparative insensibility to physical pain in the criminal has been pointed out by numerous observers, and it is not surprising that it should be accompanied by an equal indifference to the sufferings of others. The same quality has been recorded by travelers as existing in certain races—as, for example, the Annamites. In the early part of this century Baron Larrey, the chief surgeon to the first Napoleon, asserted that there was a distinct ethnological character in the tolerance of wounds, and that, generally, the higher the civilization of the race, the longer was the period of treatment required to produce a cure.

The girth of chest in criminals is found to be above the average, but the muscular force, as ascertained by the dynamometer, is below it. This is, perhaps, to be explained by the fact that prison life and diet are not calculated to keep muscular strength up to its highest standard.

The length of arms, when extended, from finger tip to finger tip—the grand envergure, as the French term it—is said to be greater in the criminal man than in his well-formed normal brother. Lacassagne found this measurement in excess in 600 out of 800 criminals. In nearly all schemes of human proportion which have been devised from the days of Phidias down to the present time, the equality of the height and of the extended arms has been asserted to exist in well-formed persons. The careful researches of the modern school of anthropometry have not sustained this dictum to its full extent, but any marked deviation from the standard is held to be indicative of a reversion to the simian type. It is told of the famous free-booter and outlaw, Rob Roy, that he could tie his garter without stooping.

The observations of Lacassagne in France have agreed with those of Lombroso as to the excess in height of the criminal class. The former found it to exceed the average by 6 centimeters in 623 instances, and by 10 and even 20 centimeters in some other groups of observations.

A French writer, speaking of old *forçats*—men condemned to the galleys for life—says that he was often struck with their “venerable air.” Gautier, commenting upon this curious remark, says that for venerable we should substitute contented—an air of repose—for, with

daily food insured for life and with minds incapable of remorse, they form, in some respects, a not pleasant contrast with the old age of the honest laborer.

In addition to the researches which have been thus concisely sketched, many other investigations have been undertaken by these zealous observers, and not only the functions of the body but, to a large extent, the operations of the mind in criminals as exemplified in their literature, their religion, their taste for art, their handwriting, and the like, have been compared with the corresponding qualities in the non-criminal class.

Lombroso, in a very recent work, *L'anthropologie criminelle et ses récents progrès*, speaking of the extent of comparisons made by himself and friends, says that so far from selecting some monsters as his types, as Manouvrier had accused him of doing, already (1890) 26,886 criminals had been compared with 25,447 normal persons. It is true, also, he adds, that the particular type of each species of criminal has been studied by Ferri, Ottolenghi, Frigerio, and, above all, Marro; and in Russia by Mme. Tarnowsky.

There are now published seven periodicals devoted to the study of criminal anthropology, namely, three Italian, one Spanish, two Russian, and one French.

I have already referred to the subject of capital punishment, but something remains to be said of the views of the new school in regard to the treatment of the criminal.

Brouardel, the distinguished professor of medical jurisprudence in Paris, at the recent Congress of Criminal Anthropology held in that city, made this statement:

If the mental condition of the criminal be referred to the medical expert, he will probably declare that he was irresponsible, or, at least, unaware of the gravity of his crime. What then happens? In most instances the man is, after a short detention, released to add to the number of his victims. But the believers in the doctrines of the new school, after due examination, assert that the crime is the result of psychological degeneration or of an abnormality of development; that the criminal's condition is incurable; that he will necessarily continue in ill-doing; therefore, for the protection of society, he must be imprisoned for life. It is not required that he shall be punished—but that he shall be secluded where he can do no further harm. This is essentially prophylaxy or prevention.

Instead of the customary antagonism of lawyers and physicians,

the new doctrines bring together men of science, anatomists, physicians, and jurists.

Six years before the appearance of Lombroso's work there was published in the *Journal of Mental Science* for January, 1870, a remarkable article by Mr. Bruce Thomson, the resident surgeon to the general prison for Scotland at Perth. The title was: "The Hereditary Nature of Crime." He prefaces his argument with the following remarks:

"On the border-land of lunacy lie the criminal populations. It is a debatable region; and no more vexed problem comes before the medical psychologist than this, viz., where badness ends and madness begins in criminals. The inmates of asylums and of prisons are so nearly allied that 'thin partitions do their bounds divide.' From large experience among criminals, I have come to the conclusion that the principal business of prison surgeons must always be with mental diseases; that the number of physical diseases are less than the psychical; that the diseases and causes of death among prisoners are chiefly of the nervous system; and, in fine, that the treatment of crime is a branch of psychology."

