



PRISON DISCIPLINE.

THE

AUBURN AND PENNSYLVANIA

SYSTEMS

COMPARED.

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ART. IV.—*A Popular Essay on subjects of Penal Law, and on uninterrupted Solitary Confinement at Labor, as contradistinguished to Solitary Confinement at Night and Joint Labor by Day, in a Letter to JOHN BACON, Esquire, President of the Philadelphia Society for alleviating the Miseries of Public Prisons.* By FRANCIS LIEBER, Corresponding Member of the Society; Professor of History in the South Carolina College. Philadelphia: 1838. Published by order of the Society. 8vo. pp. 96.

THERE are few subjects which embrace a larger share of human interests than *Prison Discipline*. On the one hand, it is of the utmost importance to the public peace, order, and security, that offences should be properly, certainly, and duly punished; and it is very desirable, on the other hand, that the offender should be arrested, reformed, and restored to society, with as little expense, exposure, and suffering, as may be consistent with the attainment of these ends.

In this country there are two systems of discipline, differing from each other chiefly in one point. The Auburn system (so called because it is most fully, and, as some think, most successfully, carried out at the penitentiary at Auburn, New York) separates the convicts *by night*, but suffers them to work together during the day, requiring however the most rigid non-intercourse. Hence it is also called the *social* and the *silent* system. The Pennsylvania system (so called because it was first adopted by that state) separates each convict from the presence of his fellows, and confines him to labor in an apartment by himself, where he also eats and sleeps; thus secluding him *night and day* from all intercourse with the world; and suffering none to see or converse with him but the officers and inspectors of the prison, or such as have authority by law. Hence it is called the *separate* or *solitary* system.

The question, which of these modes of discipline is best adapted to secure the legitimate ends of punishment, is not likely to be determined, until time has shown the result of the two plans upon a generation of convicts. It has been said, that we must wait patiently for an experience of ten years; that is, not for ten years of discipline, for that has already elapsed—but for a class of prisoners who have tried the two systems

sufficiently to feel their full power and fair influence, and who have afterwards enjoyed, for an average of ten years, the ordinary privileges of citizenship, in such a form as to test the permanency of the effects. We do not place much reliance upon this test, inasmuch as the designation of this or that individual as a specimen of prison reform, would of itself be highly prejudicial to his interests; and, moreover, the notions of reform entertained by different minds, are as various as the features of the human face.

In the mean time, however, different states and countries are adopting one or the other of the prevailing systems, and are incurring great expense in buildings and arrangements of various kinds, which it will be difficult to persuade them to abandon or essentially modify, if the system they adopt should prove ineligible. The consequences of error must be endured for half a century, perhaps. It is of some consequence, therefore, that all we can adduce by way of argument or evidence in favor of or against either system, should be well considered.

One of the objections, (and, so far as popular feeling is concerned, the most formidable,) to the Pennsylvania system, is its **EXPENSIVENESS**; at least, this has turned the scale with some who unhesitatingly admit the superiority of its discipline. Hence it is fairly presumed, that this would have been adopted in several instances in this country, if it could have been shown that the profits to the state would have equalled those which the Auburn discipline promises. Our present object is to inquire into the validity of this objection. This we shall do in the spirit of truth and humanity, seeking nothing but the highest welfare of all parties concerned.

It is not relevant to the present object, to consider the origin, nor to discuss at large the limitations of the right of punishment. This has been done with much clearness and ability, in a late letter of Professor Lieber, to the "Philadelphia Society for the Alleviation of the Miseries of Public Prisons," which we have placed at the head of this article. We beg our readers, therefore, to understand, that we take it for a given point, that the objects more or less directly secured as the effects of punishment, are not to be confounded with the ground of the *right* of society to punish. The *right* to punish, is founded in its *justice*, on which also rests the

right to make the law ; if the law is just, justice requires the punishment of the transgressor, and the reason for punishing is, that he *ought to be punished*, whether all the objects which, as to the rest, may be properly or naturally desired, and which should be aimed at, are or are not secured. Our object is rather to point out what we conceive to be a wrong, necessarily incident to the Auburn system, and which the opposite system, in its very nature, avoids.

