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Author(s): Robert A. Nye

Source: *Isis*, Vol. 67, No. 3 (Sep., 1976), pp. 334-355

Published by: [The University of Chicago Press](#) on behalf of [The History of Science Society](#)

Stable URL: <http://www.jstor.org/stable/230678>

Accessed: 06-05-2015 18:54 UTC

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Heredity or Milieu: The Foundations of Modern European Criminological Theory

By Robert A. Nye*

I

OF THE MANY INROADS made by positivist social science into the traditional domains of the moral sciences during the latter half of the nineteenth century, perhaps the most daring was the assault made on the classical juridical doctrines of free will and individual responsibility. A new science, which named itself criminal anthropology, boldly demanded a total revision of every contemporary notion of crime and punishment. It was nominally born in 1876 with the publication of Cesare Lombroso's epochal *L'uomo delinquente*. From his anatomical studies of Italian soldiers, the young army doctor asserted that he could distinguish between the criminal and "normal" recruit on the basis of certain gross morphological characteristics. He followed up his slender first edition with an enlarged volume of 1878 in which he extended his anatomical probe into several Italian prisons and elaborated the theory that the "born criminal" was an atavistic regression to man's primitive evolutionary heritage. Though he had yet to work out all the implications of his new system, Lombroso did not conceal the fact that his findings presented a serious challenge to classical penal theory. An exponent of the scientific materialism of the end of the last century, Lombroso had a supreme confidence that derived from the same positivistic hubris that was encouraging the application of the methods of the natural sciences to traditional philosophical matters throughout Europe.

Appointed professor of legal medicine at the University of Turin in 1876, Lombroso quickly gathered together a group of ardent young doctors and lawyers, among whom numbered Enrico Ferri, Raffaele Garofalo, and many other young Italians who soon became the stalwarts of the new *scuola positiva*. They founded a journal in 1880, the *Archivio di Psichiatria et Antropologia Criminale*, giving them an Italian forum for their work. By 1885 two monographs

Received February 1974; revised/accepted April 1974.

*Department of History, University of Oklahoma, Norman, Oklahoma 73079.

I would like to thank the National Endowment for the Humanities for a Junior Humanist Fellowship which supported my research in Paris on crime in nineteenth-century France in 1972.

IMAGINATIVE PORTRAITS OF 30 ENGLISH CRIMINALS.



PHOTOGRAPHIC PORTRAITS OF 30 ENGLISH CRIMINALS.



From Charles Goring, The English Convict—A Statistical Study (London: HMSO, 1913).

had appeared that completed the major philosophical foundations of the school, Garofalo's *Criminology* and Ferri's *Criminal Sociology*. Though there were divergencies over minor issues,¹ the Italian school enjoyed a surprising degree of unity on the main principles of Lombroso's original findings: the preponderant role of hereditary factors in criminal behavior, the existence of identifiable and morphological characteristics in criminals, and the conviction that various pathological influences—atavism, degeneration, epilepsy, moral imbecility—controlled the appearance of “criminal” physiological manifestations.² Until Lombroso's death in 1909 even those members of the school who, like Ferri, gave significant emphasis to social and economic influences in crime, rallied to the master's side when public controversy was most heated. Solidarity was even more complete on issues regarding criminal responsibility, sentencing and incarceration, and methods of treatment.

Not surprisingly, the period of greatest growth of criminal anthropology occurred simultaneously with a European-wide effort by progressive jurists and penal authorities to revise and update criminal codes that had been shaped by the free-will theories of the late eighteenth and early nineteenth centuries. Most codes, for instance, did not recognize the existence of limited degrees of mental responsibility, and few prison systems had made adequate provision for separate treatment of those criminals who were manifestly insane. Clinical psychiatry, by suggesting more precise definitions of mental illness, was in itself an important stimulus for change. Moreover, rapid urbanization across the face of Europe was creating new categories of crime, expanding recidivism rates, and posing a host of new problems for penal authorities presiding over crowded and outmoded prison establishments. In this reformist atmosphere, the criminal anthropologists had the advantage of possessing a “scientific,” coherent, and revolutionary program for defending society against the rising tide of crime.

The Lombrosians, who were the earliest and most outspoken spearhead of criminal anthropology, made no effort to spare the free-will philosophy that underlay the European legal and penal establishments. From the outset of their debates with penologists in their own country, the Lombrosians adopted a combative tone characterized by its extreme determinism and materialism. To a degree those Italian intellectuals who embraced militant positivism after 1870 were attempting to inject intellectual animation into the comparatively dreary atmosphere of the Italian *postrisorgimento*. The romanticism and political idealism that had dominated Italian cultural life until unification had postponed the introduction of the cult of the scientific method that had made extraordinary headway elsewhere in Europe during the previous two decades. But when it finally arrived, as Benedetto Croce has lamented, “Hardly anyone dared to admit that he was engaged in philosophical investigations and thought;

¹On divergencies within the school see Hermann Mannheim's “Introduction” in Hermann Mannheim, ed., *Pioneers in Criminology* (Chicago: Quadrangle Books, 1960), pp. 1–35.

²On Lombroso and the Italian school in general see Hermann Mannheim, “Lombroso and His Place in Modern Criminology,” in *Group Problems in Crime and Punishment* (London: Routledge and Kegan Paul, 1955), pp. 69–85; Marvin E. Wolfgang, “Cesare Lombroso,” in Mannheim's *Pioneers*, pp. 168–227; Francis Allen, “Raffaello Garofalo,” *ibid.*, pp. 254–276; and Thorsten Sellin, “Enrico Ferri,” *ibid.*, pp. 277–300.

everyone boasted instead of studying science and working as a scientist.”³

Although elsewhere in Europe the lines between free will and determinism in criminality were by no means drawn as sharply as in Italy, by 1885 there had emerged two distinct doctrinal alternatives. On one side were the free-will “metaphysicians,” who were largely jurists and penal authorities, and on the other were those for whom criminal anthropology provided the unifying focus—doctors of psychiatry, neurologists, and doctors of legal medicine.⁴ Opinions were sometimes mediated on a practical level, but theoretically nearly all observers believed it necessary to choose one or the other position. In 1885 there was no readily available model that might breach the gulf between the prevailing scientific and moral evaluations of crime.

Yet, within five years or so the foundations had been laid for a body of criminological theory which could securely occupy that middle ground. It was empirically reliable enough to meet the needs of psychiatrists and prison officials, and to provide trustworthy information for legislators framing new penal codes. It also proved satisfactory to the legal-intellectual community on the all-important issue of free will and ended by becoming a cornerstone in the science of modern criminology. Of greatest importance was the ability of the new school both to sell itself to the jurists and to convincingly combat the excesses of the Lombrosians. To the attractively coherent program of the Italians, the new theoretical focus had to provide more than a mere alternative; it needed an aggressive and self-justifying popular and scientific posture which would be not only convincing to the specialist, but attractive and comprehensible to the enlightened public. Certainly, social and intellectual conditions were ripe for such a theoretical development. Informed observers were increasingly reluctant to accept juridical and moral abstractions as adequate explanations for criminal acts, and the rise in certain crime rates was stimulating demands from property owners and politicians for practical measures which would help stem the increase. The theoretical cluster of ideas which emerged to fill this need went by many names but may be generally characterized as a sociological or environmental interpretation of the origins of criminality. The notion that crime was nurtured in the social milieu could be traced back at least as far as Thomas More, and charity and welfare authorities had understood the

³Benedetto Croce, *A History of Italy. 1871–1915*, trans. Cecilia M. Ady (New York: Russell & Russell, 1963), p. 130. No doubt positivism achieved rapid progress after 1870 in Italy, but it would be a mistake to infer from the idealist Croce that all levels of Italian intellectual culture were equally affected. Rather, it appears that the relatively slow development of science in Italy after 1870, while it did not protect Italian scientists from an extreme variety of positivism, more or less guaranteed that the “cult” would not have great prestige or influence in other areas. If anything, the relative intellectual isolation of the scientific and medical communities reinforced their commitment to a self-justifying dogma like positivism. This explanation may help indicate why the split between the jurists and doctors was more notable in Italy than anywhere else in Europe in this period. For a discussion of the background to these developments see Giorgio Candeloro, *Storia dell'Italia moderna. Lo sviluppo del capitalismo e del movimento operaio*, Vol. VI (Milano: Feltrinelli Editore, 1970), pp. 283–289.

