

PENITENTIARY SYSTEM, CONTINUED.

It is under the head of forgery that the greatest number of instances occur, of offences committed under circumstances which do not imply deep and inveterate profligacy; and which might be pardoned with more safety than any other, if it were not necessary to keep alive a wholesome terror against crime of such dangerous and ruinous tendency. But our laws, which punish it with imprisonment for various periods according to its enormity, give a chance for the interposition of mercy, where there have been grounds to extenuate the guilt of the criminal, and when his conduct affords a presumption that he will never repeat the offence. We will cite a few examples from the Massachusetts State prison, to shew the effects of a humane system. A very ingenious mechanic was convicted of having prepared some plates to counterfeit bank notes. He had previously borne a reputation for honesty as well as industry. In committing the offence, though he knew he was doing wrong yet it was proved that he had been deceived in part by those who employed him, and that he had been enticed under false pretences to prepare the plates. After being in the prison a year or more, and having shewn himself to be penitent from the first moment, he was pardoned. The man has ever since conducted himself honestly and been usefully and extensively employed. A second case was that of a convict who on being arrested by a sheriff for debt, and about being taken from his family to a distant jail, in the despair of the moment, passed upon the officer a forged note. He had always been considered an honest man; he was sentenced to three years' confinement—his whole deportment was submissive and penitent; at the end of eighteen months he was pardoned; he returned to his family and has since conducted himself well. A third case was that of a mechanic in good employ, and possessed of a small farm. Some counterfeiters came to him and offered to buy his farm at a high price, if he would take his pay in false doubloons; they finally persuaded him to do this, under the idea that he might go down to Castine, then occupied by an enemy's force and purchase goods with these doubloons, and not only obtain a great profit from these goods, but also do a service in cheating the enemy. It was doubtless not a very stern honesty that could be seduced by such arguments as these, but there was something specious to lead him on to sell his property for a great price. However, he lost his farm, and was committed to the State prison for a long term or for life. After behaving well for two or three years he was pardoned, and has since been industrious and honest. Now in England, each of these men would have been executed. We might adduce many other instances, but these will suffice to show, that humanity is not always disadvantageous. There are too many instances where a pardon has been granted to those who were unworthy of it, but certainly they are not so many as to discourage a discreet use of it. Out of fourteen hundred and seventy-one convicts who have been sent to the Massachusetts state prison during a period of sixteen years, two hundred and forty-two have been pardoned, and twenty of these have afterwards been committed again.

We often hear objections to the penitentiary system, which require some degree of force from being frequently repeated, though they will not bear examination. A very prevalent idea is, that State prisons are a very great expense to the community. Now there is probably no country in the world where the expenses attending the criminal jurisdiction are so low as they are in most of the States in this Union. In New-Hampshire, the State prison last year paid its expenses and left a small balance in its favor. In Massachusetts, the State prison costs but six thousand dollars a year to the treasury, and though in New-York, Pennsylvania and Virginia, it demands a larger sum in proportion, yet in no instance is it exorbitant, or sufficient to weigh against the system of hard labor punishment. Some persons say that the prisoners are too well fed, and that they do not work hard enough—give them nothing but bread and water and make them do the hardest labor. Now to make men perform excessive labor, with no other food but a limited portion of bread and water, is easier to suggest than to realize. The fact is, that in all the prisons we have examined, there is no considerable error in this respect; the convicts have a sufficiency of coarse but wholesome food, prepared in the simplest manner; and if they are not allowed a certain quantity of food, it is physically impossible that they can do hard labor.

Other persons recommend a system of exclusive solitary confinement, without ever having considered its effects. In the first place, if this should be adopted, the view of the economists must be abandoned, for the criminals can perform no labor. But there are more serious objections to its adoption. It is the most dreadful of all punishments;

if rigidly enforced, it would make all subjected to it maniacs, if it did not destroy them; this is not a matter of conjecture but of experience. As a mode of correcting the convicts and enforcing the discipline of the prison, it is in harmony with the system, a most effective means of coercion, and always reduces the most obstinate to submission. A week or ten days is generally sufficient for the purpose. We are assured by the inspectors of the Philadelphia and Baltimore penitentiaries, that in each of those prisons, but one instance had occurred of its failing to subdue the criminal. In each of those cases, after confinement of a month, and when the pulse had been reduced to a cambric thread, the criminal was still obstinate, and they were obliged to release him, to prevent his perishing under it. In the Massachusetts prison there are means for making solitary confinement perfect.