The right of self-protection, we will suppose to be inherent and inalienable to society, as it is to the individual, and that whatever kind and degree of restraint may be necessary to enforce this right, is not only just and proper, but essential to the social state. How far we are authorised to aggravate this restraint, by imposing upon the offender irksome and painful exercises — as working in the tread-mill, or in mines, or galleys, or to humble and degrade him by cropping, branding, flogging, putting in the pillory, etc., with a view to deter others from the commission of the like offence—is not so easily determined.

It will answer our present purpose, to establish the principle, that it is not justifiable, under *ordinary* circumstances, to extend the right of punishment beyond what is necessary for the accomplishment of the three following purposes :

1. By discipline to reform the offender ;
2. By restraint and seclusion, to protect society against his violence and criminal intent ; and
3. By the mode of restraint, to deter others from the like offence.

By stating them in this order, we do not mean to indicate our opinion of the relative importance of these several purposes ; or rather, we do not wish to give any ground for the inference, that we would have government regard the two latter as *subordinate* to the first. On the contrary, government must, *at all events*, aim adequately to secure the two latter, (whether the convict can be reformed or not,) and yet ought, in reason and humanity, to seek the reformation of the convict, as far as it can be done compatibly with the other objects of punishment. We have, however, thought it best to state them in the order above given, as most readily presenting the practical question with which we are chiefly concerned.

In this view, then, the first question with government will be, what discipline, compatible with the effectual protection

of society, will be most likely to reform the offender? And here we have an incontrovertible principle to start with, viz., that any system which has a tendency to extinguish or abate any remaining *self-respect* of the convict, to strengthen or provoke his corrupt propensities, or to destroy or impair his ability to support himself, is defective, inasmuch as each, and all these consequences, so far as they extend, render the moral correction of the prisoner improbable, if not impossible. Such a system is plainly wrong, unless it be impossible to remedy the defect, consistently with the safety of society. If, therefore, the infliction of stripes, or of severe bodily pains and privations, exposure to the gaze of other convicts or of curious visiters, subjection to the arbitrary, and often times capricious and tyrannical, power of official underlings, without opportunity for redress or complaint—if these circumstances, or any of them, tend to destroy what little may be left in the prisoner of proper feeling, they show a fatal defect in the system, so far as it contemplates reformation. Of course, the state has no right to adopt such a system merely because it is less expensive, nor to reject another system, not liable to this objection, merely because it is more expensive. Nor is it enough to say, that this self-respect is generally extinguished before the discipline is applied. If but ten in a hundred, have a spark of it left, the system that will extinguish it in those ten, may fairly be presumed to be neither just nor wise. It is likely to be one that cannot be administered righteously nor successfully, whether we regard the interests of society or those of the prisoner.

Again, the intermingling of convicts with each other, tends to reduce all to the lowest degree of corruption to which any individuals may have sunk. We admit that the facilities for mutual corruption are much abridged by the maintenance of silence by day and separation at night; but still, a thousand opportunities of communication daily occur, which the ingenuity of men, chafed and irritated, as convicts are, will not fail to improve, and with which the vigilance and shrewdness of overseers seldom keep pace. Moreover, the presence of a multitude, under common condemnation, inspires the convict with something like self-complacency—steels his heart against kind influences from within and without, and seems to fortify his position as the enemy of virtue and good order. He feels that he is not worse than the hundreds of men who are in durance with him, nor so bad as

thousands without the walls; and the very association of his person, and labors, and thoughts, with such a mass of corruption as is collected there, must of itself corrupt and degrade the prisoner, though the premises may be kept as silent as the grave.

Now, though a system of discipline which admits the prisoners to associate for labor, for instruction, or for worship, may have its advantages in saving the expense of separate rooms and separate instruction for each prisoner, or in securing a greater amount of labor, and therefore, more profit to the state; yet, if its tendency is, in the remotest degree, *unnecessarily* to strengthen or confirm the corrupt principles and habits of the convict, and to countenance him in his evil purposes, it so far fails to accomplish one of the chief ends for which the right to punish is exercised; and in a certain sense, the right itself ceases; certainly the limits of *just* punishment are transgressed.