⁴Each side had its contingent of philosophers. In France, for instance, the spiritualist E. M. Caro stood with the jurists and the materialist Hippolyte Taine with the medical camp. Taine's sentiments were particularly fierce on the issue of the elimination of born criminals: “All the more reason to destroy them when one has ascertained that they are and will remain orang-outangs.” “Lettre de Taine à Lombroso,” *Archives d'Anthropologie Criminelle, et des Sciences Pénales*, Mar. 15, 1888, 7:186–187.

relationship between poverty and crime for centuries.⁵ But the contributors to this new theory of crime brought a systematic and rigorous approach to the environmental interpretation that moved considerably beyond the old formulas and into the domain of the modern social sciences.

The leaders of this new movement were mostly French. Although contributions came later from theorists elsewhere, it was the French who first picked up the gauntlet thrown down by Lombrosian biological determinism. Once the challenge was joined by French jurists and doctors, the way was cleared for jurists throughout Europe to express support and interest. For reasons we will examine, the international legal community and much of the public favored the French interpretation over the Italian; the victory of the social interpretation was rapid and remarkably thorough. No doubt the “positive” school of Italian criminology continued to uphold its position in Italy, and even enjoyed limited successes elsewhere, especially in South America. But its role in influencing the shape of criminal law and penal reform in general was nowhere near the grand effect originally envisioned by Lombroso.⁶ Writers on the history of criminological theory generally have held that the Lombrosian interpretation was not empirically demolished until the appearance in 1913 of Charles Goring’s important statistical refutation, *The English Convict*.⁷ This is largely a hindsight view, however, which perhaps naively assumes that empirical, especially statistical, arguments are nearly always superior in doctrinal struggles to positions argued from nonstatistical evidence. In fact, the most damaging blows had been dealt to the Lombrosian dogma by the turn of the century, if not before, and the subsequent ability of the Italian school to influence legislative and judicial authorities or public opinion—which was where, after all, they needed their greatest leverage—was sorely diminished. This essay hopes to examine the ways in which this development unfolded.

II

In 1885 the fortunes of the Italian school were at their very highest point. In the fall of that year, the interior circle of the Lombrosian group convened the First International Congress of Criminal Anthropology in Rome. They hoped to attract a broadly European representation to the Congress and outshine the meetings of the Third International Penitentiary Congress, the rival organization of the free-will jurists also meeting in Rome. At stake for the Italians attending each congress was the possibility of influencing the direction of the new Italian penal code, then in a state of preparation, by a show of general European unanimity. The Lombrosians constructed the topic formats of their meetings to favor hereditary causes in criminality and expected a great triumph for their interpretation.

⁵For a survey of these views in France see Louis Chevalier, *Laboring Classes and Dangerous Classes in Paris During the First Half of the Nineteenth Century*, trans. Frank Jellinek (New York: Howard Fertig, 1973), pp. 29–58, 125–146.

⁶For the nature and extent of “positivist” influence consult Marvin Wolfgang, “Cesare Lombroso,” in Mannheim’s *Pioneers*, pp. 216–225, and Leon Radzinowicz’ excellent *In Search of Criminology* (Cambridge, Mass.: Harvard University Press, 1962).

⁷For this view see George B. Vold, *Theoretical Criminology* (New York: Oxford University Press, 1958), p. 52; H. E. Barnes and Negley H. Teeters, *New Horizons in Criminology* (2nd ed.; New York: Prentice-Hall, 1951), pp. 143–144; and Edwin D. Driver, “Charles Buckman Goring,” in Mannheim, *Pioneers*, pp. 335–348.

The congress was dominated numerically by Italians; otherwise the French were best represented, but no English and only a few German and Eastern European delegates made the journey. Though disappointed at the poor attendance, Italian delegates spoke confidently about the existence of Lombroso's "born criminal." Some opposition surfaced at the outset, however, when the French doctor of legal medicine Alexandre Lacassagne ventured the first direct criticism of the Italian system, in which he was joined by his French colleague, the psychiatrist Émile Magitot, warning against the gratuitous use of such "unproved" words as "atavism" and "Darwinism."⁸

Later, in the meeting of November 20, Lacassagne threw the first real bombshell of the congress. Rejecting an arch-Lombrosian defense of atavism by Giuseppe Sergi, Lacassagne pointed out the absurdity of associating apparently primitive anatomical characteristics with a pathological predisposition to crime. Such reasoning, he said, was merely a kind of projected guilt by association which branded any individual unlucky enough to possess one or more of these features with "an indelible scar, an original sin." He reminded the congress how such a notion must appear to legislators and jurists who are told that their only future resort is to "do nothing but cross their arms, or construct prisons or asylums in which to gather these misshapen creatures."⁹ Lacassagne's sensitivity to the reaction of politicians and jurists was unique in the congress and thrust a crucial wedge between French and Italian criminologists in the years to follow.

Lacassagne then constructed a brief argument in which he told the congress that the emphasis of criminal anthropology to that time was entirely incorrect. "The important thing," he said, "is the social milieu. Permit me a comparison drawn from a modern theory. The social milieu is the mother culture of criminality; the microbe is the criminal, an element which gains significance only at the moment it finds the broth which made it ferment."¹⁰ This simple metaphor, drawn from Pasteurian bacteriology, was the first rallying cry to the sociological interpretation of crime and was repeatedly quoted in later years by enemies of the biological position. Denying that special physical characteristics were exclusive to criminals alone, Lacassagne posed an optimistic social initiative in eliminating crime against the "immobilizing fatalism which inevitably falls from the anthropometric theory." And, to emphasize his contention that each society had a moral obligation in the reformation of "vicious" criminal environments, Lacassagne let fall his renowned aphorism: "Les sociétés ont les criminels qu'elles méritent."¹¹

The Frenchman's frank comments drew a vituperative response from the Lombrosians that was altogether characteristic of positivism in its most militant humor. The Neapolitan lawyer Giulio Fioretti described himself as "profoundly surprised" by Lacassagne's sentiments, adding, "The criminal type is a fact definitely ascertained by science. On this point discussion is not at all admissa-

⁸ *Actes du Premier Congrès International d'Anthropologie Criminelle* (Rome, 1885), p. 113.

⁹ *Ibid.*, pp. 165–166. In a later session Lacassagne reproached Lombroso for his notion of "larval epilepsy" on similar grounds: "I believe that it would be a great danger for the future of criminal anthropology to use before a jury or magistrate a comparison or words whose exact worth or meaning might not be understood" (*ibid.*, p. 275).

¹⁰ *Ibid.*, p. 166.

¹¹ *Ibid.*, p. 167.

ble.”¹² Nor were other commentators willing to concede any flaws in the theory of the born criminal; all cited the extraordinary sense of agreement on the issue that prevailed at the congress.

Significantly, none of Lacassagne's antagonists were satisfied with merely repeating the facts they had used earlier to support their position. Stung by the implication that their views encouraged a fatalistic attitude toward crime, the Italians defended their “progressive” stance by appealing to the naturalistic and scientific foundations of their school. But as compelling as their arguments may have been to convinced partisans of European scientism, they could hardly have mollified the fears of the free-will jurists at the Penitentiary Congress. Ferri, for instance, spoke proudly of his “scientific materialism” as the “way of progress,” and defended the humanitarian aspects of his system, which by removing born criminals from society would operate as a melioristic device of “artificial selection.”¹³ Baron Garofalo made the extraordinary claim that because of criminal anthropology “moral responsibility, the proportionality of the punishment to the crime, these two pivots of penal law, are disappearing from our system, and one can truly say that penal science has been renewed from top to bottom.” We are powerless against the “moral monstrosity,” he continued, “that one can recognize in infancy and against which all efforts of education and the milieu are hopeless.”¹⁴

Later presentations made equally salient points. Enrico Morselli, appropriating arguments from social Darwinism, summarized his arguments on violent death by saying, “Suicide and homicide are two phenomena of the struggle for existence. Their consequence is the same: elimination of the weak (*applaudissements*).”¹⁵ Later, arguing for capital punishment, not in the outmoded interest of social vengeance, but with the positivist formula of “social defense,” another Lombrosian alleged that “the most absolute guarantee, and the most effective for social security, . . . is represented by his [the capital criminal's] death.”¹⁶ Lombrosian criminal science invariably defended the eugenical service their doctrine would perform through the systematic “elimination” of the criminally unfit by transportation, perpetual imprisonment, or death. Jurists, who had traditionally argued for capital punishment on retributive and moral grounds, were understandably uncomfortable with a mode of reasoning that denied the validity of normative or ethical judgments.