There is still another class of persons who assert, that the State prisons are not a sufficient punishment, that criminals do not dread being sent there, and that many commit crimes expressly to enjoy the comforts of being confined in them. It might be a sufficient answer to say, that those who commit a second, third, fourth or fifth crime, do not do it from any affection towards the State prison, any more than those culprits who under a different system, are whipped repeatedly, pilloried and branded, perpetrate their crimes from any particular relish for those inflictions. Nor will the miserable stupid bravado of some convicted felons, that they were glad to get to the penitentiary,—that they had committed theft on purpose to be sent there, have much weight on those who are to legislate on these subjects, though it has sometimes been brought forward in the public prints, and in argument, as an unequivocal proof that being condemned to the state prison inspires no dread. In answer to this it would only be necessary to mention, the desperate attempts in the face of almost certain destruction, that have been made from time to time, in different prisons, to effect an escape; and that in all these institutions, the most constant vigilance is necessary to prevent these wretches from making the most desperate efforts to free themselves from the supposed luxuries of their situation. To effect their escape by open violence is so nearly impossible, that the attempts in this way are comparatively rare; but it is well known to all the guardians of these establishments, that the most skillful of the convicts are always secretly employed in devising some plan of escape, and are often employed for months together, at every moment they can catch, in preparing furtively the most ingenious methods to effect their purpose. But there is a much stronger ground than all these arguments afford, that will occur to every man on a moment's reflection. Is it not contrary to all our knowledge of human character, is it not a libel on mankind to suppose, that they can ever willingly submit to imprisonment, to coercive labor, to infamy, for the sake of mere food? If the absurdity of the supposition is not apparent to every man, let him visit one of these prisons, and casting a glance at the faces of the convicts, observe the emotions of rage, of shame or compunction that the looks of a stranger will excite among these miserable criminals.

Many of these erroneous impressions as to the effects of this system of punishment have arisen from too sanguine ideas of reforming the convicts. A portion of them may doubtless be made to feel the error of their ways, a larger number too, than has yet been bro't to this result, whenever the governments will provide the quantity of room that these establishments require to produce the good effects of which they are capable; at present we do not know of any prison of which this can be said. But generally, they must be considered as places rather for the confinement of criminals than for their reform; as places where they will be kept during detention out of the way of doing mischief, as doing severe penance for the crimes they have committed, and contributing by their labor to defray the expense of our criminal jurisdiction.

A recent regulation in the laws of Massachusetts, which it would probably be good policy for the other States to adopt, will go very far to do away one of the evils attributed to State prisons; that those who were not reformed were made worse by them. We shall not in future hear of any convict being sentenced a fourth time. Out of the whole number, one thousand four hundred and seventy-one, that have been sent to the State prison in Charlestown, one hundred and thirty-three were for a second time, seventeen a third time, and eight a fourth time. A law was passed two years since, providing that when any criminal sent to the prison was found to have been there before, that the attorney general should proceed against him by information, and he should be sentenced for a further term not exceeding seven years, because of his second conviction; and if a criminal should come there for the third time, he should be proceeded against in a similar manner, and should be sentenced to confinement for life.

Seven convicts are now there for life under this new law. In this way, all those who are incurable will be taken from prying on the public, and having previously learned some trade in the prison, can be advantageously employed.