Lastly, it will be conceded on all hands, that nothing so much discourages the effort to reform one's life as the conviction that our character and standing are gone; that we are regarded as outcasts from society, and that every profession of penitence, and every struggle to throw off a load of ignominy, will be met with the distrust, if not the frown or contempt of others. If the discharged convict can find a spot on which to begin the world anew, where he can put in force his resolutions of amendment, and enter upon a course of honest industry, with no other disadvantages than any stranger must encounter, he has a strong motive to make the attempt. But, if on the contrary, his name, his countenance, and his whole history are all identified with the records of crime and infamy; if he is liable, at every turn and stopping place, to meet an associate in transgression or punishment, or some one who has seen and marked him in the group of convicts—if he is to be jeered, and taunted, and despised as a jail-bird or a scape-gallows—or what is most probable, if he is to be open to the enticement of some prison acquaintance that would lead him to the haunts of intemperance and licentiousness, and thence to a new career of crime*—if

*Mark Winslow, [brother of the notorious Mrs. Chapman,] fixed his eye on a fine looking young man in prison with him at Charlestown, (Mass.) After their release, they met in the street; Winslow immediately made arrangements with him to take a quantity of counterfeit money and sell it—dividing the profits. Winslow supposed that the young man would be a safe accomplice,

these are the circumstances in which he finds himself placed by his discharge, it is obvious that his ability to gain an honest livelihood, if not destroyed, is so impaired as to be scarcely worth the name. And whatever may be the advantages of a given system in other respects, if it virtually deprives the convict of the opportunity to support himself, it defeats one of the great ends which should be aimed at in exercising the right of punishment, and inflicts a wrong upon the prisoner which can never be redressed, but which in the event, is generally visited upon the community with terrible vengeance.

We have thus attempted to show what kind of discipline the state may employ for the *reform* of the prisoner. It shall not destroy his self-respect, nor expose him to corrupt and degrading associations, nor impair his ability to support himself and carry out his purposes of amendment.

The enforcement of this discipline would of itself require the restraint of the convict's person; but besides, and beyond this necessity, we have admitted that the state has a right, *as a part of his punishment*, to separate the offender from the society whose rights and laws he has violated, and thus to protect itself from farther outrages. Whether there is a right, when he is thus confined, to inflict blows upon him; to load him with chains and fetters; to reduce his natural force, and peradventure, undermine his constitution; to task to the uttermost, his physical strength, or to deprive him of occupation both of mind and body, and shut him out from the light and air, is a question with which we have now no concern. We have the unhappy man in confinement *for the protection of society*, and to accomplish this purpose, our first and chief endeavor should be to keep him safely, cutting off all hope of escape or pardon; and to apply to him such a course of discipline as will be most likely to reform him, and to establish him in habits of temperance, sobriety, industry, and virtuous principle, and at the same time secure to him

because his infamy destroyed his competency as a witness. Winslow was arrested; the young man became a witness for the government, his incompetency being removed by a pardon. Winslow was convicted and committed suicide in prison. This is an illustration of one of the evils of social, though silent, imprisonment. Suppose a discharged convict to be just establishing himself in good business, and under very favorable auspices; what had the state better give, in dollars and cents, than to have his past history published in the neighborhood where he lives, and abide the consequences of such a disclosure?

as favorable an opportunity as he can enjoy, for the continuance of these habits at the expiration of his sentence.

In determining the *mode of restraint*, reference may properly be had to its deterring influence on the minds of others. If to be associated with the multitude in daily labor—if to mark from day to day the accession of new faces to the prison ranks, and the throng of visitors, male and female—if to mingle silent but expressive sympathies, such as even the most hardened sometimes feel in each others' presence—if these, and the like circumstances in the mode of restraint, are likely to lessen or counteract the deterring influence upon others, they prove a radical defect. If, on the other hand, to be perfectly secluded from the world, and from all the inmates of the prison—to be hopelessly separated from one's family, and from all communication with and knowledge of them for the whole term of imprisonment—to be shut out from the scenes of active life, in which one has been accustomed to mingle—to have the same silent and dull routine of duty, day after day, month after month, and year after year; if these, and similar privations are likely to deter others from exposing themselves to the like restraints, so far this mode has the decided advantage of the other; and hence, whether more or less profitable to the state, it should nevertheless be adopted in preference to the other, simply because it better secures one of the ends for which the right of punishment is given, namely, that the *mode of infliction* may deter others from falling into the like condemnation.

So also as to the *kind of employment*. When the government, in the exercise of its conceded right, has three or four hundred men assembled as convicts, how far may it avail itself of their ingenuity and physical strength, to remunerate the expenses incurred in their prosecution, or to defray the expenses of erecting and maintaining prisons and courts of justice, or for an increase of the general revenue of the commonwealth?

