come, the millions of men who cannot realize the sublime truth are likely vastly to exceed in number the few wise men who have preached and still preach the consoling doctrine. Fine principles and precepts have never been wanting; the difficulty has always been, still is, and probably ever shall be, to apply them effectively in practice.

But why gloomily doubt, or, worse still, despair, says optimism, seeing that a right use of reason cannot fail to demonstrate that man is not the unhappy creature of a pessimistic morbid fancy, nor the miserable sinner which he has professed himself to be. Pessimism the while looks on in brooding inarticulate silence, admiring the optimistic aspiratlon but unapt to join heartily in the reasoning. Nay, in its extremest outcome it may dimly feel an unconscious sympathy with the pessimistic Indian utterance (bitter fruit of several vanished civilizations) that it is better to be sitting down than to be standing up, better to be lying down than to be sitting up, better than all to be lying dead. Which is, after all, the conclusion of religion when it gives hearty thanks for deliverance of a brother (or sister) from "the miseries of this sinful world." Optimism, having definitely abolished the fiction of Hell, still clings by vital impulse of nature to its indefinite and indefinable vision of Heaven, or, failing that, to an indefinite perfectibility of humanity on earth. Being withal the fundamental expression of insistent and exultant life, it is the essential condition of human progress on earth.

Notes on Mental Defect in Criminals. By Sir BRYAN DONKIN, M.D. Oxon., F.R.C.P.

I. IN pursuance of the intention, signified in my "Notes on the Mental Deficiency Act" in the Journal for July, 1916, to consider, as practically as may be, the subject of mental defect as a factor in the production of crime, I find it desirable to make some introductory remarks concerning the recently increasing literature of what is known as "Criminology." This term may be properly applied to investigations undertaken with a view to giving such an account of criminal conduct and criminal men as may assist in the formation of practical measures towards the prevention of the one and the appropriate

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treatment of the other. Most of the more modern discussions on crime and criminals have either directly or indirectly been occasioned by the efforts of persons concerned in some way with prison administration, or otherwise specially conversant with convicted criminals, who strive to discover just principles on which to base their practice. But the growing bulk of doctrine and debate on the causation of crime, the genesis and treatment of the criminal, the meaning of "responsibility," and even the State's "right" to "punish" offenders at all, consists to a great extent of definitely formulated theories largely based on preconceived assumptions regardless of fact, and often mutually contradictory. This occasions much difficulty to those who aim at any clear understanding of the subject; and the difficulty is increased by the frequently indefinite and equivocal use of the words "crime," "criminal," and "punishment," which denote the very subjects of discussion. Thus the handling of the whole matter becomes widely diffused, leaving no firm ground on which to rest any useful conclusion. Sundry kinds of topics, sociological, ethical, psychological, and biological, become involved in the dispute, and the student may even be landed and left in the midst of such perennial controversies as those about the "freedom of the will," and the nature, and even existence, of the relation between mind and matter.

Among the disputed questions which contribute to the above-mentioned difficulties of attaining a clear grasp of our subject, that of whether the criminal, convicted or unconvicted, is mainly "born" *or* mainly "made" as such, is probably the most important at the present time, and most relevant to the topic of this article. I have been long convinced from my experience that this question is a vain one as regards criminals, as it is, indeed, in many other matters appertaining to human qualities and conduct. There is, however, much discussion as to whether, or how far, criminals are the product of "Nature" *or* "Nurture"; "Heredity" *or* "Acquirement"; "Constitution" *or* "Environment": all these oft-quoted, and, as commonly used, virtually synonymous pairs of terms being generally employed with no less indefiniteness than indifference, and the term "Inheritance" being constantly confused with "Reproduction." I hold the view, and have been greatly influenced in arriving at it by the writings of Dr. Archdall Reid, that, especially with regard to human qualities, the very posing of this question, current and

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popular though it is among biologists and others who are interested in such subjects, leads to irrelevant and unnecessary disputes in many and varied fields; and that it lies at the root of great confusion in much that is written under the name of criminological science on the causes of criminality. I shall refer specially to this subject in a later section, and give here but a few illustrations of what I have just said.

It is remarkable that the conclusions of practical penologists are often closely similar while their assumed premisses are widely diverse; and it is probable that many grounds of literary dispute would vanish on the attainment of greater precision in the meaning of the chief terms employed. Much of the motley productions treating of crime and criminals which appear in books, magazines, lectures, plays, novels, and newspapers, is borrowed, without criticism or care, and with no knowledge of the subject, from what are believed to be "scientific" authorities, and this has its effects on the general public, and even on some criminals. Some writers preach that crime is caused wholly by circumstances and independently of the natural qualities of the man who commits it, or that it is the result of a vicious social system which necessitates and explains it and renders punishment unjust. Others regard criminality as a malady of the criminal, transmitted almost inevitably from generation to generation. And many, from both of these extreme groups, either imply or state definitely that the actual criminal is not responsible for his crime. It is also argued and not seldom, that when punishment does not prevent the habitual repetition of crime, the criminal is, therefore, not responsible.