The propositions he lays down are these:

1. That there is a criminal class distinct from other civilized and criminal men.
2. That this criminal class is marked by peculiar physical and mental characteristics.
3. That the hereditary nature of crime is shown by the family histories of criminals.
4. That the transformation of other nervous disorders with crime in the criminal class also proves the alliance of hereditary crime with other disorders of the mind, such as epilepsy, dipsomania, insanity, etc.
5. That the *incurable* nature of crime in the criminal class goes to prove its hereditary nature.

As regards the first proposition, he observes: "The criminal class have a locale and a community of their own in our great cities. . . . The greatest number are thieves, Ishmaelites, whose hand is against every civilized man. There is a thieves' quarter, a devil's den, for these city Arabs. There is their Alsatia. In the midst of foul air and filthy lairs they associate and propagate a criminal population. They degenerate into a set of demi-civilized savages, who, in hoards, prey upon society; and then the historian says: 'In the

hearts of our great capitals is a race as fierce as those who followed Attila or marched in the ranks of Genseric.' These communities of crime, we know, have no respect for the laws of marriage—are regardless of the rules of consanguinity; and, only connecting themselves with those of their own nature and habits, they must beget a depraved and criminal class hereditarily disposed to crime. Their moral disease comes *ab ovo*. They are born into crime, as well as reared, nurtured, and instructed in it, and habit becomes a new force, a second nature, superinduced upon their original moral depravity. . . . The habitués who go out and into prison, who live by crime and have been born into crime—it is of them one writer says: 'They are as distinctly marked off from the honest industrial operative as black-faced sheep are from the Cheviot breed.' From such physical we naturally expect low psychological characteristics."

There is an instructive lesson as to the incorrigibility of the criminal in the history of a famous English institution from which great hopes were entertained.

The Millbank penitentiary was built upon the banks of the Thames as a great reformatory and moral hospital, and cost half a million pounds sterling. After twenty-seven years of patient trial, unwearied efforts, and almost unlimited expenditure, it was admitted to be a failure. Mr. Nihil, the zealous chaplain of the institution, had been made its governor in order that he might have full power to carry out the hoped-for reformation. Even he admitted that the results were disappointing. It was a reformatory that did not reform, a penitentiary without penitents; so the title was changed to the Millbank prison, and the "school" was finally closed.

A professional jurist, M. Tarde, is of opinion that an agent more powerful in repressing crime than either law or religion is invention. The criminal is distanced continually by modern skill in mechanical inventions. Perhaps it would be more correct to say that there is a constant emulation between thief and inventor, much like the contest between the skillful engineers who invent armor plates for ships and those who at once proceed to design projectiles which shall pierce them.

To arrest the criminal is not so difficult as to get him sentenced to punishment. While it is not to be denied that the institution of trial by jury has been, upon the whole, of great service to human

rights, it is equally certain that its utility under our present complex system of civilization has very materially diminished. There is no country in which the system prevails from which loud complaints are not heard of the impossibility of enforcing laws, owing either to the ignorance or the prejudices of the jurymen. In our own country they are selected, after Dogberry's rule, as the "most fit and senseless men." In many of the continental nations it is almost impossible to obtain a just verdict from a jury on account of their prejudices against the laws. They will prefer to find a woman not guilty rather than send her to the guillotine or gallows, because of her sex. They will find a young person not guilty, because sending the accused to jail for 10 or 15 years implies the manufacture of a hardened criminal. It has been well observed that what we need are just and reasonable laws and not merciful juries. It is not to the advantage of society that young murderers of either sex should wander at large. To ignorance, timidity, and undue compassion in the jury must be added their venality, and all these considerations together are sufficient to warrant a rather hopeless view as to the attainment of justice by the much-vaunted "palladium of our liberties," trial by jury.

While the opinions of experienced observers in almost all parts of the world, based on statistical results, show the uselessness of attempts to reform the instinctive criminal, it is gratifying to know that in one institution a more hopeful result has been attained. An interesting course of training is now being carried on at Elmira, in the State of New York, at the State Reformatory. Its purposes and methods are, briefly, these:

Criminal justice is to be administered upon the principle that the main object of the penalty is to reclaim the criminal, and that no offender ought to be restored to society until he has shown that he is ready to respect its laws. You will see in this an apparent reflex of the doctrines announced ten years before by Garofalo, but, as a matter of fact, the Elmira authorities had no knowledge of the tenets of the Italian school.

To carry out the principle laid down, the Legislature of the State, in 1877, passed a law by which prisoners might be sentenced to the reformatory for indefinite periods—periods contingent upon their reformation—and the statistics of the institution show the returns as to two classes, namely, "definites" and "indefinites," the former being criminals sentenced to a definite period of imprisonment, the others sentenced under the new law. The results, so far as they

have been made known, are encouraging. Prisoners are released on parole, somewhat after the fashion of the ticket-of-leave system prevailing in England. They are still under the control of the prison authorities and are liable to be sent back if they misbehave. They are required also to send in a monthly report, which must be attested by a person of known character.