It seems to us that it can do so *only so far as their employment will most certainly conduce to one or more of the great ends for which the right to punish at all, is conferred*, namely, the reform of the prisoner, the protection of society against him, and the effect of the punishment on others.

The state is the stronger party, and the right of personal liberty is, with one exception, the most sacred and inviolable which the citizen enjoys. It should never be abridged

for a moment but from stern necessity.* The government should be above the suspicion of any selfish or sinister end in the punishment of crime. History tells us of a period and a government under which "the crimes of the subject were the inheritance of the monarch, so that the judge was rather a collector for the crown or an agent for the treasury, than a protector of right and a minister of law." The fruits of such a system may be readily imagined. It is obvious that *it never should be for the pecuniary interest of the state that a man should be convicted of a crime, or that his punishment should be prolonged in duration or increased in severity.* A moment's reflection will bring any fair mind to this conviction. The case presented, is that of a convict deprived of his liberty, (which, as we have said, is the last step but one in the punitive process,) and then subjected to whatever discipline is least expensive and most profitable to the state, without a due and proportionable regard to all the ends of punishment; we say it involves an unjust and tyrannical exercise of power.

That this view of the right of a state to remunerate, and even to enrich itself, from the labor of convicts without reference to their reformation, is entertained, is perhaps the reason of the fact, that wherever the Pennsylvania system has been rejected and the Auburn adopted, the strong popular argument against the former and for the latter, has been the relative *expense*. Thus the commissioners from the state of Maine, before erecting their present penitentiary, reported in favor of the Auburn discipline, observing in substance, that whatever might be the superiority of the other, the *expensiveness* of it would present an insurmountable objection to its adoption in that state.

That it is regarded as lawful and proper for the govern-

* Every punishment which does not arise from absolute necessity," says Montesquieu, "is tyrannical," and Beccaria observes still more comprehensively, "that every act of authority of one man over another, for which there is not an absolute necessity, is tyrannical." "Indeed, the sovereign's right to punish is founded on this principle. It was necessity that forced men to give up a part of their liberty, and it is certain that every individual would choose to put into the public stock as much only as was sufficient to engage others to defend it. The aggregate of these, the smallest portions possible, forms the right of punishing; all that extends beyond this is abuse and not justice." "Punishment is the counteraction which society provides to prevent its members from violating its restraints. The necessity of this counterbalance creates the right to punish; a necessity by which punishment ought to be measured and regulated. If punishment oversteps this necessity it becomes tyranny."—We give these citations for what they are worth for our purpose, without intending to sanction every debatable point involved in them.

ment to avail itself of the right of punishment, to accomplish something beyond the three objects just named, is more clearly evident from the fact that the results of a course of discipline in these respects, are seldom mentioned in the documents issued by public authority, while the balance of profits is presented, in bold relief, and the gains trumpeted forth as conclusive evidence in favor of the discipline. But the most reproachful evidence is, that the general average of the term of imprisonment, has been extended in some states, for the avowed reason that the existing term is not long enough to enable the convict to become skilful in a trade, or at least so skilful as to make it profitable to keep him.*

It will be said, in reply, that the acquirement of a trade in prison, is one of the essentials of reform — “What can a convict do upon his discharge, without a trade?” But we would ask, whether the learning of a trade is required only in cases where the convict is without one? To learn two trades would seem to be unnecessary, if the prisoner’s interest is alone consulted.

It is, moreover, an obvious dictate of reason and humanity, so far as can well be done in a general system, to select a trade to which the convict is best fitted by constitution and previous habits. The trade of a shoemaker, tailor, or weaver, may destroy the health and constitution of a man who might live to a good old age as a house-carpenter, blacksmith, or stone-hammerer. It is claimed as one of the prominent advantages of the Auburn system, that it allows of a wider range of pursuits, and of many facilities, which the separation of each individual convict precludes. We say then, if he has learned a profitable and suitable trade, and pursued it for years with skill and success, the state cannot find it necessary for his reform, to teach him another and an entirely different trade, especially when it is morally certain that he never will pursue it for a livelihood, so long as he has faculties to continue that with which he is already familiar. If, therefore, the trade to be learned is that to which the state can put him with the least inconvenience and expense, and the greatest profit to itself, it is clearly the state’s, and not the convict’s, interests which are consulted.