Not long ago a prisoner, pronounced after examination not to be insane, pleaded in a law-court that all men were irresponsible, because they were unable to help doing what they did. He thus voiced accurately and carried to its logical extent the doctrine of the born criminal. The complement of this doctrine of the criminal's destiny to crime is that of the equally natural and effortless production of law-abiding and non-criminal men; but those who hold this doctrine, as well as others who give little or no place to the force of circumstances in the process of criminal production, do not appear to recognise this evident corollary to their argument.

In an interview with a fairly intelligent convict, clearly well

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versed in the modern literature of so-called criminology, he informed me with the assurance of a Hyde Park lecturer that his long course of misconduct was due to the "inheritance of his constitution from a drunken father"; and, on another occasion, an habitual offender said that as society manufactured criminals it ought not to blame him, but to answer for him. As one more instance of the prevalent and superficial talk and writing about crime and criminals that greatly impresses a wide public—this kind of literature having a good sale—I note that a popular writer of fiction, in a book about prisons, argues that "imprisonment as a punishment has failed," but that when he is contending that the judicial punishment by flogging failed to put down the crime of "garrotting," he backs his argument by the statement that crime was stayed "by the ordinary law with its ordinary punishments"!

So we see that authors of crime as well as of books on crime may hold discordant opinions about the origin of crime, but yet may make truce in jointly decrying the illogicality and injustice of punishing the criminal.

It must not be forgotten that many writers on crime make definite claims that their special teaching is "scientific," and that some deny that any method of inquiry other than their own is scientific at all. This attitude is calculated to have a considerable influence on serious inquirers, social workers, and legislators, who make no pretence to first-hand study of the subject, but are naturally eager, especially when a measure of legislation is in the air, to find some expert authority on which they may found their opinions and actions. At the present day writers on crime, however materially they may differ in principle, and whether they write with knowledge or without it, are usually acclaimed in the daily press and elsewhere as scientific authorities. The over-ready absorption of new and abundant literature on this subject is very observable in the United States of America. Take, for instance, the frequently indefinite and equivocal use of the term "heredity," and also the widespread application to the study of crime and human characters generally of the special doctrines taught by the Mendelian or Mutationist school of biologists. But these faults are by no means confined to American literature. The following magisterial utterance of Prof. Bateson, the acknowledged leader of the above-named school, is in itself a striking instance

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of positive and plausible statements likely to make a deep impression on unwary readers and students. "Genetic knowledge" (by which term is clearly meant the special *knowledge* claimed by this school) "must certainly lead to new conceptions of justice, and it is by no means impossible that in the light of such knowledge public opinion will welcome measures likely to do more for the extinction of the criminal and degenerate than has been accomplished by ages of penal enactment."

Most members of the fairly intelligent public hold very strong views about "heredity": but few can formulate their views or explain them to others. Hence much loose and meaningless talk about "inherited criminality," and the constant use and abuse of the term "degeneracy," so useful to those who are content to substitute undefined words for definite things. Not many years ago an Act was passed by the Legislature of the State of Indiana, with a view to "prevent the procreation of confirmed criminals, imbeciles, idiots, and rapists." The Bill had been previously referred to the "Committee of State Medicine, Health, and Vital Statistics," as well as to the "Committee of Benevolent and Scientific Institutions." The preamble of this Act began: "Whereas heredity plays an important part in the transmission of crime. . . ."; and its object was to legalise serious and drastic action, based on these crude, ill-worded, and ill-considered statements, vitiated by undefined and nebulous terms, and further confused by "cross divisions." On the other hand, in all countries views of an extremely opposite kind are held by many; the question of the existence of inborn capacities or defects being neglected or negatived, the causes of crime referred wholly to external influences, and the doctrine of reforming the criminal by religious or moral means persistently and well-nigh exclusively upheld. These mutually antagonistic, as well as many intermediate, doctrines are to be found everywhere. It is, however, the so-called modern or, as it is often called, the "scientific" theory of criminality that specially concerns our subject—the relation of "mental defect" to crime. This theory first became generally popularised by the teaching of the Lombrosian or anthropological school that criminals are *racial* degenerates, or biological reversions to the childish or to the savage state; that criminality is "hereditary," "innate," or "constitutional"; and that criminals must, as a class, be regarded as generally irresponsible and

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incapable of reform. Out of the interest aroused by this now greatly discredited teaching there have sprung, as we have seen, many different attempts to establish the study of crime and punishment as far as possible on a foundation of observed and accredited fact.

