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The Psycho-Biology of Crime

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THE PSYCHO-BIOLOGY OF CRIME

*By Dr. Leo V. Tepley**

VICTOR HUGO states somewhere that Providence has given every one his toy; the doll to the child, the child to the man, the man to the woman, and the woman to the devil. If he were living in this day, he would undoubtedly have added—"and crime hysteria to the reformer, be he physician, lawyer, or social service worker." No subject in American history has occupied more printed matter or more public attention within the last ten years than that of crime and the so-called crime wave.

The more one reads, the more confused one becomes with the explanations as to the cause of crime and the numerous suggestions for the solution of the problem. Our entire present judiciary system, the reformers assert, is antiquated and useless. All sorts of panaceas are offered in its stead. Some propose the converting of the prisons into hospitals; others view the criminal as something so deeply mysterious that only experts in the fields of biology and psychology are capable of catching a glimpse into his mind. The psychologist and psychiatrist, they believe, are the only living mortals competent to handle and solve the crime situation. Then there are the adherers to the famous Baumes Law, who believe that if three doses of punishment don't cure an offender, he should be locked behind prison bars for the rest of his life.

Statistical figures, to be sure, are employed by every student of the problem to support and prove the correctness of his views. These figures prove one thing in the hands of one man and diametrically the opposite thing in the hands of an-

**Editor's Note:* This paper was presented before the Law Club by Dr. Tepley and was found so interesting that his consent to its publication here was secured. The author has been much interested in matters of sociology and reform but with a keen bent towards the practical. He is a leading specialist in Neuropathology, member of the State and City Medical Associations, member and fellow of the American Medical Association, and a contributor to various medical journals.

other. As one studies these figures, he wonders who originated the myth that mathematics and statistics belong to the exact sciences.

"Crime is on the increase. There is an enormous increase in the prison population," thunder the "crimophobes". To prove what an enormous increase in crime there has been in the United States, one statistician brings forth these figures: Cleveland, with a population of 800,000 had 2,327 automobiles stolen in 1921; whereas—London, with a population of 8,000,000 had only 290 automobiles stolen. It is indeed unfortunate for the United States that this statistician used auto thieves instead of horse thieves. If he had substituted a horse thief for an auto thief, our country would have undergone an instantaneous metamorphosis; it would have become a country almost free from crime, and London—just think how poor London would have appeared if looked at thru the eye of the quoted statistician! Liverpool had only ten automobiles stolen in that same period. If here again we would substitute the horse thief for the auto thief, Cleveland would be the cleanest city in the world and Liverpool the mecca of horse thieves. Murder statistics and other figures are used to prove that "for every assault with the intent to kill in London, there are seventeen in Cleveland." The statistician does not state how he finds out that each assault in Cleveland is an "intent to kill". One only hopes that he does not interpret many a desperate look, a gnashing of teeth, a wild gesticulation, due to a lack of knowledge of English, as an intent to kill.

One thing is apparently certain, however, and that is that there is an increase in prison population. The alarm of the crimophobes would be justified if the prison population were the only thing that has increased within the last decade or two. But is this so? Is there not even a greater increase in the attendance of the Baptist Church, the Methodist Church, in the number of Bibles distributed by the Gideons, in cases of pernicious anemia and cancer, in divorces, in the movie industry and the number in colleges and junior high schools? The fact is that the only things that have not increased of late are the memberships in the Socialist party and in the American Society for the Advancement of Atheism.

Crime is an objective term and is relative in character.

An act which is considered and punished as a most serious offense in one age is often a simple misdemeanor in another, or perhaps no crime at all. According to Blackstone 160 crimes were punishable by death in the year 1765. In this age, capital punishment is universally applicable for treason only. Carver defines crime as "any act or omission to act which is of so much public importance that society (law, either common or statute) takes notice of it and punishes it as a wrong against itself." This definition, which is essentially correct, may be paraphrased in these words: "Crime is an anti-social act committed within society by some of its members who do not act in conformity with the social standard." The psycho-biologic nature of crime becomes apparent. It is a human product. It is inherent in the human make-up. It is as old as the human race. The fourth chapter of Genesis gives a description of it which is second to none in literature. And . . . "It came to pass that Cain brought of the fruit of the ground an offering unto the Lord. And Abel, he also brought the firstling of his flock and the fat thereof. And the Lord had respect unto Abel and to his offering: but unto Cain and his offering he had not respect. And Cain was very wrath, and his countenance fell. . . . And it came to pass, when they were in the field, that Cain rose up against Abel, his brother, and slew him. And the Lord saith unto Cain: 'Where is Abel, thy brother?' And he said—'I know not, am I my brother's keeper?'"

