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NOTES ON CRIME AND
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113A SUMMER SESSION, 1917**

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113A summer session, 1917 by Ernest Bryant Hoag

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No. 84

Notes on Crime and Delinquency

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SECTION I

PHYSICAL AND MENTAL STUDY OF CRIMINALS AND DELINQUENTS

Development of the Science of Criminology.—Criminology as a system first developed in the eighteenth century. Beccaria summed up the best writings on this subject in 1774 in a book called "Crimes and Punishments." This became the standard for reform in criminal procedure. Its influence is still felt. From it the *Classical School* took origin.

The Classical School was founded on the writings of eighteenth-century *Philosophers*. This school dominated codes and procedures of the nineteenth century and still influences those of today. The *Classical School* held that a certain crime must always be punished in the same manner, because all persons are equal; therefore all committing the same crime are equally responsible. Attention was fixed not on the *criminal*, but on the *crime*. The theory of punishment was based on deterrence through *intimidation*. All the principles of the *Classical School* were based upon the theory of *Free Will* and the personal moral responsibility of the *criminal*. All were therefore equally responsible and no *individual study of the criminal was necessary*.

The *Neo-classical School* developed from the *Classical*. This school held that some exceptions must be made according to the degree of personal responsibility. It possessed little means, however, of determining this degree of responsibility, and made few exceptions.

The *Correctionalist School* introduced the idea of correction through *moral reform* of the individual instead of correction through *fear* alone. The fundamental principles of the *Classical School* were little changed by the newer schools. These principles still remain essentially the same as when formulated by Beccaria in 1774.

Influence of the Classical School.—The *Classical*, *Neo-Classical* and *Correctionalist* schools paved the way for a new science of criminology. These older schools founded an orderly system based upon definite *codes* and *procedures* which had before hardly existed.

Philosophy versus Science.—The attempt was made by the older schools to fit the penalty to social requirement. The theory of punishment and reform was not based on biological science: a philosophy rather than a science.

Modern School of Criminology

1872

Positive School.—This school was founded on the discoveries of the biological sciences. Its principles were based primarily upon the characters possessed by the individual criminal. Punishments must fit the *criminal*, rather than the *crime*.

The modern science of criminology is based upon sciences such as biochemistry, psychiatry, medicine, psychology, anthropology, sociology, eugenics. These sciences have been of gradual development since the modern school was founded. The modern school is known as the *Positive School of Criminology*. It rests upon the discovery and the accumulation of *facts*. Modern criminology is a true *science* in distinction to a *philosophy*. Philosophy *assumes* facts. Science *discovers* facts. The Positive School shows that man is under exactly the same laws as the rest of the universe. There is no special dispensation of natural laws in favor of man.

The Classical, Neo-Classical, and Correctionalist schools did not establish a true science of criminology, but they did organize an orderly method of procedure and stimulate interest which led to the formation of the *Scientific* or *Positive School*.

Influence of the Classical School Today.—Modern criminology has developed with the development of the biological sciences, but criminal codes and procedures are still largely influenced by the absurd unscientific theories of the Classical School.

Our courts today attempt to dispense justice largely by the employment of obsolete methods laid down by the *Philosophers*, who deduced principles from theoretical assumptions.

Summary

The Classical School Founded (1774, Beccaria).—Principles based on theory of personal responsibility; punishment must fit the crime; deductive in method; a philosophy, not a science; principal writers of classical school: Beccaria, Bentham, Romagnosi, Elbero.

Neo-Classical School.—A development of the classical. Slightly modified the idea of absolute personal responsibility.

Correctionalist School.—Still part of the classical school, but introduced idea of moral reform of criminal instead of deterrence through fear alone.

Modern or Positive School (founded 1872-1878, Lombroso).—Based upon biological sciences. *Inductive* instead of *deductive*; a true science; based on facts instead of assumptions. Penalty must fit the *criminal*, rather than the *crime*. Rapidly accumulating scientific facts in regard to

causes of crime; still in its infancy. Principal early writers: Lombroso, Ferri, Garofalo.

Criminal Procedure Today.—Courts still largely influenced by codes founded on the obsolete theories of Classical School. Views have changed much, but codes have changed little. The dead hand of the past grasps the criminal of the present.

Influence of Scientific or Positive School of Criminology still relatively slight on practical administration of justice today. Lawyers and doctors in the main little informed in modern science of criminology.

The Psychological School of Criminology

(Now in process of formation)

Modern criminology is based more on psychological studies than upon anything else. This school has been of recent development. No one individual can be called the originator of this school. Many have contributed. The most prominent contributors in Europe include, directly and indirectly, Gross, Meuman, Stern, Wundt, Binet, Simon. In America the most prominent names associated with this school directly or indirectly include Goddard, Terman, Kuhlman, Huey, Yerkes, Bridges, Healy, Glueck. Dr. Healy has done more to create a new school of psychological criminology than all others combined. His "Individual Delinquent" is an epoch-making work. This is the first case history record of delinquents ever made on a broad scale. His *Pathological Lying, Honesty, and Complexes* cover another field of the new science.

Terman has done more to perfect a single measuring scale of intelligence than anyone else.

Yerkes and Bridges have perfected the best "point-scale."

Glueck stands foremost in study of insane criminals.