In closing these introductory remarks, I must revert for a moment to the frankly "deterministic" doctrine, held by some, of the actual irresponsibility of law-breakers generally. It seems surely sufficient for all practical people and thinkers, whatever their ulterior philosophies may be, to cast this doctrine aside without compunction, and to regard lawbreakers, speaking generally, as "responsible," or rightly liable to punishment or coercion of some legal kind and degree. Even if the view that no ill-doer or antisocial member of a community can help ill-doing—a view which entails, as we have seen, the inference that well-doing is similarly conditional—should be held by some in moments of bemused study, human social existence will still proceed on the assumption of the old notion of responsibility. The dispute about free-will concerns the matter in hand no more than the actual conduct of some men depends on any opinions they may have on the nature and relation of mind and matter, or on Realism and Idealism, or even on Causation. In practical life men assume a general ability to choose their lines of action; and also the reality of themselves and other men, and of the external world at large; and most people when they think about causation regard it as meaning something more than a simple sequence of sense impressions. They still act on these assumptions or beliefs as if they were true, however tenaciously they may adhere, when in their studies, to doctrines that conflict with most that they say and do every day. The postulates of the practical freedom of human action and of the reality of the external world underlie all the words and ways of men, all their activities and projects, and all their notions of praise and blame. The thinking "determinist" will not quarrel with this statement, nor need the most thoughtful student of crime and criminals trouble himself about the question which occasions it. Practically the strictest idealist, in his ordinary actions, is at one with Samuel Johnson who "refuted" Berkeley by kicking at a stone, and so is the "mechanistic" psychologist who, in his daily life says in effect: "I know my will is free, and there's an end on't."

II. In considering the relation of mental defect to crime and

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criminals, it is necessary to be as clear as possible on the meaning we give to the terms crime, criminal, and mental defect. All these terms are frequently used in different senses, and not seldom in more than one sense indifferently. In this article, "crime" means an offence against law; and "criminal" means one who is known to have committed such an offence, whether or no he has been sentenced or convicted. In the more popular sense, the name "criminal," which seems to denote generally those who commit *wilfully* such "wrong," or "evil," or "wicked" acts as are generally condemned by the community, would exclude sundry convicted lawbreakers, and include many known offenders against society who are not legally chargeable.

As regards the term *mental defect* as employed here in relation to crime, it must be premised that I attribute to it the technical sense as explained in my "Notes" on this subject in the Journal of July, 1916, *i.e.*, the sense which has been adopted by the Mental Deficiency Act; not the wider and correct sense which should include also what is usually known as "acquired insanity," or "unsoundness of mind," *i.e.* such disorder of the mind and brain as occurs frequently in persons whose conduct and history previous to the attack negatives any likelihood of congenital incapacity. Recognised "insanity" in relation to crime is a topic which, although important and closely germane to our subject, will not be discussed here. "Mental defect," for our purpose, will mean such a degree of defect, not usually counted as insanity, but nevertheless clearly recognisable by observation and inquiry, whatever its origin may be. Cases of this kind may be grouped under one of the practical designations of "feeble-minded" or of "moral imbeciles" that now find place in the Mental Deficiency Act. It is not necessary for the purpose of practical recognition to enter into an inquiry concerning the nature and origin of this kind of defect, but, for certain reasons, some further reference to this question must necessarily be made later. Here it may be said that most practical observers and students in the field of mental pathology, however they may differ on this matter, do undoubtedly recognise the frequent occurrence, in many kinds of convicted prisoners, of this defect. It is marked by aberrant conduct which points to plainly inferior function not only in the intellectual sphere, but also in the other so-called "faculties" of the mind; and the defects indicated may be manifested in different

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proportions. These cases are certainly more common among convicts than in the general population; and, whatever their nature be deemed to be, there is a general consensus of opinion that the characters manifested point to imperfect cerebral development as the predominant element in their causation. It is this prominent manifestation of defect which demands notice as carrying with it a claim for its subject to be credited with at least attenuated responsibility, or a modified liability to punishment, and, therefore, to be specially treated. I am very far from saying or implying that anything like the majority of convicted prisoners belong to the class of which I have just sketched the main characteristics; but I hold that the class is an important one and is rightly differentiated and recognised, even if only for practical objects, quite apart from the question of any essential difference in origin there may be between the criminal cases it includes and those recognised, on the one hand, as "insane," or regarded, on the other hand, as merely the subjects of an inferior degree of normal intelligence.