The son of Adam and Eve had all the components of the modern criminal, Arthur Chatman, Loeb-Leopold, Edward Hickman, and "our own" Eddy Ives—he was jealous, was "very wrath and his countenance fell". He committed murder and he lied. "Am I my brother's keeper?" Thus started the Cains and their kind. The Lord God realized the seriousness of the situation and undertook most energetic measures to combat crime. "And now art thou curst from the earth . . . when thou tillest the ground, it shall not henceforth yield unto thee her strength; a fugitive and a vagabond shalt thou be in the earth." The punishment meted out to Cain can hardly be considered sentimental, for it was Cain's first offense, but it failed to act as a deterrent. The Cains have kept on appearing in our midst.

Society first tried a criminal prophylactic measure. It tried to eradicate murder by killing the murderer on the spot, but it failed to exterminate the Cains. Gradually another factor came into play—society learned that it didn't pay to kill every one who even committed murder, for many of its best fighters and aggressors thus became extinct. In other words, society learned long ago that all crimes are not equally culpable. It then tried an eye for an eye, a tooth for a tooth. It tried mutilating the criminal by dismembering him or branding him in ineffaceable ways. But the criminal did not disappear from the face of the earth. In 1881 Alfonso Bertillon introduced the finger print system. Penologists were very enthusiastic about it. That, they thought, would convince the criminal that he could be identified beyond a doubt and it would act as an effective deterrent. But the Cains kept on multiplying.

About that time, Lombroso advanced the theory that criminals were a distinct and special race, as it were. Following him there was a tremendous tendency to change the prison into a kind of modified salon. Prison aid societies were formed everywhere. Society was largely blamed for the criminal's downfall. Social service workers made idols out of the prisoners. Probation and parole became very popular. They were not only widely used, but equally widely misused and abused by judges, prison wardens, and pardon boards alike. This system of therapeutics naturally began to be disappointing. The psychologist and psychiatrist came to the front. Every offender was measured by the intelligence scale. The I. Q. became proverbial. Every crime was laid at the door of an inferior mentality. Other psychiatrists went further than that. Complexes, sublimated ones and some not sublimated, suppressed desires, painful infantile impressions were counted as the cause of criminal behavior. Soon these enthusiasts too began to lose their zeal and started looking for something new.

And now along came Baume with his formula as stated above. Already some psychiatrists and statisticians are claiming that in New York the existence of this law minimized crime from 40% to 100% within two years of its birth.

One hundred and five years before Baume "discovered"

his panacea, Edmond Livingston, in Article 53 of his *Code of Crime and Punishment*, wrote, "and if any person having been twice previously convicted of crimes, no matter of what nature, shall a third time be convicted of any crime afterwards committed, he shall be considered as unfit for Society, and be imprisoned at hard labor for life." This law was adopted after the Civil War by Virginia, Ohio, and a number of other states; like so many other panaceas, it was soon found to be impracticable: it became mandatory first and was gradually forgotten until Baume resurrected it in 1926.

One will hardly be considered an ultra conservative if he feels sceptical about the miracles Baume's law has performed in the State of New York. The deterrent effect of punishment which seems to be the strongest element in this law can easily be disregarded—it has singularly failed at all times and in all countries. Roscoe Pound well expresses it in these words: "The venturesome will believe they can escape, the fearless will be indifferent whether they escape, and the crafty will believe they can evade, and enough will succeed to encourage others."

What is there then to be done about the crime situation? The answer to this must be somewhat qualified. Before something constructive can be done, there are a number of things that ought *not to be overdone*. The first of these is that the crime problem ought not to be overdone. Impartial investigation will prove that there is no cause for alarm. The fact that Cleveland, a typical American city, has more robberies every year than all of England, Scotland and Wales together, as some statisticians claim, does not prove in the least that there is something organically wrong with the American soil. If the crime alarmists, and those who worry about America's future, would classify the culprits and place the un-americanized Englishman at the door of England, the un-americanized Italian at the door of Italy, the un-americanized Bulgarian, and all the others, at the doors of their respective countries, they would soon find out that no tremendous increase in crime has taken place on either side of the Atlantic Ocean.

There is no cause for alarm about an increase in crime. We cannot compare two dissimilar objects and arrive at a correct conclusion. It is fallacious to compare the United

States and Europe—the two worlds are in so many ways far more different than alike. In New York adultery is legally a crime, in London it is considered in the nature of a tort; in Tennessee the teaching of evolution is a crime, in Edinburgh, it is a virtue. And these examples say nothing about the deep and subtle social, psychologic and sociologic differences.

The conclusion that the increase in prison population means an absolute increase in crime is incorrect, and is very much overdone. There are a great many people in this country and in Europe who do not consider those imprisoned because of prohibition, traffic, or narcotic violation as inherently criminal. If these three types of prison inhabitants should be removed from their lodging place, as some think they safely might, the crime-fearing reformer would have to pray to Providence for some other toy.

