



AND

NORTH-CAROLINA STATE GAZETTE.

"Ours are the Plans of fair delightful Peace,  
"Unwar'd by Party Rage to live like Brethren."

Vol. IV.

TUESDAY, DECEMBER 14, 1802.

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DEBATE

ON THE  
Penitentiary Bill.

[Concluded from our last.]

MR. C. JONES. The very important alteration which this bill proposes to introduce into our criminal code, may well excite all the interest that has been manifested since its first introduction into this house. But I am unable to discover, from all the information I can obtain, or from any arguments that have been urged upon this floor, that the proposed amendment would be an improvement; that it would tend to lessen the frequency of crimes, or produce any advantages that would be in any degree commensurate with the expence. I believe the contrary, I believe it would tend to demoralize society, and to involve us in expences from which no benefits would result.

Though I feel prepared to decide, without perceiving the shadow of a doubt upon my mind, I believe there are many members of this house who do not feel an equal readiness to do so. I have lived in a State where a similar law existed, and my experience of it is unfavourable to the opinion either of its justice or its policy. But here the subject is new. In our neighbouring States, such institutions have been so recently established, that we have hardly had the opportunity of witnessing their effects. They are indeed every where of modern date, of course most of us know very little of the proposed establishment, the expence it would involve us in, or the effects it will produce; and thus, in the dark, we are called on to decide upon a measure of the highest importance to the community, from the imperfect and perhaps partial information to be obtained in debate.

I should have believed the novelty of the subject, and this want of information, would preclude the necessity of combating its principles in form, if I had not known the influence which splendid and delusive theories often have over the mind, when they are flattering to the human character.

It is humiliating to the pride of man to admit, that his own species may be degraded so low, be so lost to every principle of moral rectitude, to become such an enemy to society, as to be unfit to have an existence in it. The ideal perfectibility of human nature is more soothing to his feelings, and in a fancied belief of which he sometimes indulges himself in spite of every day's sad experience. A false estimate of the powers and qualities of the mind, I have no doubt, has too much influence in promoting the measure before us.

The plan of lessening the frequency of crimes, by reforming instead of punishing criminals, has originated in principles that I revere; but sure I am, the advocates of this measure are mistaken in the effects it is calculated to produce. The idea first originated with philosophers, who, in their closets, saw human nature only through the "spectacles of books." They had not, like men of the world, experimentally traced it through all its labyrinths of depravity. They have deceived themselves in making too favourable estimates of the qualities of man; and have proportioned his punishments to that perfect character which exists only in their own warm imaginations. I will, indeed, admit, that punishments must be in some degree proportioned to the advances man has made towards civilization and refinement. In Russia, it is said, by travellers of discernment, that the cruel punishment of the knot is necessary to restrain crimes among their Barbarian hords. Frequent decapitation may possibly be necessary in Turkey. But in this country, I fondly hope, the human mind has made the greatest advances to perfection, and accordingly our punishments are very consistently the mildest.

If this ameliorating system is adopted, if this bill becomes a law, let us see what the experiment will cost us. By the face of the bill, we are made to believe the expence will be moderate, from the smallness of

the tax proposed to be laid. But 20 or 30,000, will not be sufficient for the purpose. The state-prison of New-York cost nearly 300,000 dollars. This State is very near as populous as that of New-York; public morals are perhaps no better, and certainly will not be if this project succeeds. Why then will not as expensive a building be required here as there? Are the materials for building cheaper, and the wages of workmen lower? No, sir, we have a building to erect that will ultimately cost 2 or 300,000 dollars, or we have none at all. We are now shewn but the beginning of expence. But once lay the foundation—expence 20 or 30,000, and you will then be compelled to expend more. It will be too late to give over the project. It will demand supply after supply with insatiable voracity. You must submit to all. You must wade through every expence that is offered to save your first expediture, and to preserve the appearance of consistency in your conduct.

For what purpose then, we may enquire, is this enormous expence incurred? It is for the chimerical project of reforming criminals. A jail is the last place I should have thought of for that purpose. Criminals are not there to be taught the duties they owe to society. They certainly will not be much benefited by each other's company. Murderers, robbers, and horsethieves, are not suitable persons to teach good morals. By such company bad men are made worse. They there lay their plans for future villainies; and, after a few years, they are turned out upon society as abandoned and as vile, as the influence of such infamous society can make them.