This mentally defective class which I have described includes criminals of many kinds. Their defect is manifest apart from their criminal acts. They are apparently unable to acquire the complex characters that are essential to social life, and are actually possessed by the large majority of men. These, according to their individual surroundings and the multiform influences acting on them, as on all men, tend to follow the path of least resistance, which is, more often than not, the path of anti-social action. While saying this, as I have elsewhere said it some six years ago in opposing the popular doctrine of a naturally hereditary criminal character or quality, I would repeat the gist of my statements then made that lawbreaking or "criminality" is no unity; that there are no special qualities, physical or mental, common to all criminals; and that the only important link between the study of crime and that of biological heredity is the fact that a considerably larger minority of persons with clearly appreciable mental defect, apparently of congenital nature, is found among convicted criminals than in the population at large.

The study of criminals has, indeed, long convinced me that all men are potential lawbreakers, and that without the *traditional* (not *biological*) heritage of moral or social experience, human society would be dissolved. Some of the statements

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that I refer to, and others which occurred in the Harveian Oration delivered by me in 1910 at the College of Physicians, were quoted by Prof. Karl Pearson from a daily newspaper extract and promptly attacked by him in that newspaper, partly, if not mainly, from the point of view of the exclusively biometrical method of dealing with biological subjects. The phrase I used that "criminality is no unity" was specially condemned from this standpoint; for the biometrical method of studying criminals necessitates the assumption that criminality, or the tendency to commit crime, *is* a unity for statistical purposes. This is made evident in a remarkable and elaborate report by Dr. Charles Goring, entitled *The English Convict—a Statistical Study*, which appeared as an official publication in 1913. In this work, to which I shall presently refer again, the existence of a "criminal diathesis," common to all men, and of a composite nature consisting of several independent items or qualities, seems to have been assumed as a unity in handling the problem of crime statistically; this "diathesis" being held to be specially prominent in persons who tend to be convicted of crime and to come into prison. One important element of this "diathesis" is said to be inferior intelligence, and another to be "wilful anti-social proclivities"; and the conclusion is ultimately drawn that in the make-up of the convicted criminal or lawbreaker there is little, if anything, of importance to be found in accounting for the genesis of criminals other than naturally inherited or constitutional qualities; or in other words, that crime is due to inherited tendency: that criminality is to be explained by the fact of its "heredity" alone.

These considerations, involving the question of the relative extent of the parts played by "heredity" and "environment" in the production of criminals, necessitate some further reference to that other question already mentioned in the first part of this article: *i. e.* whether biological characters generally, and especially human mental characters, can properly be divided, in respect of their origin, into the two classes which it is usual to describe severally as "inborn" and "acquired": whether, indeed, this question can be justly put at all in regard to most of the especially human characters which we study as such. In connection with this question it is commonly assumed that all characters are referrible *either* to a natural, inborn, origin, *or* to agencies acting from without, such as use and

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experience, or "education" in the widest sense, *i. e.*, all the influences exerted on each individual human being by the impressions he receives from intercourse with his fellows and from everything that happens to him in his various surroundings. It is also now implied generally, though often not stated explicitly, that inborn characters are not only transmissible, but are more or less inevitably produced, while those called "acquired" are referrible to influences incident on the individual organism subsequent to the fertilisation of the ovum from whence it springs, and are not transmissible. Seeing that man is mainly differentiated from the lower animals by his remarkable educability, his immensely greater capacity for learning, or making acquirements, it is clear that the question under consideration is of peculiarly great importance. It is, of course, far outside the scope of this article to dwell at any length on this subject, and I touch on it only on account of its bearing on the special matter in hand. The confusion that has resulted from the failure to recognise that most of the human concrete characters that we choose to study, or that can be studied, are referrible for their origin both to an inborn capacity for developing them, and to some external stimulus appropriate for their development, and that many inborn capacities may never be developed for want of such stimulus, has been fully and clearly set forth in the writings of Dr. Archdall Reid, especially in his book on the *Laws of Heredity*, and in a more recent paper on "Biological Terms." Inheritance, as Dr. Reid insists, is not synonymous with Reproduction. There is inheritance without reproduction: inheritance of potentialities which never become actual. But there cannot be reproduction without inheritance. The individual inherits the parental nature. He may, or may not, according to circumstances, reproduce the parental characters, but he will reproduce them in conditions similar to those in which his parents produced them. The more closely similar the conditions the more certain will be the reproduction; so certain, indeed, in many cases, as to seem inevitable. Characters thus reproduced are commonly called "inherited" or transmitted; and are frequently opposed to "acquired" characters that are held to be not transmitted or inherited: and sameness of reproduction is taken to mean sameness of inheritance, no account being taken of the conditions or stimuli to which such reproduction may have been a response.