In the reformatory they are taught trades and, above all, their physical training receives the highest and most scientific attention. The theory proceeded upon is that you cannot have a healthy mind without a healthy body, and by good diet, athletic exercises, military training, an elaborate system of baths, massage, and other methods known as belonging to scientific gymnastics, the best results are believed to be attained. In the last report it is stated that of 324 inmates paroled during the year 148 went directly to employment at the trades they had learned in the reformatory. This is an astonishing percentage of improvement; but it must be remembered that the reformatory only receives prisoners between the ages of 16 and 30, and who are sentenced for the first time in their lives. They have, of course, then, the very best chance with these young and not yet incorrigible criminals to produce the most favorable results, and if among their inmates any prisoner appears to be "incorrigible," under the law he may be transferred to one of the State prisons. The recidivists and the older criminals are sent to Auburn.

Notwithstanding the gratifying showing which a few years' experience has developed at this institution, the evidence of its experienced officers, especially the very capable physician, does not differ greatly from that of authorities elsewhere. As regards their physical condition, Dr. Wey says of the criminal :

"Generally he is undersized, his weight being disproportioned to his height, with a tendency to flat-footedness. He is coarse in fiber and heavy in his movements, lacking anatomical symmetry and beauty. The head is markedly asymmetrical, with the facial lines coarse and hard, characteristic of a degenerative physiognomy. Among the 800 inmates of the Elmira Reformatory I do not believe there are one-half dozen who approach, or even approximate, the physical proportions of the typical man according to the scale of Dr. Sargent."

"The mind and nervous system of the criminal is in harmony with his body in its abbreviation. David said, in his haste, all

men are liars. Had he had knowledge of the criminal type, he could have expressed himself with equal emphasis and after due deliberation." He also confirms the statement already made as to the insensibility of the instinctive criminal. "Homesickness," he says, "is seldom seen in prisons. The criminal by passion and circumstance may be depressed, but rarely is the occasional and instinctive criminal, the recidivist, affected. In a service covering the admission of over 3,000 criminals the cases of nostalgia or 'homesickness' have been so few and of such a mild type that I am unable to recall more than half a dozen." "The practical criminologist regards criminality as bred in the bone and born in the flesh, and the etiology of crime to be looked for chiefly in heredity and environment, using the word environment in its most liberal sense, ante and post natal, and whatever cause, in whatever way, that exerts a deleterious influence upon nutrition and the function of organic life, voluntary and involuntary."

The theory of the Italian school that imprisonment should continue until the criminal has shown satisfactory evidence of amendment is not, strictly speaking, carried out at Elmira. The statute requires that under no circumstances shall imprisonment continue longer than the maximum period assigned by law for the offense. It has been found that prisoners of a sullen or defiant mood, knowing that the end of their confinement must come, resist all the efforts made for their reformation. It has been urged that to rescind this provision, and to make imprisonment absolutely "indefinite," would end in placing the board of managers of a reformatory in a position supreme over court and statute, and the question is not yet adjudicated.

The inmates of the Elmira institution are divided into three grades: The newcomer is always placed in the intermediate grade, from which he may descend to the third or be promoted to the first, according to his conduct, as indicated by a system of marks. There are many additional comforts and privileges to be enjoyed in each higher grade, but it seems a little inconsistent with their own theory that a more liberal diet should be one of them. If physical well being be a prerequisite to mental or moral improvement, the recalcitrant prisoner should be well fed.

The "Elmira system" has been introduced, in more or less modified forms, in other States of the Union besides New York; but it should be always remembered that the method of reforming

criminals practised in the State Reformatory, and which Professor von Liszt says is destined to make the tour of the civilized world, was devised and started on its path by the clear-headed man who still keeps his masterful control over its 3,000 inmates, Mr. Z. R. Brockway.

Recently there has been founded the International Union of Penal Law. It held a congress at Anvers in August, 1889. It substantially shares in the views of the new school with reference to punishments, and it unanimously adopted the resolution offered by Garofalo, which was as follows:

“The union recommends the application of the principle of conditional sentence while insisting upon the necessity of determining its limits according to legal conditions, and in taking into account the sentiments and moral condition of the people.”

The subject of the repression of crime and of the treatment of the criminal is one of the great sociological questions of the day, and which imperatively demands our consideration. We may dissent from some of the conclusions of the new school, we may reject some of their data as insufficient for generalization, but we must, I think, look with great interest upon the earnest efforts being made by experienced and careful observers to study the natural history of the criminal.