But this extravagant project has in other States been more to accommodate vagabond wretches whom the jails of Europe have vomited upon our shores, than native citizens, and this strongly increases my objection to the measure. In New-York, I am assured from authority, on which I can rely, that two-thirds of the criminals in the state-prison are freed negroes and foreigners. The prudent policy of this State in refusing to liberate any of its slaves, will relieve us from one species of these pests of society, but we have no security against the other but in the rigour of our laws. In Pennsylvania too, more than one-half of the criminals are foreigners. I never will consent to impose on my constituents such an intolerable burthen, to accommodate a set of wretches, who have fled their own country to avoid the penalty of its laws. It is too much to open our arms to these fugitives from the gallows, and to prepare hospitals for their reception. We have criminals enough of our own country, without encouraging importations. But if these Botany Bay principles prevail—if the suffering villainy of all Europe is to come here for an asylum, we shall be deluged with crimes that will unhinge society. These profligate outcasts have always lived in the exercise of the trades of thieving and rebellion—trades to which they are as regularly trained, as an apprenticed carpenter is to the use of his square and compass, and like perfect adepts they are sure to follow them with inflexible perseverance. It is in vain you will pretend that your Penitentiary will be sufficient to punish the crimes or restrain the enormities they will commit. No sir, so far from it, they will think themselves happy if they can be accommodated with a place in it. It will be much preferable to their situation in their own country. Comparatively, they live in affluence. The fearful apprehensions of the gallows will be removed, and I have no doubt but if an opportunity offered they would send over for their friends to come and partake of their good cheer; and here they would easily gain admittance. No extraordinary qualifications are required, but those of accomplished knavery. There is no entrance money to pay, no board to be accountable for; they have only to steal a few horses, or cut the throats of some of their honest neighbours, and they are immediately provided for, handsomely,

at the public expence. As in sanctuaries of the Romish church, a brevet of infamy would be a sure recommendation to protection and favour.

I beg that I may not be understood, in these remarks, to cast any reflections on the emigrants from Europe in general. I am very far from intending it. There are many of them who are an honour to their own country, and who are now an ornament to this. I object only to those vagrant wretches who have no trade or profession, but thieving and sedition; whose schools of education have been jails and armies, and who transport themselves here, to avoid a transportation to Botany Bay, or to elude the pitiless noose of the hangman.

But if instead of holding out encouragement to vice, you would apply to some other purposes the immense sums which you are about to expend on this pernicious project, what immense advantages could you procure to the state. The magic influence of 30,000 dollars, would diffuse a knowledge of science, and a refinement of morals, throughout the whole of it. But you propose to lavish it on criminals, while the frowning walls of your unfinished college buildings, which you have deserted and neglected, stand to reproach you, for the wasteful, the useless expediture. It is worse than useless; you had better have buried the money in the bottom of the ocean. You are about to establish an asylum of the vilest of malefactors, a nursery of crimes, a school of wickedness and infamy, a cankered box of Pandora, that will poison the morals of the state.

I will not deny but the time may arrive, when such an institution as a Penitentiary may be proper. I shall rejoice to see such a time arrive. It will mark a distinguished era in the history of our civilization and refinement; it will show that the minds of every class of our citizens are elevated and polished by education, that good punishments will be sufficient to correct the little corruption that may then exist. The delicate mind will then revolt with as much horror at the imputation of dishonour, as our rogues now do at the sight of a pillory or a whipping-post. Such a period may possibly hereafter arrive; but sure I am, this is not the time. Civilization is not yet sufficiently advanced; nine-tenths, and I believe I may say, ninety-nine hundredths of the wretches who now fill our jails, have never received instruction in natural or moral things. The natural corruption of the heart is, on the contrary, strengthened by precept and example. Upon these, your mild punishments will have no other effect than to encourage to a perseverance. But if your humanity prompts you to introduce such an institution, prepare the public mind to receive it. Promote the education of youth, and hasten the period of refinement, which such institutions must always follow, but with propriety can never precede. Endow your University. Establish schools in every part and corner of your country, and you may then hope for a time to exercise the virtues of humanity, in a manner, not inconsistent with the stern demands of justice. You may then lessen the punishments of crimes, if education has not already eradicated them. But instead of doing this, you are making a retrograde movement. You have abandoned to its fate, the University, which was the best hope of the friends of human happiness. You have done more: you have deprived it of the property which once belonged to it, and those funds which were destined to rear up our youth to science and to virtue, are now proposed to be squandered on a project to save from the gallows, a set of wretches, who so far from being entitled to the bounties of the community, have by the atrocity of their crimes, justly forfeited their right to existence.