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In connection with this question of the part played by heredity in the production of human characters, and also with that of the relation of mental defect to criminality, it is to be noted that the two diverse schools to which we have already made brief reference as treating biological problems by means of exclusively experimental and biometrical methods respectively, appear to be at one in placing a sharp dividing line between "inborn" and "acquired" characters, and also in employing the terms "inheritance" and "reproduction" as synonymous. Moreover the characters, or qualities, that these schools investigate are thus found by them to be "inherited" or "inborn." A reproduced quality means, in fact, for them a purely inborn and transmitted quality. It is not necessary to comment further on the views of certain adherents of the "Mendelian" or "Mutational" School; for I am not aware that a serious study of criminals has ever been made by any member of this group of biologists, which, as is well-known, teaches a definite doctrine on the mode of heredity. The Biometrical School has, on the contrary, made several elaborate investigations into various biological and social questions, and, as regards heredity, draws its conclusions from large numbers of observations gathered and statistically studied, without necessitating any further assumption than that sameness of reproduction in the case of a given quality implies sameness of inheritance. Little or no account is made of the fact that the human being is very specially and to a very large extent a bundle of acquirements, produced by the action of innumerable influences or stimuli on an organism endowed with infinite capacities for making acquirements. It is thus ignored that man's characters or qualities are both inborn and acquired, and are largely the product of the action of use and experience, or "education," on the various capacities for development inherent in his organism.

The Statistical Study of the English Convict,[1] by Dr. Charles Goring, to which I have already referred, is the most extensive treatise on the subject of crime and criminals in the English or, probably, any language, containing much valuable information and detailed demonstration of the errors of the so-called anthropological school of criminology in promulgating the doctrine of the "born criminal" recognisable by definite traits.

[1] *The English Convict: A Statistical Study*, by Dr. Charles Goring, M.D., B.Sc.Lond., Deputy Medical Officer, H.M. Prison, Parkhurst. London: published by H.M. Stationery Office.

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that differentiate him from the mass of humanity. It is, however, the author's further positive conclusions, arrived at by means of the biometrical method of handling his vast material, that are really relevant to the matter before us, and cannot be overlooked in any discussion of the relation of crime to "mental defect." For Dr. Goring's final conclusions involve, or largely rest upon, the conception that qualities or characters generally are either "inherited" or "acquired"—either of a constitutional, natural origin, or produced by the force of circumstances; and that in studying such a character, for instance, as criminality, or the "criminal diathesis," it is possible to "disentangle the influences of heredity from a complication of environmental influences." This, as well as his account of the items or ingredients which constitute his conception of the "criminal diathesis," tend to illustrate the unfitness of applying solely biometrical methods to all branches of biological research.

The purpose of Dr. Goring's work, as stated by him, is "to clear from the ground all that remains of the old criminology . . . and to found a new knowledge of the criminal upon facts scientifically acquired, and upon inferences scientifically verified." After an extensive and minute biometrical investigation, occupying a large section of the work, he concludes that there is no such thing as a physical or "anthropological" type of criminal men. In this important section, which may be termed the destructive part of his work, and is based largely on an immense number of accurate measurements, Dr. Goring has ably achieved the final demolition of a doctrine which, owing to its novelty and superficial plausibility, was much in vogue among criminologists for several years.

With regard to what may be termed the constructive part of his work, the author, still using the biometrical method in a multiform series of investigations regarding the physique, age, vital statistics, health, mentality, fertility, etc., etc., of criminals, arrives at the following conclusions among others: *First*, "that there is a physical, mental, and moral type of normal person who tends to be convicted of crime, *i.e.*, that, on the average, the criminal of English prisons is markedly differentiated by defective physique, as measured by stature and body weight; by defective mental capacity, as measured by general intelligence; *and by increased possession of wilful anti-social proclivities*,[1] as

[1] The *italics* here and elsewhere are mine.

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measured, apart from intelligence, by length of sentence to imprisonment." *Second*, "that relatively to the origin in the constitution of the malefactor, and especially in his mentally defective constitution, crime is only to a trifling extent (if to any) the product of social inequalities, of adverse environment, *or of any other manifestation of what may be comprehensively termed the force of circumstances.*"