It is not uncommon to find men who are more ready to call for severity in the chastisement of culprits, than to consider the obligation which rulers are under to do every thing in their power in the way of prevention, and how much individuals are called on by all the principles of policy and humanity to lend their efforts to supply the deficiencies of the law, and to do their utmost to remedy those evils, to which their fellow men are subjected from neglect of governments, or from suffering in their infancy all the evils that can arise to destitute and friendless children, or to those who are exposed, by the wickedness of their parents, to the contamination of brutal and infamous examples. This article has already grown so long, that we can do no more than touch briefly on one topic in the chapter of prevention; but this we cannot pass over silently, because it relates to an evil that is, of all others, the most extensive and appalling. Our readers have already anticipated that we allude to the unrestricted manufacture and sale of ardent spirits. Nothing is more common than the use of what was originally poetic language in speaking on this subject. People talk of swallowing distilled poison and maddening draughts; but these expressions have ceased to be figurative. Though we are fully aware of the mischief, though we have seen it demonstrated to be almost the sole cause of all the suffering, the poverty, and the crime to be found in this country, we still proceed without any attempt to lessen or to assert it. We convert the exuberance of our harvests, which the bounty of Providence has bestowed, into a seductive poison, where 'the ingredient is a devil.' There is not only no restraint on the production of the article, but every facility is afforded for its distribution. Men who are too lazy to work, are allowed, nearly without a check, to entice others to lose their senses, their property, and their honesty in these infernal draughts. Formerly a dram could only be obtained at a tavern, but now every store, in the country, is turned into a dram shop; while in the cities they spring up in every street and at every corner. No farmer can go to purchase necessaries for his family without being exposed to the temptation; no laborer can get to his home without passing a score of these tipping houses, but for which he would have gone home sober to his family. If he passes them at first, they are sure to decoy him at last. Fatigued, thirsty, and seeing them surrounded with his companions, he may go by a few times, but he begins to enter by degrees, the practice soon becomes a habit, and he finally consumes his earnings and his strength within their pestiferous attraction. Yet with all this acknowledged, this immense, and we fear increasing mischief, when a moderate tax would be some check upon it; a tax that would supply all the deficiencies of the treasury, and be levied upon the most noxious of all luxuries, we find the legislators of this nation shrink from imposing it, in fear for their popularity! Surely they ought to look with some pity on the wretch who has been drawn into the commission of crime through intoxication, the cheapness and facilities for which they have declined to lessen.

The chief requisite in the establishment of these prisons is sufficient room for their purposes; and as this is an expense that occurs but once, it is the most miserable policy to incur it inadequately; particularly as it does not require edifices of excessive dimensions. The expenditure is for room & strength, not elegance and decoration. The rooms in the Massachusetts State prison are all of them cells of different sizes. Their sides, roof, and floor, are blocks of unhewn granite, with an iron door and iron grate. They are, in fact, small, artificial caverns; their only furniture is a straw mattress on a wooden crib, with a bible and some religious tracts, the gifts of charitable societies. They are constantly aired, being occupied only at night, and are as clean as frequent white-washing can make them. Nothing is wanting to that prison, except a greater number of these cells. It is a mistake of some theorists to plan a prison, so that every man shall be in absolute solitude and seclusion. It is only desirable that the greater part of the convicts, particularly the most atrocious and hardened ones, should be

* The excise in England on ardent spirits was not laid solely for fiscal purposes. Every person who has seen the works of Hogarth will recollect the dreadful scenes he painted, when a sign might be seen in London with these words: "Here you may get drunk for a penny, dead drunk for two pence, and clean stars to the bargain." The fact exists here, but without the advertisement. It is honorable to our population, that drunkenness is not more common when liquors are so cheap. What would be the state of the population in England, with the present habits of their working classes, if whiskey could be had at fifteen pence a gallon, and if any ordinary laborer could, with one day's wages, obtain the means of intoxication for a fortnight?

thus separated. But in many cases a discreet superintendent will find it advantageous to put two or three together, where he perceives a repentant disposition, and that they will sympathize, and confirm each other in such a course.

It cannot be too often repeated, that classification and separation are the first objects to be obtained; and that the greater part of the disappointment, and the principal, we might almost say the only cause, of any bad results from these prisons, have arisen from their limits being too narrow for the number of criminals they hold in confinement. The experiment of the Penitentiary System cannot be said to be tried, until the prisons shall be large enough to separate and class the convicts, which is not the case in any prison in the United States. At present it is impossible to prevent prisoners of very different degrees of guilt, from seeing each other and occasionally talking together, and the mischief from this source, though counteracted as much as possible by those who have the charge of these institutions, is entirely obvious and is very extensive. These establishments, to which criminals of all kinds are sent promiscuously, could only be paralleled by a hospital that should receive all patients indiscriminately; where a sufferer with the rheumatism would catch the small pox, and another with a fracture be infected with the plague; and the most virulent and contagious disorders would soon obtain a mastery over the rest. The advantage, indeed, to the public would be in favor of the hospital, since the evil would destroy itself by exterminating its victims.