*“The profitable labor of the prisoners, is, in fact, the popular feature in the management of the American penitentiaries, and I am inclined to think, that the great desire which exists to rid the community of the *burthen of supporting* criminals, has occasioned, in most of the states, the establishment of penitentiaries.”—Crawford’s Report to Parliament, 1834; p. 24.

Again ; can the convict acquire in prison such a knowledge of this or that trade, as will enable him to pursue it advantageously upon his discharge ? This is a very important and pertinent inquiry. If, for example, he learns to make coarse boots or shoes, or coarse clothes, or brass nails, or saddler's ware, and finds, upon his discharge, that the scale on which these articles are manufactured in large establishments, brings them into market at a price far below that at which he can make them and live by his business, it is comparatively of little advantage to him to have learned it. Or if, for any cause, his knowledge is so imperfect or partial, that he is not able to compete with others in securing work as soon and as fast as he needs it, it will not avail him as a means of support, or as a barrier against temptation.

And, if he learns a good trade in prison, it is pertinent to inquire, whether the system of discipline is such, in other respects, as will permit him to set up his trade, upon the expiration of his sentence, with as good prospects as can reasonably be expected under the operation of those principles which render some of the consequences of vice irretrievable, even by penitence and reform ? It would not be humane to destroy his life for the sake of teaching him a trade, neither is it humane to blast every hope of retrieving a good name by his prison education. If, after his release, he is liable every day to be recognised as a discharged convict, and to be threatened with exposure unless he yields to the solicitations of his prison acquaintance ; or if he has been seen in his parti-colored dress, dogged about by some deputy's deputy, with bludgeon in hand, by thousands of visitors in the yard and in the shops, while his nativity and history are repeated for the hundredth time to the ear of idle curiosity ; or if he has been marked in the chapel or Sunday school in his demure attendance upon religious exercises : if this has been his situation, and these his exposures, for two or ten years, his trade will not probably avail him much, whatever may be his skill or disposition to pursue it.

It cannot therefore be regarded, we apprehend, as truly and honestly *a part of the system of reform*, that the convict is required to labor in some appointed trade, unless there is a substantial regard to the points just enumerated, viz. :

1. That he has no trade.
2. That its pursuit shall not impair his health and constitution.

3. That it shall be in accordance with his previous habits of labor.

4. That he shall so thoroughly learn the trade, as to be able to gain a living by it when he is discharged. And,

5. That the peculiar discipline is such, as shall secure to him, at the expiration of his sentence, the best advantages which the circumstances will allow for the prosecution of his business.

Without entering, minutely, into the various occupations which have been introduced into our principal penitentiaries,* we will take *stone hammering* to illustrate our position.

A man of strong mind, great ingenuity, accomplished education, and superior acquirements in natural and philosophical science, is convicted of making and passing counterfeit money, and sentenced to ten years' confinement in the Sing-Sing prison, which is conducted strictly on the Auburn plan. He was for some time head clerk in a great mercantile house in Pearl-street, but by adventuring in a lottery, he reduced himself to the society and practices of knaves, and was finally visited by this severe but well-deserved punishment. The gang of stone-hammerers having been reduced by some late discharges, and a heavy contract being in hand for the supply of stone for the new capitol at Albany, it is judged best to put the New Yorker to this business; and at the nod of the keeper, he is ordered to the stone-yard. Here he is to be held responsible for the steady stroke of the hammer, for upwards of three thousand successive days, (with the intervention only of Sunday,) and this without a word, a look, a whisper, or a sign, to betray his social nature, upon pain of an indefinite number of stripes upon the bare back! Surrounded by living, intelligent beings, like himself, he is to restrain every impulse of his nature, and to maintain an unbroken silence. Who, that is not more or less than man, would improve under such discipline? Is it to be believed that this convict will be thus qualified for usefulness and respectability? In assigning him this post, does the inquiry occur, to those who have the disposal of his time and strength, what employment will be most conducive to his health, his reformation, and his future welfare? Nay, more; would not such a suggestion, in some quarters, excite mirth, not to say contempt? In a

* A celebrated French manufacturer (familiar with the whole subject of machinery and manual labor) enumerates *seventy-eight* occupations suitable to be carried on in solitary cells.

single word, does not the whole discipline of that institution, and all others on the same plan, proceed upon the presumption, that reform is a remote and very uncertain, if not improbable result; and are not slavish subordination, founded in personal fear, together with severe labor, and large gains for the time being, the great points of concern? Is not the state justified in making the most it can out of the prisoner's bones and sinews, while he is in its power; and is not the true test of the superiority of the discipline sought in the balance of profit in the year's business?