In respect of Dr. Goring's conclusion, based on the numerous and detailed observations that he has tabulated and summarised, that those convicted of crime are differentiated by inferior stature and by defective intelligence from the non-criminal population, it is clear that he has drawn a just inference from the facts before him. It is moreover an inference to which, I think, no one of much experience who had made no such special investigation would be disinclined to give endorsement. It must, however, be remembered that in another place it is stated by Dr. Goring that convicts "are selected by a physical and a mental constitution which are independent of each other—the one significant physical association with criminality is a generally defective physique; and the one vital mental constitutional factor in the ætiology of crime is defective intelligence." Even if this comprehensive conclusion about convicts undifferentiated by grouping them according to the kinds of crime committed is taken as established, it is clear from Dr. Goring's statements that the above-mentioned inferiorities are more observable in some groups than in others. The most defective convicts as regards *intelligence* are those who commit murder, arson, theft, or burglary, and these form the large majority of offenders; less defective are those who commit crimes of violence other than murder; receivers of stolen goods and coiners are more intelligent than thieves; and forgers, embezzlers, and fraudulent persons generally are practically absent from the records of "mental defect." I would remark here that among the predominantly large numbers of convicted offenders who commit theft of various kinds the signs of mental defect are not prominent enough in the great majority of them to justify or suggest their classification and treatment as "mental defectives"; and that Dr. Goring, in attributing marked mental inferiority to the "type of normal person who tends to be convicted of crime" uses the term "mental defect" in a far wider sense than is usual, including within it the lower

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grades of a normal scale of intelligence reaching from the highest to the lowest. Again, in describing the type of persons who tend to commit crime, Dr. Goring, while stating with emphasis that the factors constituting this type are independent of one another, adds to the factors of physical and mental inferiority a third factor which he terms "wilful anti-social proclivity," and thus composes and completes the "criminal diathesis" which, though present, as he assumes, in all normal persons, exists in the greatest degree in such persons as commit crime. This is, according to Dr. Goring, "the physical, mental, and moral type of normal persons who come into prison." All these differentiæ which mark off the criminal from the non-criminal come within the normal scale of human characters, and Dr. Goring attributes not so much the criminals' crime, as their detection and conviction for crime, to the defects of which they are the subjects. "The thief," he says, speaking of course generally, "who is caught thieving has a smaller head and narrower forehead than the man who arrests him, but this is the case not because he is more criminal, but because, of the two, he is more manifestly inferior in stature."

The stress laid on the third and equally independent factor of "wilful anti-social proclivity" is not, as it seems to me, intelligible unless it be admitted that without its introduction as a factor in the criminal diathesis the intellectually and physically superior convict who, though in a small minority among criminals generally, is by no means numerically rare, would fail to find a place under that generalised type of men with high potentiality for crime which has been arrived at by Dr. Goring. In speaking of the constitution of this type he states that there is "*another bond of association, though less close, between conviction for crime and wilful anti-social proclivities or moral defectiveness.*" This statement, he says, is demonstrated by the fact that it is the most intelligent recidivists who are guilty of the most serious offences. The marks of the type of men prone to crime, be it noted, are "physical," "mental"—(this term being used by Dr. Goring in reference to the factor of intelligence)—and "moral"; and, as we shall see presently, all these marks are held to be *constitutional* in origin. Even assuming, for the sake of argument, that no question need arise regarding the exclusively constitutional nature of the factor of mental defect, as employed in this

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context by Dr. Goring, it seems that the special and independent entity of "moral" defect is introduced into the picture of the triple constitution of the criminal without justification. It seems, indeed, in considering from a practical point of view this conception of a "criminal diathesis" which is common to all men, but bulks largely among criminals, that although the great majority of criminals may be of less intellectual ability or even capacity, and of inferior physical development as compared with the average of non-criminals, we shall not gain any further light on the genesis of the criminal by stating that he is specially prone to commit anti-social acts wilfully. We see plenty of short criminals who are intelligent, and tall ones who are stupid; and plenty of intelligent and habitual criminals with good physique; and so far even a demonstration of the large majority of criminals being of both inferior physique and intelligence would not help us much in the study and treatment of individual criminals. But when the conception of the "criminal diathesis" includes further such a "constitutional" factor as an inborn criminal propensity—for this is what "anti-social proclivity" comes to—it seems so artificially strained as to become tautological, and of no practical or even speculative value to the student of the criminal's genesis, especially when we remember that all its component elements are stated to be *independent* of one another.

What really matters most here is the question whether Dr. Goring has established his contention that the characters which he attributes to the make-up of the criminal are so predominantly, if not entirely, inborn or produced by heredity, as he represents them to be; and, incidentally, whether any conclusion of value bearing on the genesis of the criminal is likely to be attained by the statistical method he has employed.

One of Dr. Goring's important conclusions regarding the genesis of the criminal is that the "criminal diathesis," revealed by the tendency to be convicted and imprisoned for crime, is *inherited* at much the same rate as are other physical and mental qualities and pathological conditions in man. A further conclusion, based on a statistical inquiry which failed to find any "significant relationship" between certain conditions, such as illiteracy, parental neglect, lack of employment, etc., is, as we have seen, that "crime is only to a trifling extent, if to any, the product of the environment or the force of circumstances."