Other members of the Italian school openly suggested that the inexorable advances of empirical science would destroy the free-will position altogether if the “metaphysicians” did not consent to absorb the principal Lombrosian reforms. Lombroso himself concurred warmly with the demand to make “metaphysical” notions of criminal responsibility more “scientific,” and remarked austere that “It is not with sentiments that one rules a society.”¹⁷ A belligerent speech by Raffaele Garofalo insisting on the “immensity” of distance between

¹² *Ibid.*, p. 168.

¹³ *Ibid.*, pp. 171–173.

¹⁴ *Ibid.*, pp. 174–175.

¹⁵ *Ibid.*, p. 204.

¹⁶ *Ibid.*, p. 340. In supporting Sylvius Venturi's demand for “social selection,” Garofalo called it “a logical consequence of the naturalist theory applied to penal science” and the result of a “purely scientific point of view.” “Be logical,” he concluded, “and don't let yourselves be influenced by [humanitarian-sentimental] considerations of an inferior order” (p. 343).

¹⁷ *Ibid.*, pp. 184–185.

the “idealists” and the “positive school” was met with a measured riposte by a lone observer from the penitentiary congress who observed that though the classical school was ready to admit exceptions for insane persons under criminal indictment, it deplored the general philosophical incursions into free-will theory so characteristic of the spirit of the congress.¹⁸ Lombroso's Austrian disciple Moritz Benedikt brushed off that warning by speaking of the inevitability of science's triumph in law and derisively mocking the classicists whose “cult is ready to fall.”¹⁹

Though the concluding speakers stressed moderation, the intemperate and evangelical tone of the Italian school dominated the spirit of the discussions following Lacassagne's initial rebuke. They paid dearly in subsequent years for their gratuitous assaults on the legal cornerstone of free will: by the time a second congress met in Paris in 1889, the likelihood of a favorable public reception of their work, for which they had labored nearly a decade, had begun to fade.

The Paris congress of 1889 was the occasion of a stunning public reversal in the fortunes of the Lombrosian theories. A gathering which was more truly international than the Rome congress witnessed an avalanche of hostile criticism push Lombroso and his colleagues into a defensive posture. While some of the commentators disputed the Lombrosians on their own anatomical grounds, by far the most effective criticisms were of a logical and methodological type, not infrequently accompanied by mocking or ironic overtones. Lombroso was his own worst enemy in the whole fiasco—blustering and vague in self-defense.

The French were foremost in the assault: Léonce Manouvrier and Paul Topinard, anthropologists in the independent École d'Anthropologie of Paris; Paul Brouardel, Professor of Legal Medicine at the Paris Medical School, the criminal judge and sociologist Gabriel Tarde, and the ubiquitous Lacassagne. The papers and comments of Manouvrier were particularly damaging. He compared Lombroso's theories to the disgraced system of Franz Joseph Gall, accused Lombroso's criminal type of being a sort of “ideal harlequin,” and subjected the Italian efforts at statistical analysis to a rigorous examination.²⁰ Tellingly, he pointed out Lombroso's failure to collect measurements within discrete series according to race, sex, and class, and dismissed the value of statistics on criminal anomalies which were never compared with equally broad samples of “honest” men. Manouvrier was particularly incisive on the difficulty of arriving at any valid definition of “honest,” observing that the latter category generally included great numbers of “knaves, intriguers and brutes” which the law does not qualify as criminal.²¹ He concluded ironically by accusing Lombroso of having done anthropology the disservice of “criminalizing” anatomical characteristics: “One will only be able to console himself at being a

¹⁸For Garofalo's speech, see *ibid.*, pp. 305–317, and for the Italian lawyer Righi's reply, pp. 317–320.

¹⁹*Ibid.*, pp. 321–322.

²⁰The *Actes and Procès-verbaux* of the Paris congress were nearly altogether reprinted in Lacassagne's journal, the *Archives de l'Anthropologie Criminelle et des Sciences Pénales*. The discussion section in the *Archives* is often more complete than that in the *Actes* of the congress. For Manouvrier's remarks, see *Arch. Anthr. Crim.*, Sept. 15, 1889, 4:540–541. A complete version of Manouvrier's paper may be found in the *Actes du Deuxième Congrès d'Anthropologie Criminelle* (Paris, 1889), pp. 5–13.

²¹*Arch. Anthr. Crim.*, 1889, 4:534.

born criminal by remembering that he is an honest man even so.”²²

Paul Topinard, director of the independent École d'Anthropologie, disputed Lombroso's favorite—indeed his first—anatomical “criminal” trait, an enlarged *fossette occipitale*, as indicative of any inherent abnormality.²³ Topinard denied that Lombroso's work deserved the title of anthropology, and he proposed that the congress substitute a new name of his own coining for criminal science. Though he was ignored for the moment, “criminology” gradually supplanted “criminal anthropology” as the title for the new discipline.²⁴ At another juncture, Gabriel Tarde asked Lombroso why it was, since female skulls often showed the same “criminal” anomalies as those of men, there was so little female criminality, and Dr. Valentin Magnan, head of the Saint Anne Asylum in Paris, challenged Lombroso on the crucial matter of whether criminal anatomical characteristics could be observed in young delinquents.²⁵ This last issue was a crucial one for the Lombrosian orthodoxy, since they held that early identification and isolation of juvenile criminals would be a major factor in crime prevention.

Together with the critical dismemberment of Lombrosian dogma, the French and their allies depended on two major strands of argumentation: the unacceptability of Lombrosian theories to the legal community, and the thesis that crime was not provoked by hereditary factors but rather by factors in which the social milieu played an immediate or indirect role. Nearly every anti-Lombrosian commentator, whether jurist or doctor, referred to the conditioning effect of the social environment in encouraging criminal careers. Misery, poverty, lack of opportunity, and vice and alcoholism in parents were among the favored causes. If criminals seemed to display a few more anatomical peculiarities than others, Lacassagne observed, it was because the “evil of misery and deprivation” acted to deform and mottle its victims in tragic fashion.²⁶ Nor would even a compromise between social and hereditary factors mollify the opponents of the born criminal hypothesis. Enrico Ferri's system, which claimed to equally balance “biological” and “social” causation, was dismissed as “arbitrary” by the unrelenting Manouvrier, who had been trained as a doctor, educated as an anthropologist under the renowned Paul Broca, and was emerging as the most pugnaciously articulate spokesman for the French.²⁷

In contradistinction to the Italian majority at the 1885 congress, the French and their allies were careful to tread lightly where the implications of their work touched on matters within the domain of current criminal procedure. They resisted suggestions that predilectual classification of criminals by juridical anthropologists could be substituted for the normal sentencing procedures,

²² *Ibid.*, p. 542.

²³ *Ibid.*, p. 554. The Austrian Moritz Benedikt, who had moved away from a dogmatic Lombrosian position after 1885, added to Topinard's remarks on the *fossette* by saying, amidst general hilarity, “It is easy to make hypotheses: why not say the *fossette* indicates a predisposition to hemorrhoids for example?” (*ibid.*).

²⁴ See Topinard's proposal in the *Actes*, 1889, p. 34.

²⁵ Tarde, *Arch. Anthr. Crim.*, 1889, 4:543. See Magnan's paper and the orthodox Lombrosian rejoinder of Dr. Romeo Taverni, in *Actes*, 1889, pp. 20–32.

²⁶ *Arch. Anthr. Crim.*, 1889, 4:535. The criminal, Lacassagne argued, remains responsible; his predisposition to passionate excess was not the result of atavism, but society's legacy of despair.