Perhaps it will be said, that this is the only course the community can adopt, to remunerate the expense of his arrest, trial, and support under sentence. He must be put to a profitable trade. But it will be admitted, we presume, that in a majority of cases, a very small part of the labor performed by an able-bodied convict, for five or ten years, would defray all this, many times over, if the amount were fairly apportioned; unless it should be claimed that the whole expense of the administration of criminal law, should be saddled on those who are convicted, when perhaps the greatest villains, whose arrest and trial make up by far the largest part of the government's bill of cost, escape conviction by their superior shrewdness, or by the advantages of counsel, or the default and negligence of prosecuting officers. A man is charged with the offence of burglary, committed in the night time, and being convicted by his own confession, is sentenced to twenty years' imprisonment. Another man is guilty of fraudulent insolvency, attempts a defence, keeps a court and jury in session, and parties and witnesses in attendance, and officers of every grade in motion, for days or weeks together, and by dint of hard fighting, postpones the issue of the trial until the costs incurred would of themselves make a comfortable little fortune, and when at last convicted, is sentenced to one, two, or three years' imprisonment. Shall we set the insolvent rogue at liberty when his time is out, and keep the burglar at work to pay the expenses of the prosecution, or the unpaid balance of it?

Besides, in all offences against person or property, remuneration, if made at all, is due to the individuals suffering by the crime, and not to the commonwealth. If a poor woman with a large family, has lost her husband in a sudden affray, and the slayer is doomed to hard labor for twenty years, it seems but just, that, while the purposes of the government

are answered by his imprisonment and its attendant discipline, the avails of his labor should enure, at least in part, to her whose husband was sacrificed to his unbridled temper. Why should the state reap a profit of fifty or one hundred dollars a year, from the confinement of the prisoner, while the family whom he has bereaved of its head and helper, are suffering perhaps for the necessaries of life?*

We will not extend this branch of the inquiry. The points we wish to establish are perhaps sufficiently obvious, viz., (1,) that the object of the state in compelling a convict to labor should be either in execution of his just sentence, as part of the *reformatory* discipline of the prison, or in remuneration of expenses incurred on his account,† and (2,) that the Auburn system involves a gross abuse of the right of punishment, inasmuch as it regards the acquisition of revenue as the prominent object, and adopts that construction of buildings, that mode of discipline, and those employments which will conduce most to this result, however ill-adapted they may be to restore the convict to the path of integrity.‡

Our second purpose is to show, briefly, that one of the most admirable features of the *separate*, or Pennsylvania system, and that which constitutes its *inherent and necessary superiority*, to the silent, or Auburn system, is, that *the very nature of its reformatory discipline, urges the convict to seek labor as a relief.*§

It takes him into custody with the hope, and often with the strong expectation, that he will become a better man. He is stripped of every thing he brings with him; and with his clothes, and hair, and dirt, he puts off every outward connexion with the scenes of iniquity and degradation to which he has been accustomed. He is clothed

* It is on this principle, that "the punishment of confiscation is regarded as unjust, because it falls on the family or heirs, and not on the offender."—Beccaria.

† That a punishment may produce the effect required, it is sufficient that the evil it occasions should exceed the good expected from the crime, including in the calculation, the certainty of the punishment and the privations of the expected advantages. *All severity beyond this is superfluous, and therefore tyrannical.*—Edinburgh Cyclop. Art. Punishment.

‡ "It always seems to us, that there must be something wrong in the construction or management of a prison, *which does not more than support itself.*"—North American Review, July, 1839; p. 28.

§ "Employment should be offered to the prisoner, and be regarded as an alleviation of the punishment, and not as superadded to aggravate it."—Crawford's Third Report on British Prisons, pp. 5, 6.

in a respectable suit of apparel, which is changed as often as comfort and cleanliness require. He is then secluded from the world and all association with it, and is left in silence, with an upbraiding conscience and the Omniscient God. No man, who is a stranger to the experiment, can form a just conception of the effect of this simple and wholesome process, upon the human mind — without a threat or a frown, without a sharp word, a blow, or the remotest allusion to the cat-o'-nine-tails, it has subdued the most stubborn, softened the most ferocious, intimidated the boldest, and brought the most thoughtless to consideration, at least for the time.*

It requires but a few days passed in this manner, to make labor a privilege even to the most indolent, and such labor is furnished as is best suited to the circumstances of the convict. If there is any disposition to idleness or rebellion, it is checked, not by the lash or the bayonet, but by some suitable privation, strictly as a matter of discipline however, and in execution of the sentence, and not as connected with the profit or loss on the year's business.