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This second conclusion serves to establish the former provisional conclusion that hereditary influence is the only important factor in the genesis of the criminal. By these steps it is sought to prove that every factor which contributes to the "criminal diathesis" is a "heritable quality"; and that the production of the "diathesis" is uninfluenced in any considerable degree by the action of any other force than that of heredity.

I have already said nearly enough to show why I think that the final conclusions we have been considering are erroneous. There can be no doubt whatever that the commission of criminal or anti-social acts, like any other quality exhibited by human beings, must necessarily involve dependence on heredity. The existence of any quality or character implies this: and all arguments adduced to prove this statement are really superfluous. From a study of Dr. Goring's work it might well be inferred by readers that no inquirer into the subject of crime and criminal had ever recognised the patent and necessary factor of inborn capacities of all grades in the production of everything that can be called a "character" in every living being. This is accepted knowledge: no longer an hypothesis in want of verification. But that the human being, criminal or non-criminal, is the creature of his inborn capacities alone has not been proved. Even if, for the sake of argument, the complete validity of the methods employed and of some of the subordinate conclusions arrived at in this study of the English convict be assumed, including even that of the denial of any "significant correlation" between crime and the particular environmental conditions investigated by Dr. Goring, it cannot possibly be held that any significant proportion of the innumerable influences that act on all men from infancy to age, for good or for ill, and contribute so largely to the make-up of each of us, have been eliminated, or could be eliminated by such an inquiry as we have been considering. The totality of the complex environment which moulds the characters of men —"physical," "mental," "moral," or "intellectual"—and either encourages or stunts the development of their natural or inborn capacities, cannot be analysed or reduced to such items as can be established or eliminated or reasonably dealt with by statistical handling, It is not possible to "disentangle" the various factors that contribute to the production of a criminal

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except in cases that may be marked by patent *incapacities* to acquire such characters as are possessed by the average man and are fundamentally necessary to social life. Nor is it possible to assess in any case with precision the proportionate influence of the two undeniably necessary factors of "heredity" and "environment" in the development of a criminal man.

It is far from my intention to use any argument from "consequences" against the chief position maintained in Dr. Goring's work; such an argument is only too common in controversy on this subject. It may, however, be fairly noted that one apparent consequence of this position seems to be largely irreconcilable with some admissions made towards the end of this work. If it be true, as Dr. Goring has proved, that lawbreakers in the mass are notably less intelligent than law-abiders, and further, if it were true that their inferior intelligence is due solely to inborn incapacity, it must follow that there would be little, if any, reason for making efforts to reform law-breakers. Being, *ex hypothesi*, incapable by nature, and not in any recognisable degree by the force of cicrumstances, of duly acquiring elementary social qualities, they will in all probability continue their misconduct if not permanently coerced by force. Their "criminal diathesis" is predominant. Yet Dr. Goring says at the conclusion of his work: "We know that to make a law-abiding citizen two things are needed, capacity and training."

I venture to think that most of us, including Dr. Goring, would agree, even in default of a demonstrative experiment, that most children and young persons, from whatever stock, untainted by any noticeable degree of congenital or "inherited" inferiority of body, "mind," or "morals" they might have sprung, could have their normal criminal diathesis so influenced by neglect or positive training as to be actually and easily produced as even habitual "criminals" of various kinds. A law-abiding man, merely as such, is surely a complex of many characters or qualities, and needs accounting for as much as the lawbreakers. It is certain that most of the qualities that make him what he is require much aid from the action of his "environment" on his inborn capacities before these qualities can be produced or developed. It is equally certain that a man who lacks due capabilities to respond to his social environment will be a social offender or a lawbreaker. And doubtless there

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are many grades between those who possess such capacities in a high degree and those who greatly lack them. Human beings generally, whether actual criminals, average persons, geniuses, or saints, are, to a very special degree, as compared with other animals, the products of their environment as well as of heredity, *i.e.*, of inborn capacities; but not of the one without the other.