²⁷ *Ibid.*, p. 561. Dimitri Drill, a Moscow lawyer, seconded Manouvrier in his attack on Ferri.

though they agreed that exposing jurists to legal medicine was necessary.²⁸ In general, the environmentalists made every effort to harmonize free-will doctrine and other projects dear to the classical school, such as individual cellular imprisonment, with their own suggestions for reform.²⁹

In his closing address to the congress Paul Brouardel made direct reference to the many rebuttals suffered by the “apostles” of Lombroso and trusted that they would benefit by resubmitting their theories to the crucible. He wondered openly whether an extreme determinism was serving the interests of humanity, when “the child who believed himself lost would never make any effort toward the good. . . .” He concluded by saying, “This remark puts us face to face with practicality, and we feel that if, philosophically, we are free to sort through and stir up these problems, . . . we risk alienating society by attempting to apply them, . . .”³⁰

The last session did not close, however, before the angry Italian contingent demanded that a commission be formed which would make a comparative anatomical study of one hundred criminals and one hundred honest men and present its findings to the next congress. Much later, when it became clear that the French-dominated commission had decided against completing the study, the Italians voted *en masse* not to attend the third congress, held in 1892 in French-speaking Brussels. Thwarted in their efforts to admit only material data as a basis for scientific investigation, the Lombrosians angrily protested in an open letter that the new congress was “barren of any foundation of facts” and lacked any basis for a “truly scientific and conclusive discussion.”³¹ In his report on the 1889 congress to Lombroso’s *Archivio di Psichiatria*, Ferri attempted to discount the opposition to the biological theory of crime as merely a “strategic reaction” to the presence of the strong Italian delegation and implied strongly that the preference for speaking “only in general terms about social conditions easily visible to everyone” revealed an empirical weakness in the arguments of the purely sociological interpretation.³²

Ferri and his colleagues were convinced that theoretical revolutions in science could only follow new discoveries in empirical research, a view which illustrated that for the most simplistic late-nineteenth-century positivists induction had a mythic rhetorical appeal even where—one is tempted to say especially where—it did not figure as a working methodology. Contrary to Lombrosian assumptions it appears that conceptual changes in the social sciences grow out of the confluence of numerous factors, many of them extra-scientific, that participate in shaping the contours and value structure of new research areas. Even if the Lombrosian contributions had not been flawed by logical and empirical shortcomings, the possibility of a rapid and thorough victory of their ideas would have been unlikely in the face of the unified hostility and distrust of the entire European juristic community. Though the sociological opponents

²⁸ See Paul Brouardel’s and Moritz Benedikt’s comments in *ibid.*, pp. 566–567.

²⁹ Gabriel Tarde, “Les anciens et les nouveaux fondements de la responsabilité morale,” *Actes*, 1889, pp. 54–58; and G. A. Van Hamel, “Du système cellulaire considéré au point de vue de la biologie et de la sociologie criminelle,” pp. 70–75.

³⁰ *Arch. Anthr. Crim.*, 1889, 4:587–589.

³¹ *Actes du Troisième Congrès International d’Anthropologie Criminelle* (Brussels, 1893), pp. xiv–xvii.

³² Enrico Ferri, “Il II Congresso Internazionale di Antropologia Criminale,” *Archivio di Psichiatria, Scienze Penali ed Antropologia Criminale*, 1889, 10:546–547.

of the Italians in the development of criminal science were no less insistent about the scientific nature of their work, and often as deterministic in their assumptions, their more practical approach to the problems of reform proved ultimately decisive for their interpretation. In France, where the successes of the sociological school were most complete, there were domestic intellectual and social influences that smoothed their way. While sociological theory in the period 1885–1900 may appear relatively primitive to modern observers, the refutation of the notion of the born criminal in favor of an environmental interpretation was an impressively convincing accomplishment.

III

The role of French theorists in turning back the Lombrosian tide was much greater than is generally acknowledged. Not only were the French the first to oppose Lombroso in a systematic way, but their efforts were distinguished by a rare blending of professions and points of view, including those of jurists, moralists, doctors of legal medicine, anthropologists, and psychiatrists. Elsewhere, especially in Italy, the medical-scientific and legal communities were more divided by their allegiances to the conflicting interpretations. The unity of these elements in France ensured the “French school” its international prestige and remarkable effectiveness. Especially for France in the late nineteenth century, even an informal integration of these generally disparate elements suggests that special forces were at work beneath the surface to insure that the common enemy was resoundingly defeated.

Certainly, had he even a passing familiarity with the background of French psychiatry and anthropology, a French jurist devoted to classical free-will theory would have expected his allies to enthusiastically support Lombrosian doctrines. Beginning with Cabanis’ *Rapport du physique et du moral* (1802), through the phrenological work of Franz Joseph Gall and culminating with the *Traité des dégénérescences* (1857) of B. A. Morel, French brain anatomists found considerable evidence to support the notion that there existed a demonstrable relationship between cranial morphology and psychic characteristics. Lombroso himself was heavily influenced by this tradition. Heredity theory in France also seemed weighted in the direction of the linear inheritance of pathological tendencies. Prosper Lucas’ *L’hérédité naturelle* (1847) and Théodule Ribot’s medical thesis, *Hérédité, étude psychologique* (1873), figured prominently in that tradition.³³ Moreover, it had been the clinical descriptions of moral insanity initiated by Philippe Pinel and later elaborated by Prosper Déspine in his *Psychologie naturelle* (1868) that had influenced Lombroso in his adoption of the criminal category of the moral imbecile. Lastly, Lombroso had found the anatomical work of Paul Broca useful in the coordination of his cranial indices.

With this number of domestic influences present, it is not surprising that some works had appeared before 1882 which stressed the pathological origins of criminal behavior.³⁴ Yet, with few exceptions, French doctors, anthropologists,

³³ Two prominent French spiritualists of the classical school indicated their fear that these influences would ensnare French scientists: see Le Comte d’Haussonville, “Le Combat contre le vice,” *Revue des Deux Mondes*, Apr. 1, 1887, 80:256–298, and Louis Proal, “Les médecins positivistes et les théories modernes de la criminalité,” in *Le Correspondant*, 1890.

³⁴ Hubert Lauvergne, *Les forçats considérés sous le rapport physiologique, moral et intellectuel* (Paris, 1841); Eugène Dally, *Rémarques sur les aliénés et les criminels au point de vue de la responsabilité*

and alienists reacted with apparent horror to the extreme anatomical determinism displayed at the Rome congress of 1885. Two of the French doctors at the congress reported in distressed terms on the Italian's savage attack on free will. Émile Magitot wrote from Rome that he was unconvinced in the matter of a criminal type and preferred to follow the classicist Beccaria and the notion of social causation rather than yield to the "excessive pretension" of the Lombrosian position.³⁵ In a report on the Rome congress to the lawyers and penal authorities of the Société Générale des Prisons, Dr. August Motet stressed social factors in crime to the "false route" of criminal anthropology and reminded the members of the need for moral responsibility, "because there is no society possible without responsibility."³⁶ Théophile Roussel, an important penal reformer and politician, welcomed the doctors into the free-will camp and had words of praise for "the sense of moderation, of scientific reserve, and of respect for the legislative domain that the action of the French members of the congress manifested."³⁷

The immediate reaction of French and Italian jurists to the 1885 congress was as immoderate and mocking in its own fashion as were the Lombrosians' unsparing characterizations of classical penology.³⁸ In Italy legislative revulsion against positivist influence was such that the new criminal code, which appeared in 1889, was an archetypal model of classical theory; in some ways the code represented a regression to an earlier stage in European penal history when degrees of limited criminal responsibility were not admitted. The failure of the criminal anthropologists in Italy to influence the structure of their own criminal code provided a solemn example to would-be reformers elsewhere in Europe.

The unacceptability of extreme biological determinism to jurists and legislators was immediately apparent to students of criminal phenomena in France. To prevent a hiatus in their relations with the legal community, French "criminologists" hoped to minimize any apparent threat to free will and criminal responsibility in their studies of the origins of criminal behavior. They found that sociological explanations of crime, while bearing the overtones of a mild determinism, nonetheless preserved in the eyes of jurists an area of individual responsibility large enough that they did not challenge the historical principles of penal repression. Indeed, a sociological interpretation of crime proved a welcome complement to the classical assumption that there was an intimate relationship between misery, vice and crime. A successful *rapprochement* between the moral and scientific social interpretations proved to be relatively simple.