SECTION II

SOME DETAILS OF THE POSITIVE OR MODERN SCHOOL OF
CRIMINOLOGY

This developed from the Classical School. Founders of the Modern School (1872-1878), Lombroso, Garofalo, Ferri. Lombroso published the first book of the Modern School in 1872, "Criminal Man." It did not attract much attention until 1878, when Garofalo and Ferri published monographs.

The Positive or Modern School is also known as the *Italian School*. This school maintains that crime does not necessarily involve a *moral guilt*. "It is not the criminal who wills: in order to be a criminal it is rather necessary that the individual should find himself permanently or transitorily in such personal, physical, and moral conditions, and live in such an environment . . . that disposes him toward crime." *Free will* absolutely denied by Ferri. Classical School upheld free will, therefore the criminal was morally responsible and the penalty must be given according to the degree or seriousness of the crime committed. This is still today the ordinary conception of crime; consequently, comparatively little progress has been made in the true science of criminology.

Present Progress.—The *Positive School* is now beginning to make some progress. A few courts have *Psychopathic Clinics*, notably, Boston, New York, and Chicago. Modern criminology studies tangible causes of crime. The Classical School was interested in how to *punish*; the Positive School in how to *prevent*: exactly the same differences as those between treatment of disease and its prevention. Positive or Modern School does for the criminal what *Pivel* in France did for the insane. Pivel advanced the revolutionary idea that insanity was *not a sin but a disease*. This is now everywhere accepted. Insane were formerly punished. General opinion still exists that crime is a sin, because due to *free will* of individual. Positive School denies this and places true crime in the same class with insanity or other mental defects. This does not mean that every criminal is insane, but crime is largely a symptom of disease. It took a quarter of a century for the Positive School to exert influence on criminal codes and procedures and today this influence is relatively slight. To some extent, however, codes now represent a compromise between the theories of the Classical and Positive Schools.

The greatest progress has been made in our Juvenile Courts.

Modern Criminology Classified

Three great branches of Modern Criminology:

- (a) Criminal sociology (Ferri).
- (b) Criminal anthropology (Lombroso).
- (c) Criminal psychology (Gross).

Ferri makes three great groups of crime as follows:

- 1. Anthropological.
- 2. Telluric.
- 3. Social.

Ferri's five types of criminals:

- 1. Born criminal.
- 2. Insane criminal.
- 3. Habitual criminal.
- 4. Occasional criminal.
- 5. Passionate criminal.

Ferri holds that "crime is a social phenomenon due to the interaction of anthropological, telluric, and social factors."

Every society, he says, has the criminality it deserves. "By changing the condition of the social environment, which is most easily modified, the legislator may alter the influence of the telluric environment and the organic and psychic conditions of the population, control the greater portion of crimes, and reduce them considerably."... "In the society of the future the necessity for penal justice will be reduced to the extent that social justice grows intensively and extensively." (Ferri.)

Lombroso's Theories (Anthropological)

His Early Theories.—There is a definite *criminal type*. Many kinds of stigmata of degeneracy found present. Explained the criminal type at first on the theory of *atavism*.

Some of Lombroso's Anatomical Findings.—Many anomalies of skull, such as reduced capacity; prominent occipital protuberance; thickening of skull bones; prominent superciliary arches; retreating frontal bone; prognathus jaw; asymmetry of skull and face. He discovered many other anomalies of the body; anomalies of the viscera; anomalies in anthropometric measurements; frequent left-handedness; mobile great toe; precocious wrinkles; absence of baldness; sparse beard; outstanding ears; square chin; oblique eyes; frequent microcephalies.

Lombroso also noted unusual conditions in the pulse rate, temperature, taste, sensibility, smell, hearing, etc. Concludes that nearly all sensibilities are reduced in the criminal.

Other characteristics:

Vengefulness
 Professional slang
 Tattooing
 Cowardice
 Lack of foresight
 Idleness
 Moral obtuseness
 Instability
 Vanity
 Cruelty
 Love for gambling
 Love for alcohol
 Reduced feeling for pain
 Untruthfulness
 Hieroglyphics

Distinction between born criminal and criminal of passion. Few or no anomalies among the latter, according to Lombroso. All criminals are *epileptics* but not all epileptics are criminals. Close relation between the physical characteristics of the criminal and the insane. Criminal both a savage and a sick man. High per cent of insane among criminals.

Certain kinds of insanity related to certain kinds of crime:

Pyromania—incendiarism.
 Dipsomania—drunkenness.
 Kleptomania—theft without evident reason.
 Vagabondage related to neurasthenia.

Lombroso recognized several great types of criminals, viz:

1. Born criminal.
2. Criminals of passion.
3. Insane criminals
4. Alecoholic criminal.
5. Hysterical criminal.
6. Occasional criminal.
 - (a) Criminaloids (only a touch of degeneracy).
 - (b) Pseudo-criminals (crimes are juridical rather than real).
 - (c) Habitual criminal (due to circumstance only).
7. Epileptoids (sub-stratum of epilepsy present).

Later Theories.—Lombroso at first recognized but one great type of criminal, viz: the *atavistic*, a type caused by reversion to a primitive type of man. This view was afterwards much modified by Lombroso. In his later publications he recognizes not only atavism resulting in anatomical peculiarities, but also acquired and entirely pathological characteristics.