Much depends on the sagacity of the keeper in discovering those who are capable of reform, in fixing the feeling of repentance where it has taken root, and in detecting the cunning and hypocrisy of those who are feigning penitence. Only to be at liberty to wreak themselves on society for their punishment. The observations of such an officer are worthy of attention. It is of great importance that the question of the Penitentiary System should be maturely considered in this country; when we consider, that the ancient criminal code, of sanguinary punishments, torture and corporal inflictions, can never be introduced. The perfection of the ameliorated code can only be expected when its principles and practice are well understood. To those who wish to investigate this branch of legislation and the facts on which it should be founded, it is not necessary to mention the works of *Beccaria* and *Howard*; they may be found in every library; but to these we would add the following, as containing much valuable matter: *Eden's Principles of penal law*, 1 vol. 8vo. 2d edit. in 1771; *Dugge's criminal law*, 3 vols. 8vo. 2d edit. in 1774; *Sir G. O. Paul on the construction and regulation of prisons*, 2 vols. 8vo. 1818; *The opinions of different authors on the punishment of death*, selected by *Basil Montague*, 3 vols. in 1813; which will be found a particularly interesting and valuable book; *Roscoe's Thoughts on penal jurisprudence in 1818*; and *An inquiry into the system of Prison discipline*, by *T. F. Buxton* in 1818.

COMMODORE PORTER.

We mentioned in our last paper, that the citizens of Washington, had invited Commodore Porter to a public dinner, and we now give his answer to that invitation (expressed thro' a committee,) in which he declines the honor, and in a manner, that proves him, in every situation a good citizen and a magnanimous man:

Meridian Hill, Sept. 1st, 1825.

GENTLEMEN In reply to the invitation you have done me the honor to present on behalf of the citizens of Washington, I beg leave to make some explanations, which I flatter myself will meet their favorable reception, and satisfy them of the propriety of the course of conduct I have marked out for myself.

It is not unknown to you, that I have been tried, condemned, and am now suffering punishment by the sentence of a Court Martial. To be condemned to a state of idleness, under the most favorable circumstances, would be painful to me, as one to which I have never been accustomed; but, to be so condemned, for the high crimes and misdemeanors with which I have been charged, and the Court has fitly and meekly, however disproportionate the duration and the nature of my punishment, may be to the offences charged, render it infinitely more irksome.

It was my bounden duty, and it certainly was my ardent desire, as my whole conduct through life will prove, to give the most entire satisfaction to the government, in the execution of all the orders which I had ever received; but having unhappily failed to do so in this instance, having, as it appears, misunderstood and erroneously interpreted, orders and instructions, which the court and the public, and I believe, also, the government, have only been able to comprehend, by the voluntary aid of him under whose superintendence they were framed, and who, in his own justification, undertook the difficult task, without having the orders under which I acted before him, or a distinct recollection of their contents, of giving a solution, corresponding with the intention, although at variance with the letter; and having, in my correspondence with him, been unwillingly betrayed by my feelings, into the expression of certain sentiments, which, after what has transpired, I would cheerfully recall; and having placed my entire confidence in one,

who has proved both an accuser and a witness against me; and whose testimony alone has condemned me; it is no small solace to me that I have found favor and indulgence in the eyes of that public, to whom I so confidently appealed for justice, when I believed it was withheld from me, by those to whom I thought I had a right to complain and appeal; for, to have remained silent under grave accusations, to have yielded without an effort to protect my honor, would have been as foreign to what I owed to myself as it would have been repugnant to my feelings, — to have permitted the cloud of censure to hang over me; to have permitted my conduct to be passed over by my accuser, and forgiven after degradation, when I believed myself innocent, was what, according to my ideas, no mortal, having one spark of honor or pride in his composition, or any self respect, could, or should submit to. Nothing, indeed, short of my innocence proved, or of my conviction of guilt, could satisfy, or ought to have satisfied me; I wished for justice, and I asked nothing more. I asked no favors—no indulgence. I was willing to meet the accusation boldly; I shrunk from no investigation on my official life, however rigid, and I have shown no disposition to avoid the penalty, if found guilty.