The stakes were substantial for the French anthropologists, psychiatrists, and doctors of legal medicine who were the primary enemies of the Italian

morale et légale (Paris, 1864); Bordier, "Les crânes des assassins," *Revue d'Anthropologie*, 1879, 264–300; and Gustave LeBon, "La question des criminels," *Revue Philosophique*, 1886, 11:519–539.

³⁵ See the reprinted version of Magitot's 1885 letters to *Le National*, in E. Magitot, *Lettres de Rome* (Havre, 1894).

³⁶ Auguste Motet, "Rapport sur le Congrès d'Anthropologie Criminelle de Rome," *Bulletin de la Société Générale des Prisons*, Jan.–Feb. 1886, 10:132.

³⁷ Théophile Roussel, "Rapport," *Bull. Soc. Gén. Prisons*, Jan.–Feb. 1886, 10:134.

³⁸ See Luigi Lucchini, *I semplicisti (antropologi, psicologi, et sociologi) del diritto penale—saggio critico* (Turin, 1886). Also Albert Desjardins, "La méthode expérimentale appliquée au droit criminel en Italie," *Bull. Soc. Gén. Prisons*, Dec. 1886, 10:1043–1064; Jan. 1887, 11:50–62; Jan. 1888, 12:15–38.

school. Anthropology in France was gradually moving away from the physical-morphological concerns of Broca's day and toward a more cultural and ethnological orientation.³⁹ The French anthropologists most in favor of this new direction were reluctant to be associated with an extremely dogmatic new "science" in which the word anthropology figured so prominently. This concern explains Paul Topinard's repeated insistence that the name of the new science be changed to criminology. For the brief time that they were engaged in the fray against Lombroso and in favor of a social explanation of crime, the anthropologists were among the most effective combatants, inasmuch as they could meet the positivists on their own grounds. Manouvrier and Topinard ceased their polemics soon after it was clear that the danger had passed, but not before they had set in motion a new interest in crime in primitive societies that was later exploited by Émile Durkheim and his followers.

French doctors of legal medicine were in an even more precarious situation. Legal medicine in France had been born with the promulgation of the Napoleonic criminal code. The code gave criminal magistrates the option of allowing testimony by medical experts, and gradually a network of schools of legal medicine attached to medical faculties began the training of men precisely qualified in forensics. Over the century, beginning with a law of 1832, inroads into the classical notion of absolute mental responsibility appeared, and forensic experts or psychiatrists—depending on which was conveniently available to the courts—were called in to testify on matters where the possibility of impaired responsibility existed. To an increasing extent, the income and professional status of these experts in mental responsibility depended upon their friendly relations with magistrates and their credibility with the public that comprised criminal juries. They were painfully aware that their role in judicial proceedings had no specific statutory support and existed only at the pleasure of the presiding judge.⁴⁰ Yet, as the century advanced, the most responsible of the psychiatric practitioners became convinced that men and women suffering from mental disorders, though legally responsible, were being punished and executed in inordinate numbers. Their problem involved, then, obtaining recognition for the limited responsibility of these individuals without alienating jurists with excessive claims for massive institutional reforms as the Lombrosians had done in Italy. In supporting a sociological interpretation of crime, the medical expert found a half-way house which allowed him to argue from a moderately deterministic scientific context that was acceptable to the legal community, but upon which he could build arguments in favor of individual cases of more serious irresponsibility. The embrace of a sociology of crime was a well-advised first step in this direction.

The coordinated movement to establish a scientifically acceptable social explanation for crime against the claims of the Italian school began in earnest in 1886. In the "avant-propos" of his new criminological journal, Lacassagne

³⁹Donald Bender, "The Development of French Anthropology," *Journal of the History of the Behavioral Sciences*, Apr. 1965, 1:139–151, and Fred W. Voget, "Progress, Science, History and Evolution in Anthropology," *J. Hist. Behav. Sci.*, Apr. 1967, 3:132–155.

⁴⁰On the significance of this issue see Henry Coutagne, "L'exercice de la médecine judiciaire en France," *Arch. Anthr. Crim.*, Jan. 15, 1886, 1:25–58. Also Alexandre Lacassagne's retrospective, *Des transformations du droit pénale et le progrès de la médecine légale de 1810 à 1912* (Lyon, 1913).

counselled that the *Archives'* work would not be fruitful if done "in a spirit of denigration or destruction for those existing laws which constitute one of the most precious parts of mankind's intellectual heritage."⁴¹ His contemporaries saw Lacassagne as an aphoristic synthesizer of anti-Lombrosian proverbs and founder of the "Lyon school" of criminology.⁴² As professor of legal medicine at the University of Lyon, Lacassagne built a faculty of sociologically oriented doctors whose writing and teaching gained for Lyon a major voice in the social interpretation of the "French school." His own opposition to Lombroso began long before 1886. *Les tatouages* (1881) was an exhaustive examination of tattooing in which he concluded that Lombroso's association of tattoos with atavistic criminality was unwarranted.⁴³ He elsewhere opposed the linking of a criminal type with primitive man, preferring to account for crime by reference to the social milieu.⁴⁴

Over the next few years Lacassagne set his colleagues and pupils at Lyon to work on problems relevant to the sociology of crime and opened the pages of the *Archives* to anti-Lombrosian perspectives. Many of the results were of a high quality and have proven to be extraordinarily durable contributions. Charles-Marie Debierre's *Le crâne des criminels* took direct issue with many of Lombroso's anatomical dogmas.⁴⁵ Henry Coutagne's study on the influence of occupational categories in types and frequencies of crime was a kind of classic which later influenced Tarde and others in their writings on the criminal as a professional type.⁴⁶ M. Raux prepared an impressive statistical study of juvenile crime in the Lyon region in which he drew direct correlations between crime rates and the socioeconomic conditions prevailing in the poorer sections of the city. He made particular reference to the disastrous effect on juveniles of paternal unemployment or desertion and other influences disturbing stable family organization.⁴⁷ Armand Corre explored Lombroso's assertion that criminals and primitives were synonymous. His detailed study of criminality in the French colonial holdings led him to the conclusion that far from having a beneficial effect on native crime rates, the arrival of French rule precipitated a rapid rise in crime as a result of native imitation of French colonials as well as the drastic interference with normal cultural patterns.⁴⁸ In this connection Paul Topinard's comparison of Lombroso's views on criminals with the cultural egoism manifested by European voyagers toward primitive tribes is apt.⁴⁹ On the whole, by dispensing favorable and unfavorable reviews to friends and

⁴¹ Alexandre Lacassagne, "Avant-propos," *Arch. Anthr. Crim.*, Jan. 15, 1886, 1:6.

⁴² J. Dallemagne, *Les théories de la criminalité* (Paris, 1896), pp. 156–157.

⁴³ "Imitation," he concluded, was the most likely cause. In A. Lacassagne, *Les tatouages—étude anthropologique et médico-légale* (Paris, 1881), p. 115.

⁴⁴ A. Lacassagne, "L'homme criminel comparé à l'homme primitif," reprint of an address to the Société d'Anthropologie de Lyon (Lyon, 1882).

⁴⁵ Charles-Marie Debierre, *Le crâne des criminels* (Lyon, 1895).

⁴⁶ Henry Coutagne, "De l'influence des professions sur la criminalité," *Arch. Anthr. Crim.*, Dec. 15, 1889, 4:616–640.

⁴⁷ See M. Raux, "L'enfance coupable," *Arch. Anthr. Crim.*, May 15, 1890, 5:221–258, and *Nos jeunes détenus. Étude sur l'enfance coupable* (Lyon/Paris, 1890).

⁴⁸ Armand Corre, *L'ethnographie criminelle* (Paris, 1894).