Within the last fifty years the United States has made tremendous progress in every field of endeavor. The more complicated, the more inter-dependent, the more progressive the social organization has become, the greater has become the necessary number of social prohibitions. The complicated nature of a civilized society is beyond the psycho-biologic make-up of a certain number of its members. This small group is inherently incapable of adjusting itself to the high level of the society into which Fate has thrown it. These individuals are simply the social misfits. It is these misfits—intellectual, moral and social—that constitute, and will continue to constitute, the criminal element of society.

In our general advance in civilization, we have also succeeded in prolonging the span of human life for at least fifteen years. This fact should have a very soothing effect on the nerves of the crimophobes. It really means this: the misfit, the social laggard, the criminal who twenty-five years ago was ready for the almshouse, is now still living, and by virtue of general hygienic surroundings and public health that society has prepared for him, he is still capable of staging a hold-up; the boy who twenty-five years ago was engaged in pilfering, truancy, torturing animals, and other cruelties, is now trying the art of safe-cracking.

As we have kept on changing from a lower to a higher

level, our misfits, the criminals, too, have kept on changing. The auto thief is taking the place of the chicken thief, the gunman the place of the horse thief, the safe-cracker the place of the highway robber. In other words, there is really more of a change in occupation of the social misfit than there is an actual increase in crime.

It is very doubtful indeed that psychologic and psychiatric nursing will ever succeed in inculcating the culprit with that something which will prevent him, under all circumstances, from being anti-social. There is no basis for the so-called psychiatric viewpoint which holds that "scientific study and analysis of the physical, chemical, biological, psychobiological, social and psychological factors entering into the personality of the criminal are absolutely necessary before very much can be understood regarding anti-social actions." There is no good reason for adorning the culprit with all these epithets. The criminal mind, so-called, is greatly overdone. It is not nearly so deep, mysterious and enigmatic as it is pictured in detective stories and allied literature. In a study of 150,000 criminals, Dr. Goring, author of *The English Convict*, states that the one outstanding characteristic of all criminals is the stupidity of their crimes. The writer is rather inclined to view the criminal mind as analogous to the lock whose tricky creator offered a tempting reward to anyone who could fit a key to open it. Various aspirants constructed all manner of complicated keys and pried them into the keyhole, but the lock was unsubmitive. At last one contestant cried, "I will pay this trickster double the reward he offers if I am wrong in believing that there is no mechanism whatever to this lock." He was right, for when they broke it open, there was nothing but an empty space.

Louis Fishman's cry about the sanitary conditions of our prisons doubtless reflects a deplorable condition, but neither their conversion into the most immaculate lodging places, nor the creation of psychiatric clinics and psychiatric commissions in our state penitentiaries are in the least bound to ameliorate the crime situation. The newly born Jones Law, Livingston's prescription for the habitual criminal resurrected by Baume, will be of no more value than many others sought for panaceas. The universal application of Baume's

law is soon likely to prove a great burden to society. It is organically and inherently incapable of producing the desired effect. Eighteenth century England in which pick-pocketing was punished by public hanging is a striking example of the failure of punishment to deter. I believe it is Charles Buckle who chronicles that the greatest number of pick-pockets of all time were rampant in the days of public execution. The Cains were literally pursuing their trade in the very shadow of the gallows. A universal application of Baume's law is bound to make the criminal reckless, since for any crime short of murder, he gets the same term of imprisonment and is deprived of a chance ever to reform. Often the prison will become, as someone has remarked, a boarding place for the young and a shelter for the old. There are numerous individuals who would under certain conditions commit more than three offenses, and yet would never make a livelihood by crime.

The indeterminate sentence, probation, and a parole have still a place and are based on sound principle. They are not only sound measures, but measures which peculiarly fit a large number of individuals who are periodically thrown out of gear, become anti-social, but who can be thrown back into place with the expectation of staying adjusted for a considerable period of time.

A great deal can be accomplished in the direction of crime prevention and crime repetition. A full realization that no criminal should ever be deprived of the most fundamental attribute of the human make-up—namely, useful work, is absolutely indispensable. Even those who instinctively abhor work will, *under wise discipline*, soon learn to work, at first reluctantly, soon expectantly, and last eagerly. The all-powerful element of habit, the habit of work, is soon likely to assert itself. In a great many cases, life itself may assume a different meaning.

We need a sober, sane, and non-alarmist view of the true nature of crime—first, last and always. We must not be frightened by specters. We need not be fear-stricken every time the radio announces that a Ford car has been stolen, that our younger generation has changed from lovable boys and girls into auto thieves. A complete eradication of the auto

thief in 1929, even if it were possible, is not the least guarantee for the prevention of the aeroplane thief in 1949.

The same is true about any other crime. Gradually, constantly and invisibly man is becoming more and more socialized. He learns how to curb his passion, and is conquering his anti-social inclinations. Only in a state of complete millennium will society rid itself completely of crime. Until that time, society will do well not to run astray either into the field of the one who is governed entirely by the feeling of vengeance, or to the reformer who really has nothing to offer but a lot of high sounding words and obscure phrases which he believes to be panaceas.