They have met with determined opposition, and it must be admitted, as in all controversies where opinions are the weapons, that some rancor has been displayed, one combatant being drawn to quote in self-defense the spirited reply of Paul Louis Courier upon a like occasion. That charming writer wrote thus: “I should like to reply to this gentleman, but I think he is displeased. He calls me jacobin, revolutionist, plagiarist, thief, poisoner, forger, pestilent fellow, madman, impostor, calumniator, libeller, horrible man, filthy fellow, hypocrite, rag-picker—that is all, if I remember rightly. I see what he means to say—that he and I, namely, are of different opinions.”

Another opponent of the new school compares the rather unclassified collection of facts brought together by Lombroso in the first edition of his book to Charles the IX's order on St. Bartholomew's eve: “Kill them all, God will know his own.”

Among those who have differed from their views, but on anatomical grounds only, must be mentioned Dr. Paul Albrecht, of Hamburg. In a paper read at the Congress of Criminal Anthropology,

held at Rome in 1885, so brilliant that it provoked unbounded applause, even from those most committed to the opposite doctrines, he declared that it was erroneous to state that man descended from the ape, for that man himself was only a variety of the ape, *Simia homo*, and was a decidedly inferior variety. He gave two reasons for this belief: (1) That the orbital angle in man is greater than in any ape, and (2) that cases of atavism, or recurrence to type anterior to ape or lemur, are vastly more numerous in man than in apes or lemurs. No ape, no lemur, says Albrecht, possesses six upper incisor teeth, while in man this is not a very rare abnormality. This is a recurrence to a type far behind the apes and lemurs, and is referable to animals which are closely allied to the lemurs, namely, the insectivora. "Would it be believed," he continues, "there is no ape, no lemur, no mammal, except the insectivora, which has two roots to his canine teeth, and lateral lower incisors, and yet there are instances in which man possesses these double roots, which of all mammals, the insectivora alone possess." "If these are not proofs," he triumphantly exclaims, "that man is an inferior ape, then there is no proof worth anything in comparative anatomy."

Having decided that, from a morphological point of view, man is merely an inferior species of ape, Albrecht goes on to consider what is the real position of the criminal and of non-criminal man. According to the positivist school, criminal man is an abnormal, a pathological, being. Nothing can be more absurd, says Albrecht. All living organisms savage, steal, kill, and do all that they are able to do for their own behoof without regard to the inconvenience or sufferings caused thereby to surrounding organisms. This is precisely what the criminal does—he robs, or murders, with supreme indifference to the misery he causes, and is, in that respect, in unison with all living organisms to the lowest scale. If, therefore, he is, according to the positivist school, an abnormal man, then all living organisms are abnormal also; but as from the standpoint of comparative anatomy, the only trustworthy standard, the immense majority of living organisms who care only for themselves are normal, it follows that criminal man, who acts as they do, is the really normal man, and the honest, law-abiding man is the abnormal being.

"But," he continues, "though criminals are normal men, that does not prevent their crimes being made punishable. Abnormal or honest man kills or punishes normal or criminal man because the latter refuses to allow himself to be abnormalized;" and he in-

sists that abnormal or honest man, determining to give up individual freedom and to form a state, has the most absolute right to follow out his own plans and methods, and if normal or criminal man breaks in to rob and kill in pursuance of his natural propensities, then he is to be destroyed or punished. The positivist school, which regards the criminal as a pathological being, finds in his condition certain extenuations, whereas Albrecht considers him on an equality with the other *feræ naturæ*, a wild beast to be exterminated, or at least imprisoned.

Albrecht's theory that the human race is a family of inferior apes is based upon comparative anatomy; but it does not seem to have occurred to him how unequal are the terms of the comparison. At every dissecting table of every medical college of the world opportunities are afforded to observe the smallest departure from the normal standard in human anatomy. In St. Petersburg a late famous professor of anatomy obtained an order from the Czar requiring all professors of anatomy throughout the empire to send to him, the St. Petersburg professor, every specimen of abnormal formation with which they might meet. Human bodies have been and are explored in countless numbers; but apes and lemurs, how often? The question answers itself. It is not surprising that Albrecht was able to produce at the congress three or four human jaws with lemurian apophyses, or two human canine teeth with double roots; but when he asserts that this abnormality is *never* found in apes or lemurs, the correctness of his assertion must be questioned, since the opportunities have been few for dissecting the latter as compared with his "inferior apes." Such comparative anatomy does not compare.

Albrecht's assertion that the criminal is the normal man may be accepted from the point of view that he, like primeval man and the brutes his congeners, resorts to pillage, violence, and murder for support; but if the normal man represent the majority and the abnormal man the minority, then the definition fails, for we know, and are glad to know, that the law-abiding man forms the vast majority of living people; and we must at present continue to hope and believe that, in defense of himself, his property, his wife and children, he will continue to disable abnormal man by depriving him, as the case may require, of his life, or his liberty, and the pursuit of his execrable happiness.