Now we freely admit, that to divide a house into convenient rooms, with doors, windows, fire-places, and furniture suitable to each, costs more than to throw the whole house into one spacious hall, for the common use of the family; and it may be, that greater profits will flow from the labor of a number of hands, working together in shops, or in the open air, than from the same number of hands, pursuing such a business as each can do, in his room alone.† And if the problem were, what species of prison discipline will produce the largest immediate income to the state, in dollars and cents, we certainly should not offer the Pennsylvania system as a solution. The advantage which its friends have ever claimed in its behalf, is, not that it ensures better profits, but that its discipline is adapted to the great ends of penal legislation — the protection of society in connexion with *the reform of the convict.*‡

* The effect to which we allude, is so admirably illustrated in Messrs. Crawford and Russell's Third Report on British Prisons, that we forbear to enlarge upon it.

† The French manufacturer, (M. Pradier, of Paris,) whose opinion we have before cited, observes, that "the work done by prisoners in separate confinement is far superior to that done by those who work together in silence." There are reasons for this result, which are too obvious to require specification.

‡ "One principal objection formerly urged against this (separate) system of discipline, was, the impossibility of the convict supporting himself by labor dur-

It accomplishes this result more certainly and with less hazard. It accomplishes it without destroying, but rather by fostering, any latent principle of good, either in moral constitution, education, or habits, which a career of criminal indulgence has buried, but not extinguished. The unhappy convict, in his separate and silent apartment, does not lift up his head in an assumed pride and incorrigibility, designed to draw towards him the sympathy or admiration of his fellow prisoners.* On the other system, he is degraded, not humbled—crushed, not moulded—by the hand of arbitrary power. He feels too, perhaps, that the sweat of his face goes to fatten better-dressed rogues, who have sinned on a larger scale, and who have had cunning enough to conceal their villainy, or evade its just consequences. Hence the hour of his release from a degradation so abhorred, is eagerly anticipated as the hour of sweet revenge. The state gains its profits, but the convict is a rogue still.

Should the views we have taken of this subject prove to be erroneous, and the right of the government to secure whatever revenue can possibly be derived from the labor of convicts should be established; there is still another inquiry which we wish to suggest for consideration. Ought not the profits which accrue from the labor of convicts to be appropriated in some form to the improvement of the discipline of the prison where they are earned?

So large is the annual gain in some prisons, on the Auburn plan, that it would require but a few years to accumulate a sufficient capital for the establishment of a penitentiary on the Pennsylvania principle, *free of expense to the state*, and

ing his confinement, and the injustice of taxing the honest and industrious portion of the community, to support the vicious and idle. Hence it was contended, that solitary confinement by night, with joint labor by day, under severe restrictions to prevent all conversation, would have the same beneficial effects that could be expected from our system, and the labor be rendered much more profitable. Experience has shown the impossibility of preventing communication either by looks, signs, or words, on the plan of joint labor, and also demonstrated the practicability of persons supporting themselves during solitary confinement. The profits derived from the labor of prisoners, in the Western Penitentiary, for the last year, will more than defray their whole expense for victuals and clothing. But even were it otherwise, humanity to the prisoner, and justice to society, would admonish us to pursue the remedy most likely to work a moral reformation, even if attended with great additional cost.”—Report of the Select Committee appointed to visit the Western Penitentiary, etc.; Mr. Pearson, Chairman. Read in the Senate of Pennsylvania, Jan. 22, 1838.

*“The mere aggregation of individuals, is well known to inspire sentiments of confidence and hardihood.”—Crawford’s Report before cited.

thus, as we have seen, obviate one of the most popular objections that has ever been urged to the latter. We are told that the Connecticut state prison, at Wethersfield, has in ten years, paid all its expenses of management, subsistence, etc.; has refunded to the state the whole cost of buildings and grounds; had a balance of \$10,764 67 cts. in its favor, March 1, 1838, and is expected hereafter to yield a handsome revenue.*

It has long seemed to us, that there are two grave defects common to all forms of prison discipline of which we have any knowledge.