⁴⁹ "They find all the faults imaginable and no quality whatsoever." Paul Topinard, "L'anthropologie criminelle," *Revue d'Anthropologie*, 1887, 2:685. Other products of the Lyon school are Émile Laurent's *L'année criminelle* (1889–1890) (Paris, 1891) and *L'anthropologie criminelle et les nouvelles théories du crime* (Paris, 1893).

enemies, but above all by maintaining good relations with jurists and penal authorities, the coterie associated with the *Archives* managed to advance considerably its cause.⁵⁰

The closest and most valuable ally of the Lyon school was the jurist-sociologist Gabriel Tarde. Perhaps more than any other single figure Tarde provided the theoretical structure for a social interpretation of crime; though his system was a very personal one, at times convoluted and infused with his peculiarly intense moral outlook, Tarde's basic concept of social imitation was a useful explanatory mechanism in the work of many other writers. Tarde's eventual academic success as professor at the Collège de France and as a prolific author on sociological theory is well known,⁵¹ but he spent the bulk of his early career in criminal concerns, first as a provincial judge and later as head of the statistical section at the Ministry of Justice.⁵² He was a skillful debater and inveighed articulately against the Italians at the international congresses. The aphorism he delivered at the 1892 congress remains one of the most oft-quoted characterizations of Lombroso: "I compare Lombroso to coffee, which does not nourish, but at least stimulates and prevents one from dying of inanity."⁵³

In his *Criminalité comparée* (1886) Tarde took an important first step toward combatting anatomical studies of the born criminal. He did not provide new information of his own, but merely compared all the statistical measurements made on criminal morphology by the Italians and others, most of them sympathetic to Lombroso's goals. He found not only considerable variations in figures for the most popular physical anomalies but substantial disagreement about which stigmata were crucial to hereditary criminality. It seems everyone had his favorite atavism. Though these arguments were probably the most damaging, Tarde also disputed Lombroso's theory of atavism and his contention that epileptoid tendencies were common in born criminals, and he ridiculed Lombroso's belief that value characteristics common in criminal subcultures were better explained by hereditary than by sociological reasons. Tarde also offered a psychosociological explanation of crime that depended on social imitation and showed that crimes followed patterns of fashion which crystallized into customs and habits and become characteristic behavioral traits of criminal-social milieux. In *Criminalité comparée* and his later *La philosophie pénale* (1890) Tarde suggested a theory of moral responsibility based on individual identity and social similarity. He hoped to avoid a fruitless debate between free will and determinism by making responsibility and subsequent punishment an automatic reflection of the extent to which an individual's actions are consistent with his personal and social images.

Tarde quickly became friendly with Lacassagne and the major figures in

⁵⁰For a far-seeing discussion of the tasks for students of crime in years to come, including surveys of the relation of local studies to the evolution of penal law and social and political institutions, see A. Lacassagne, "Programme d'études nouvelles en anthropologie criminelle," *Arch. Anthr. Crim.*, Nov. 15, 1891, 6:565-567.

⁵¹See Terry N. Clark's preface to *Gabriel Tarde. On Communications and Social Influence* (Chicago: University of Chicago Press, 1969).

⁵²The best study of Tarde's criminal theories is that of M. Geisert, *Le système criminaliste de Tarde* (Paris: Domat-Montchrestien, 1935). Also see Margaret S. Wilson Vine, "Gabriel Tarde," in Mannheim, *Pioneers*, p. 228-240.

⁵³*Actes du Troisième Congrès International d'Anthropologie Criminelle*, p. 335.

the Lyon coterie, and they in turn welcomed his philosophical turn of mind and superb debating skills. In 1893 he became co-editor of the *Archives* with Lacassagne.⁵⁴ On the whole Tarde was remarkably successful in maintaining a stable balance between the appearance of a careful empirical method in his own work and a frontal assault on the philosophical pretensions of positivism. This unique synthesis, in denying science the possibility of moral reductionism, had the effect of allowing empiricism to co-exist with traditional moral values.⁵⁵ This rare wedding enabled the French school to avoid a direct confrontation with the legal and religious establishment while gaining the respect in France and abroad of those who hoped to bring greater scientific rigor to the study of criminal phenomena.

Certainly of equal value in the growth of a French opposition to the Italian positivists were the efforts of French anthropologists to disassociate themselves from Lombroso's dogmatic craniometry. Paul Topinard took issue with Lombroso's concept of type, arguing that anthropology had learned to distinguish between the "mesological" (physical) type that issued from certain geographical and physical surroundings over millennia, and the "social type, resulting from social distinctions, differences of occupation, the ways and type of life engendered by civilization."⁵⁶ The latter type, though it might achieve small morbid effects and influence behavior, could not create a uniformity of influence that would transmit an ensemble of physical traits from one generation to the next. The "artificial assemblage of characters," that Lombroso called a type, Topinard wrote, is the product of a scientific imagination that would call a race brachycephalic when sixty per cent of its members were dolicocephalic. As far as the notion of atavism was concerned: "Between the human species and its phylogenetic ancestors, between the present races and the primitive races, all continuity has disappeared. The wire, having lengthened and become thinner has broken . . . a multitude of races have interposed and have disappeared."⁵⁷

Léonce Manouvrier, Topinard's brilliant colleague at the École d'Anthropologie of Paris, offered some especially effective rebuffs to the Lombrosians in several skillfully prepared presentations. As did Topinard, he challenged the nature and manner of collection of cranial indices. Lombrosian statistics, he pointed out, were gathered without reference to a randomly selected "control" group of noncriminals.⁵⁸ And how, he asked, can one identify measurable pathological anomalies, even granting they appeared with any frequency, with social roles, socially defined? Moreover, Lombroso's examples are merely the criminals who have been caught: "Would one, if he wanted to study the commercial spirit, the military spirit, the ecclesiastical spirit, measure the heads and count the stigmata of bankrupt businessmen, the stalwarts of police stations or interdicted priests?"⁵⁹ For Manouvrier the central problem remained one of confusing social definitions with anthropological ones in arriving at some appreciation

⁵⁴ See A. Lacassagne, "Gabriel Tarde," *Arch. Anthr. Crim.*, Dec. 15, 1909, 24:895-906.

⁵⁵ In this connection see Tarde's "Positivisme et pénalité," *Arch. Anthr. Crim.*, Jan. 15, 1887, 2:32-51, and also "Les Actes du Congrès de Rome," *Arch. Anthr. Crim.*, Jan. 15, 1888, 3:66-80.

⁵⁶ Topinard, "L'anthropologie criminelle," pp. 660-661.

⁵⁷ *Ibid.*, p. 683.

⁵⁸ L. Manouvrier, "Les crânes des suppliciés," *Arch. Anthr. Crim.*, Jan. 15, 1886, 1:128-132.

⁵⁹ *Actes du Troisième Congrès*, p. 175.

of the concept of normality.⁶⁰

But the single greatest logical problem in Lombrosian doctrine lay in the use of a flawed concept of evolution. In this connection the French had a ready-made bias that set them clearly apart from their opponents. For the Italians a criminal was a being for whom "progressive" evolution had ceased to function; indeed it had become retrograde. Their fanatical Darwinism, however, was only useful to them to account for *original* characters formed into man at his primitive origins. In the Italian view, for a whole class of men—criminals—adaptive evolution had apparently ceased to be a factor. Manouvrier's Lamarckian *transformisme* rebelled at such a principle, however, and he held that no one escaped the consistent influence of the milieu over his daily acts.⁶¹ Indeed, both Topinard and Manouvrier depended on arguments drawn from Darwin's French predecessor to justify a social rather than a hereditary interpretation. For these French anthropologists Lamarck's influence was as crucial in accounting for the environment's short-term influences on a single generation as it was for anthropologists elsewhere in the world.⁶²

The influence of Lamarckianism was also decisive in reorienting French degeneration theory toward the environmental interpretation of criminal behavior and away from its traditional association with hereditary determinism. Since B. A. Morel's work of 1857, degeneracy had been widely accepted in France as an irreversible genetic process of physical and mental regression that arose independently of factors external to the organism.⁶³ Indeed, Lombroso's theory depended heavily on references to degeneration theory to account for the appearance of atavistic symptoms such as feeble-mindedness and moral idiocy that were characteristic of born criminals. During the period of debates over the validity of criminal anthropology, Charles Féré, a distinguished French

⁶⁰ Manouvrier drew these commonsense conclusions from the dilemma: "When one reflects on the innumerable multitude of acts of violence and of willful violations of common law which are committed each day from the top to the bottom of the social scale, without speaking of the acts of injustice and brigandage committed by societies themselves under the cover of religious, political or social necessities . . . , one is obliged to ask himself if the imprisoned criminals do not simply constitute a category of lawbreakers more easily apprehendable by law or police, more particularly dangerous, perhaps, for public tranquility, and too exclusively sacrificed, in any case, as a sort of scapegoat to assure to the law an indispensable sanction. Thanks to this tribute paid to morality at the expense of men qualified as criminals by the law, the others are able to call themselves honest men by legal definition and all their acts the most contrary to morality. . . . For the matter of theft, there are diverse shrill and hazardous forms which lead many of those who practice them to prison, but there is a whole crowd of others no less obnoxious, that the law ignores or protects, and which doesn't startle good society too much, provided especially that they have succeeded so well that morality and success are all tangled together . . ." (*ibid.*, pp. 174–175).