Justice has at length, (and no doubt conscientiously) been awarded to me by my peers, and at the price of six months' suspension, for the expiation of my guilt, with an honorable acquittal of every moral offence. I have now the proud satisfaction of knowing that my whole conduct in the transaction which occasioned my recall, as well as my official conduct during and subsequent to my command, will be laid before my fellow-citizens—an advantage to obtain which, life itself would have been considered a trifling sacrifice, for death would have been preferable to a sullied reputation; and it will be as much my pride now, to show an example of subordination and patience under my punishment, as it ever was my desire to do my duty to myself, under what I believed unjust accusations, or to my country, whenever my services might prove useful to her.

No man is free from human frailties—and I have my full share; but among them is not to be ranked vindictive resentment, or a disposition to crush the already oppressed. Attacks continue to be made on me through prints under official patronage, but experience has convinced me, that it were safer at least to bear the evil than complain. The Court has awarded the punishment for my offence, and I am bound to abide by its decision; if others, by their complaints, wish to induce the belief that it is not sufficiently severe, or feel that their conduct requires justification or apology, be theirs the labor of justifying it; I envy them not the task, or the honor they will acquire by the performance.

By submitting, patiently and prudently, to my punishment, the idea is not entertained that I feel myself less worthy now than before my sentence—far from it. My conduct in the affair of Foxardo has, been said to have originated in "an anxious disposition to maintain the honor and advance the interests of the nation, and of the service," for which it is impossible that I could be punished. My justification, it has been said, proceeded from an unworthy motive, and is, of course, undeserving of punishment; I disclaim, and have ever disclaimed, any "disrespect" to any one; and, adopting the rule which has been resorted to on the part of the accusers, I should be the best judge of my own intentions. My assurance, then, should have been, and no doubt were, sufficient to exonerate me from this charge. Then, "wherein have I offended?" And for what am I punished? Is it for appealing to my fellow-citizens under accusation? I have followed, only, the example of those exalted far above me. In the public decision, I have sought for a solace for that justice which I believed was withheld from me. I felt myself goaded almost to desperation under supposed wrongs, and I sought to save my honor at every risk. I have saved it, and I am content, whatever evil may befall me.

Viewing the subject in all its bearings, and having in view ulterior consequences, I think I could not consistently and safely become a participator, and join in any festivity that might, by the most forced construction, be attributed to an expression of opinion, opposed to the course of the prosecution or the sentence of the court.

As an expression of the approbation of my fellow-citizens, I shall ever highly appreciate your invitation, and the more so, as coming from a community with which I have been associated for the last ten years, and which, wherever my destiny may lead me, will ever be held in my strongest recollection and interest.

Excuse, gentlemen, the length of this reply; which became necessary to enable me to explain fully my reasons for declining the honor intended me; to guard me on the one hand against any opinion of self condemnation which should render me in my own estimation unworthy; and on the other, to avoid any charge of unnecessary fastidiousness.

I have the honor to be, gentlemen, your very obedient servant,

D. PORTER.

Notice.

ON the 20th inst. will be offered for sale before the door of the Hotel, the perishable property of the late William Ruffin, deceased, consisting of Horses, Cattle, Hogs, Waggon and Gear, a field of Cotton & Corn, together with other articles. Also, at the same time, will be offered for rent until the 10th day of January next, THE HOTEL lately occupied by the deceased, together with the necessary furniture belonging thereto. At the same time will be hired ten or more negroes, until the 1st day of January next. Bonds with approved security will be required in all cases, with interest from date, and payable six months thereafter.

BY THE HEIRS & LEGATEES,
Raleigh, Sept. 8th, 1825. 89 St.

Committed

TO the Jail in Nashville, N. C. on Thursday the 1st inst. a Negro Woman as a Runaway, who says she belongs to John Dobbin of Fayetteville, N. C. and had when taken up, a pass directed to Mr. G. Eckles, for the purpose of buying her. She says her name is ANNA, and that she was formerly the property of Mr. James Town of Fayetteville. She is about thirty-five or forty years old, masculine appearance and slow spoken. The owner is requested to come forward, prove property, pay charges and take her away, or she will be dealt with as the law directs.

WILLIE G. WHITFIELD, Jailor,
Nashville, Sept. 4. 89 St.