First: that no sufficient provision is made to encourage and stimulate a convict at different stages of a course of reform. The last month of ten years' confinement is passed under the same restrictions and severities of discipline as the first. However difficult and impracticable it may be on the Auburn system, to make such distinctions as the various characters and circumstances of prisoners require, it is surely practicable in buildings constructed on the Pennsylvania plan; and we would do it without any violation of our grand principle of separation and non-intercourse. And wherever large surplus funds are secured from prison labor, what more appropriate use could be made of them than to erect and furnish suitable accommodations for carrying out this classification?† A few large and better ventilated rooms opening upon the surrounding country, and yet properly secured and secluded — more and better instruction — more comfort and respectability in clothing and lodging, and extra indulgences in books and newspapers, and perhaps an opportunity, during the last few weeks of his duress, to write to his family or friends, and thus gradually renew his intercourse with the world; though not specified as the most judicious *forms*, may serve as illustrative of the *kind* of alleviation which we have in mind. We would certainly ask only for such a degree and mode of

* North American Review, July, 1839; p. 28.

† Dumont contemplated a separate prison for persons who were expected to enter again into society, where an entirely different course of treatment would be pursued from that in the prison of detension or of perpetual confinement; and Bentham's celebrated "Panopticon" provided against the first dangers of discharge, by transferring the prisoner, towards the close of his term, to a place of mitigated confinement, where he should be rather under inspection than in custody, and whence he should be gradually allowed wholly to withdraw.

restoration to the respect and confidence of the officers and visitors of the institution, as shall strictly correspond with the *evident* advancement of the prisoner's reformation.

The faithful prophet, Jeremiah, was, with the connivance of the king, thrown into a deep, miry dungeon, in the court of the prison. When it was found that he was likely to die of hunger, the king ordered one of his officers to take with him thirty men, and release the prophet from his perilous situation. The historian tells us, that they humanely provided themselves with cords, and also with "old cast clouts and rotten rags," which they let down by the cords to the prisoner, directing him to place them under his armpits, that the cords might not lacerate his flesh when he was drawn up. It is some such mercy as this that we supplicate in behalf, not of prophets, but of prisoners. We would not have them *jerked* out of confinement, and thrown upon society without preparation, but would have them lifted up by some gentle and gradual process, that shall fit them, as far as may be, to resume the duties and relations of men and citizens.

Second: the other defect which we had in view, is of a kindred character. Nothing is more inconsistent and unreasonable, than to send a discharged convict into the community, without funds, character, or means of support, (the state having pocketed his earnings,) and requiring him to maintain his integrity. Who would expect a patient from an ophthalmic hospital, to enter unharmed upon the business of engraving or proof-reading? or who would wrestle or dance with an ankle joint just recovering from the effects of dislocation? No less preposterous is it to suppose that a man whose vicious habits have been interrupted by a season of penitentiary discipline, and whose purposes of amendment are feeble, and perhaps but half formed, can return to the world, and withstand at once the pressure of poverty, the consciousness of degradation, the returning tide of old habits and sympathies, and the assaults of the devil in the form of a legion of temptations from within and without. This, of all others, is the moment of his extreme weakness, when, if ever, he needs most to be sustained and encouraged, and yet we throw him into circumstances from which few, even of the strongest, could extricate themselves, without being cast down and wounded, if not destroyed.

The suggestion we would make is, that whenever the year-

ly income of the prison exceeds the *actual expenses* of supporting the convict, the surplus should be put to the credit of each laborer, in proportion to his diligence, skill, and good conduct. The fund thus accumulated would be applied, under proper restrictions, to the establishment of the prisoner in business at his discharge, or to the support and comfort of his family, as may seem most conducive to the ends of justice and humanity. Some provision like this is indispensable, and might be easily and wisely made, to meet this common and painful exigency of the discharged convict.

We have extended these observations much beyond our original design. Our object was simply to show that the government, though authorized (it may be) to make the prisoner's labor compensate the treasury for the expense incurred in his prosecution and punishment, has no right to make it the source of revenue—certainly not if it interfere with the great and chief ends of punishment. The whole tendency of the principle we have opposed is dangerous, unjust, and oppressive to the last degree. If the popularity of the Auburn system has grown out of its profitableness, and if this is the result of an unauthorized use of power, it shows a radical and inherent defect of principle, for which nothing can compensate.