⁶¹ *Ibid.*, p. 182.

⁶² See Topinard, "L'anthropologie criminelle," pp. 660–661; Manouvrier, "Les aptitudes et les actes," *Revue Scientifique*, Aug. 22, 1891, 48:225–237. For an appreciation of this influence on American social scientists, see George Stocking, "Lamarckianism in American Social Science," *Race, Culture and Evolution. Essays in the History of Anthropology* (New York: Free Press, 1968), pp. 234–269. A complementary influence, often acknowledged by the French, was the implicitly environmentalist heritage of Montesquieu's social and cultural relativism. See, e.g., Topinard, *op. cit.*, p. 684; Manouvrier, *Actes du Troisième Congrès*, pp. 180–182; and E. Magitot, *Lettres de Rome*, pp. 6–7.

⁶³ For an understanding of the scientific and cultural applications of this notorious concept, see George L. Mosse's preface to the new edition of Max Nordau's *Degeneration* (New York: Howard Fertig, 1968); and also Richard D. Walter, "What Became of the Degenerate. A Brief History of a Concept," *Journal of the History of Medicine*, 1956, 2:422–429.

psychiatrist, took issue with the Lombrosians on their use of degeneration. In his *Dégénérescence et criminalité*, Féré denied that degeneracy could be identified with particular physical anomalies or subsumed under the general category of atavism. Rather, he argued, degeneracy was a process set in motion by social and environmental factors.⁶⁴ A criminal degenerate was produced by an unhealthy milieu that overstimulated him and encouraged him in drink and debauchery. Such influences destroyed his nervous equilibrium and led him to a state of *épuisement* that was especially common among the poor urban masses.⁶⁵ Far from being irremediable, Féré insisted, the victims of degenerate milieux needed public assistance and the opportunity to do honest labor to reinvigorate the will power that would be their eventual salvation. Aids from such an unexpected source merely added more weight to the growing support for the environmental interpretation in France.

A more predictable reaction in support of a sociological explanation of crime came from the social scientists within the Durkheimian orbit. Though the work of Durkheim and his followers came a bit late to aid their countrymen in the early stages of the struggle against Lombroso, some trenchant critiques of the Italian school from the Durkheimian point of view did appear before the turn of the century.⁶⁶ Most of Durkheim's own work in this area was also completed by 1900.⁶⁷ No doubt Durkheim had his disagreements with rival proponents of sociological causation, especially Tarde, but there can be no doubting their sense of unity against biological determinism in criminality.⁶⁸

A final bridge, if one were indeed necessary, between the sociological students of crime and classical penal theorists in France was provided by a group of popular writers on criminal matters whose main object was to use the new sociological theories to bolster traditional concepts of free will and responsibility against the threat of Lombrosian determinism. These jurists, lawyers, and penal authorities were trusted members of the legal establishment. Whereas this sort of author would have confined his remarks on the causes of crime to "vice" or "misery" some years before, he had a growing body of sociological literature

⁶⁴ Charles Féré, *Dégénérescence et criminalité* (Paris, 1888), pp. 120–129.

⁶⁵ See Féré's chapter "Épuisement et criminalité," pp. 85–96. Paul Brouardel at the Paris Medical Faculty drew similar conclusions about degeneration in his legal medicine lectures of 1890, in effect an excuse for a frontal attack on Lombrosian theory. See especially "Le criminel," *Gazette des Hôpitaux*, Mar. 27, 1890, 63:341–343 and May 8, 1890, 63:493–495.

⁶⁶ See Durkheim's review of L. Gunther's *Die Idee der Wiedervergeltung in der Geschichte und Philosophie des Strafrechtes* in *L'année sociologique 1896–1897* (Paris, 1898), p. 350; Gaston Richard, "Sociologie criminelle," *ibid.*, pp. 393–394; Richard's review of Corre's *L'ethnographie criminelle*, *ibid.*, pp. 409–416, and other reviews where he touches on the Lombrosian theory, e.g., pp. 419–450. See Paul Fauconnet, review of Raymond Saleilles' *L'individualisation de la peine* in *L'année sociologique 1897–1898* (Paris, 1899), pp. 360–362. And see Gaston Richard, "Les crises sociales et les conditions de la criminalité," in *L'année sociologique 1898–1899* (Paris, 1900), pp. 15–42.

⁶⁷ Most important are *De la division du travail social* (Paris, 1893), *Les règles de la méthode* (Paris, 1895) and "L'évolution des deux lois pénales," *L'année sociologique 1899–1900* (Paris, 1901), pp. 65–95.

⁶⁸ See especially, Tarde, "Criminalité et santé sociale," *Rev. Phil.*, 1895, 39:148–162; and Émile Durkheim, "Crime et santé sociale," *Rev. Phil.*, 1895, 39:518–523. Later Durkheim remembered Tarde's criminology in this way: "But in order to understand its full significance, it is necessary to place it in the epoch in which it was conceived. This was the time when the Italian school of criminology exaggerated positivism to the point of making it into a kind of materialistic metaphysics which had nothing scientific about it. Tarde demonstrated the inanity of these doctrines and re-emphasized the essentially spiritual character of social phenomena." "Sociology," in *La science Française* (Paris, 1915), p. 382.

to support him by 1890. Writers of this ilk were by no means thoroughgoing social scientists, but they were the heirs of a respected tradition in French penology begun by writers such as Charles Lucas, Bonneville de Marsangy, and Hubert Michaux which was called *politique criminelle*. These penal reformers went to special pains to propose new legislation that squared with available criminal statistics and psychiatric medicine.⁶⁹ They were particularly fortunate in having a regular series of official data on crime, thanks to the pioneering efforts of A. M. Guerry and the Belgian statistician Adolphe Quetelet in the 1820s and 1830s.

Shortly after the Rome Congress of 1885 the French Academy of Moral and Political Sciences offered a prize for the best manuscript on the most recent principles of penal philosophy. In reporting the prize in 1888, Émile Beaussire praised the two winners' careful elaboration of the new sociological doctrines on the "natural history" of criminality and their forthright opposition to the theories of the born criminal.⁷⁰ Georges Vidal and Louis Proal were legally trained defenders of free-will theory who felt that the search for "social laws," in Vidal's words, must be as scientific as possible without falling prey to the absurd pretension that had plagued the Italians of reducing philosophy to science.⁷¹ About this time Vidal began teaching a course at the Toulouse Law Faculty on criminology and criminal law that eventually blossomed into the Institut de Criminologie et des Sciences Pénales.⁷²

By 1889 the Paris Law Faculty had empowered Henri Joly to teach a similar *cours libre*, the immediate progenitor of the Paris Institut de Science Pénale (1906). Joly was a prolific writer on crime and a sincere opponent of Lombrosian determinism. Both his *Le crime—étude sociale* (1888) and *La France criminelle* (1889) integrated free-will theory with the findings of Tarde, Manouvrier, Lacassagne, and other members of the French school.⁷³ Another Paris law professor, René Garraud, who was later to write a groundbreaking treatise on French penal law, also stood by the sociological school in 1886 and used language which extended sociological determinism as far as any lawyer in the period dared.⁷⁴

By far the most convinced believer in free will in the French legal system was generally the *juge d'instruction*, a Napoleonic invention whose role combined the persons of prosecutor, investigator, and judge in bringing indictments and assembling evidence against an accused lawbreaker. His task of extracting the motives for a crime in direct confrontations with the accused operated as a working presumption of the existence of reason and conscious responsi-

⁶⁹Radzinowicz, *In Search of Criminology*, pp. 65–67. For Radzinowicz, the great classic of this tradition in the era of our concern was Raymond Saleilles' *L'individualisation de la peine*. He laboriously integrated the findings of the "French school" into his treatise.