To revert now, shortly, to the practical aspect of "mental defect" in its relation to crime, and to the treatment of the criminal, I hold that, true as it may be that the *intelligence* as tested by observation of the majority of criminals is inferior to that of the non-criminal population, yet the majority of criminals, guilty of many kinds of offence, manifest no such defect on the score of intelligence as would suggest to an experienced observer that they should be regarded or treated as practically irresponsible. I believe that the large majority of criminals convicted of most kinds of crime could not with any plausibility be dealt with either as being the subjects of defective intellectual capacity, or even of "mental deficiency" in the full and proper sense of that term. But I hold, on the other hand, as I have explicitly stated above, that there is a very notable minority of criminals of many kinds whose degree of mental defect, not only, or always, of generally defective intelligence, is so great and manifest, that for practical purposes they should be regarded and treated more or less similarly to the insane. They exhibit by their conduct, apart from the crime for which they have been convicted, highly probable evidence of their being the subjects of such defect of mind and brain as to render it fairly certain that the defect is congenital, and has but a very subordinate dependence on the "force of circumstances." Many of these cases bear a close resemblance to others occurring among non-criminals, and in all social grades. It is in cases of this latter kind where inquiry into family histories is more readily made; and this not infrequently results in the discovery of further similar cases in near relatives. These cases should in my judgment be regarded as the subjects of inborn organic defect in a very predominant degree. I do not, of course, intend to make any implication that the far less salient cases of mental defect, which characterise so many other criminals, are not similarly referrible to organic defect, although of a less degree. It is certainly widely admitted now that in

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order to study most fruitfully both psychology and mental pathology, we must think; as far as our knowledge permits, in terms of the organic functions on which mental activities depend. I am thus unable to separate, so sharply as Dr. Goring seems to do, the subjects of the greater degrees of mental defect that we have been considering from the subjects of "insanity." He, apparently, regards the subjects of mental defect as "normal," but the insane as abnormal, or the subjects of disease.

III. In conclusion, I append, in view of its relevancy to much that has been said above, a brief account of a criminal case which I mentioned at the end of my "Notes on the Mental Deficiency Act" in the July number of this Journal for 1916.

A young man, not many years over twenty, was convicted of wilful murder. The plea of insanity failed, and the evidence as to fact was unquestionably conclusive. He was sentenced to death, but the sentence was afterwards commuted to penal servitude for life. He had been seen by two experts, and was pronounced as insane by the one, but not so by the other. I had a long interview with him several weeks after he came into prison, having then no knowledge of his case other than what I had gathered from a brief newspaper report. I spoke to him on other subjects as well as on his crime and conviction, and he talked very freely and quite consecutively on all. He appeared content and cheerful, and told me, in reply to a question, that he was not shocked by his sentence, or in any way disturbed, except by the annoyance and disgrace that would be felt by his relatives, who were well-known people. He denied that he was guilty of the charge of murder, attributing the crime to another; but said that he consented to the plea of mental disorder which his legal advisers set up because he thought that this would be the best course. I formed the opinion that the grade of his general *intelligence* was by no means very low: certainly not lower than that of many thoughtless and flighty persons who exist in all ranks of life, and are able to look after their own interests fairly well as far as mere *intelligence* goes; and I deemed him, at the time of my interview with him, uncertifiable as a "lunatic" from the legal standpoint. I observed nothing special about him, during this interview, but his attitude of indifference to his condition.

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He had received at least a fair superficial education, as I inferred mainly from his speech and manner.

His conduct in prison was reported to be good, and I may add here that it continues to be so. From further information I learned that his parents were very wealthy, and that he had apparently been indulged from his childhood in all his desires. He had early shown but little regard for the feelings of others, was cruel to animals, and was reckless of causing danger to himself or any one else. There was, indeed, evidence of many other aberrations of conduct pointing to notable mental defect that I cannot now specify.

My general inference was, in accordance with that of Dr. Murray, the Medical Officer, that this case fitted in with precision to that practically useful group of "mentally defective" persons which finds a place in the Mental Deficiency Act under the well-known but by no means faultless title of "moral imbeciles"; and that this criminal is no more and no less rightly considered as irresponsible, wholly or partly, than many "lunatics" or persons of unsound mind who are more or less readily certified as such by alienists. I believe, however, that if he were sent to a lunatic asylum under the ordinary certificate he would in all likelihood be soon discharged as "sane" or "recovered," for he would perhaps show no aberration of conduct or any other indications of insanity while under the restrictions of an institution for detaining insane persons, any more than he does in prison. It seems also improbable that he would be accepted by the Board of Control as a proper subject for treatment in a State Institution for "Mental Defectives" not certifiable either as "persons of unsound mind" or as "idiots"; although in the untechnical senses of these words, he is as certainly the one as he is not the other, and is, I think, with equal certainty a person highly "dangerous" to the community. But he could not be called "violent," in spite of his having committed a premeditated murder. My view that such a case as this is properly certifiable under the Mental Deficiency Act as a "Moral Imbecile" is based on the grounds not only of the circumstances of his crime but also of his attitude towards his own case, and of the history of his general conduct before he committed the crime. I regard him as not fully responsible for the murder he committed, and permanently unfit for free life.

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