⁷⁰Reported by Georges Vidal, *Principes fondamentaux de la pénalité dans les systèmes les plus modernes* (Paris, 1890), pp. 1–6.

⁷¹*Ibid.*, pp. 20–23. See his later *Cours de droit criminel et de science pénitentiaire* (2nd ed., Paris, 1902). Also Louis Proal, *Crime et la peine* (Paris, 1892).

⁷²On the institutionalization of the sociological perspective in French criminology, see Denis Carroll, Jean Pinatel et al., *Les sciences sociales dans l'enseignement*, Vol. VII: *Criminologie* (Paris: Presses Universitaires Françaises, 1956), pp. 111–121.

⁷³See especially pp. 1–22, 102–161, 277–308, and 328–384 in *Le crime—étude sociale* (Paris, 1888); and pp. 56–96, 170–179 and 199–200 in *La France criminelle* (Paris, 1889).

⁷⁴René Garraud, "Rapports du droit pénal et de la sociologie criminelle," *Arch. Anthr. Crim.* Jan. 15, 1886, 1:9–21.

bility. Thus, when Adolphe Guillot, chief *juge d'instruction* in the department of the Seine, and one of the most celebrated jurists of his era, embraced the French school, sociology might be said to have truly arrived. He continued to use the conventional rhetoric of the classicists—"it is easier to do evil than good"—but for his opposition to Lombroso and in his need for a convincing alternative explanation, he relied on Manouvrier, Tarde, and others.⁷⁵

IV

By 1889 the widespread support in France for the sociological interpretation had begun to be reflected elsewhere in Europe. In this development the French school acted as example and inspiration, and French theorists played an active role in the vigorous international penal reform movement that followed. In general, the same preconditions that had encouraged environmental theory in France operated elsewhere in Europe: the belief that major reforms in criminal law were needed that would reflect modern conditions, and an apprehension that the Italian interpretation suggested changes too bold for European legal establishments. The central institutional force in this movement until 1914 was the International Union of Penal Law. It held frequent congresses, sponsored research, and generally encouraged the shaping of reformist penal legislation that reflected the most recent findings in criminal science. The Union's leadership was composed of a group of progressive law professors including Franz von Liszt, Adolphe Prins, G. A. Van Hamel, Émile Garçon, and Edouard Gauckler—men who proved to be the most eminent European legal reformers of the generation before World War I.

From the time of the first congress in 1889, the Union decidedly preferred sociology as a scientific discipline to Lombrosian criminal anthropology. Its founding statutes insisted, for example, that the "mission of penal law is the struggle against criminality understood as a social phenomenon," and warned that the Union "reserves especially *vis à vis* the positivist Italian school a complete liberty of criticism."⁷⁶ The Union's "tolerant eclecticism" was particularly favorable to the French school and to French *politique criminelle*, which stressed the harmonization of criminological theory with penal legislation. A series of presentations at the 1894 congress dealing with the influence of the social sciences on "juridical conceptions" revealed a wide sense of agreement on the problem. As the Frenchman Edouard Gauckler phrased it: "Sociology is a science; law is an art which applies its principles: that is the new idea."⁷⁷ The prevailing distrust of Italian doctrines that ruled the Union discouraged all but a few of their sympathizers from participating.

Roughly similar sentiments prevailed at the International Congresses of Criminal Anthropology after 1889. That of 1892, especially, was a triumphant vindication of the work of the French school since 1885. Though it was too early to proclaim, as did many delegates, that the Italian school was entirely dead—for the positivists made a remarkable, if only partial, comeback in 1896—it

⁷⁵ Adolphe Guillot, *Les prisons de Paris et les prisonniers* (Paris, 1889), especially pp. 9–15, 103–131, 136–144, and 491.

⁷⁶ *Bulletin de l'Union Internationale de Droit Pénal*, 1889, 1:4, 20.

⁷⁷ *Ibid.*, 1894, 4:37. See Gauckler's appreciation of the supportive role to be played by cultural anthropology, pp. 38–39. See also Tarde's presentation, pp. 79–93, that of the renegade Italian Alimena, pp. 126–128, and of von Liszt, pp. 128–145.

was probably a just assessment to pronounce Lombrosian theory as having *fait son temps*, having meanwhile served as an effective stimulus to more fertile research.⁷⁸ For their part, the French considered the battle they had joined in 1885 to have been entirely won, and the vast majority of commentators after 1889 were in strong agreement.⁷⁹ No doubt Lombrosian theories and similar interpretations favoring pathological and biological predisposition to crime lived on in modified forms, but they had largely forfeited any opportunity of joining the main currents of European penal reform by the early 1890s. The role of French doctors, jurists, and social scientists in delivering this fateful setback was crucial. A well-integrated sociological theory of crime would undoubtedly have developed in its own time, but the special urgency felt by the French opponents of the theory of the born criminal advanced that timetable significantly. The French criminologist Jean Pinatel, recalling those early moments in the history of criminology, has written: "It is essential to never forget, that while organizing itself methodologically after the example of medicine, criminology is not medicine. The delinquent is not, as a general rule, a sick being but a social case."⁸⁰

It is difficult to trace further the institutionalization of the sociological interpretation either in France or Europe in any systematic way, for unlike its sister social sciences criminology has not achieved recognition as an integral academic discipline. As many observers have pointed out, criminological studies have proven so useful on a practical level that they have been adopted by crime-prevention agencies, penal authorities, parole boards, and philanthropic organizations. While the social benefits of such a diffusion of criminological information have been considerable, there has been an inevitable subordination of criminology's conceptual apparatus to pragmatic considerations, which has diluted the theoretical contours of the discipline in general. In some ways this has been a regrettable development; for as the clarity and visibility of the sociological argument as forcefully presented by its founders has diminished, so has its opportunity to effectively influence large-scale public policy. Indeed, when Lacassagne's dictum "societies have the criminals they deserve" still generally described the sentiments of the sociological partisans, the movement possessed a latent radical perspective which is conspicuously lacking today in environmental interpretations of crime. Certainly many of Léonce Manouvrier's uses of the sociological concept would support this view. As the Dutch Marxist Willem Bongers indicated at the time, the far-reaching claims of the sociological school called the entire social system into question. It remained for them, he declared, merely to shift their concern from discovering the criminogenous

⁷⁸This is the sense of a remark by Zakrewsky, a Russian lawyer. In *Actes du Troisième Congrès*, p. 258.

⁷⁹See, e.g., the survey by the Belgian Dr. Xavier Francotte, *L'anthropologie criminelle* (Paris, 1891), especially pp. 12–15, 198–345; Pierre Burnier, *Le crime et les criminels—étude des théories Lombrosiennes* (Lausanne, 1911), especially pp. 1–66, 108–123; Dr. Robert LeBas, *Étude critique des stigmates anatomiques de la criminalité et de quelques théories criminalistes actuelles* (Paris, 1910). Franz von Liszt, *Strafrechtliche Aufsätze und Vorträge* (Frankfurt, 1905); J. Dallemagne, *Les théories de la criminalité* (Paris, 1896); Willem A. Bongers, *Criminality and Economic Conditions*, trans. Henry P. Horton from 1905 French ed. (New York: Agathon Press, 1967). This classic Marxist text on criminal problems has special praise for the French school, pp. 148–176.

⁸⁰Jean Pinatel, "De Lacassagne à la nouvelle école de Lyon," *Revue de Science Criminelle et de Droit Pénal Comparé*, 1961, p. 156.

elements in society to suggesting ways to change society itself.⁸¹ An historical study which explored the gradual absorption of this radical potential by contemporary institutions might prove a useful addition to the growing literature on the ways in which modern industrial society has muted and eventually transformed the critical thrust of numerous systems of social thought.

⁸¹ Bonger, *Criminality and Economic Conditions*, p. 176.