As a dernier resort, it has been attempted to employ your avarice to advocate the measure. You have been told that the labour of the criminals will yield a very considerable profit, and add to the revenues of the State. What then is it come to this? Are we reduced to low in

wealth & reputation, as to encourage criminals to support our government? Shall we suffer it to be said that our boasted republican government is upheld by criminals, by polluted miscreants, who, in other countries, would have fallen under the axe of the law? Shall we be seen to calculate on the value of a murder, or the profits of a house burning with the coolness of a twenty per cent. usurer? Pride and patriotism forbid it! Let it not be said that we raise a revenue at the expence of the public morals. Let us rather aspire to the character of virtue, and not subject ourselves to the merited reproaches which such principles and such measures would inevitably draw upon us.

It is, however, worth our while to examine whether the institution will be really a source of profit, and whether we are about to embark in a lucrative speculation. In New-York and Philadelphia, it is said, and perhaps truly, for they are large manufacturing towns, that the labour of the criminals compensates for their food and clothing. But it never can be calculated on, that they will, in any reasonable time, defray the enormous expences of the buildings erected to confine them. If they do, they must have some more effectual way of encouraging crimes than a Penitentiary, if human ingenuity can possibly devise one. In Virginia, exclusive of the buildings and guards, 54 criminals who were confined in the Penitentiary for a year, ending on the 1st of November last, had incurred an expence of nearly eight thousand dollars more than the amount of their earnings. In Connecticut the expence of their prison is trifling. It is a lead mine penetrating a great distance into the earth. In Massachusetts, the criminals, until lately, were confined on Castle William, a fortress which defends the harbour of Boston, and were guarded by the soldiers of the garrison. In these States it is probable no expence was incurred in confining the criminals, and both too, it must be recollected, are large manufacturing States. But in North-Carolina circumstances are very different. We have no manufactures. Our criminals are idle vagabonds that have always lived at the expence of the community. An expensive building must be erected, and an expensive guard be maintained. We must necessarily be plunged into an ocean of expence, without the most distant prospect of its ever being defrayed. All therefore who calculate on its being a source of profit to the State; all who attempt to gain friends to the measure by offering allurements to avarice, are assuredly preparing disappointment for themselves and others. They will awake from their illusion, when they see crimes and taxes multiplying together. Reflect, I beseech you, before you take the decisive step. It is a measure once taken from which you cannot recede. After bitter experience shall have convinced you of its impropriety, you cannot, by repealing the law, restore the immense sums the project will cost you again to the pockets of the people. You cannot heal all the wounds which the impunity of wickedness may have inflicted. The costly walls of the penitentiary will forever stand as a monument of your misguided policy. I repeat it, you cannot retreat. The step once taken, you may deplore over the consequences, but you can never repair the injury. Now is the only time in which you can resolve not to involve the State in expences that will impoverish and distress it. But if you are restrained by no admonitions; if you are determined to carry the measure in the face of expence, of difficulty, and at the hazard and loss of the public peace, though my voice may be disregarded, you will be addressed by a voice that always commands respect, and that will not with impunity be disobeyed. The merits of this subject have not yet been fully canvassed by those who gave us our fears here. But whenever its evils are understood, whenever its expences are felt, you may rest assured the public will stamp it with the seal of disapprobation.

Mr. J. G. WRIGHT observed that as the general principle of the bill before the committee had been so ably examined by the gentleman from Orange, he made less from a desire to say any thing in favour of the bill, than to answer some of the objections which had been urged against it.

It had been stated, that this bill if passed into a law, will not have a tendency to lessen the number of crimes, but that they will continue as great as ever. This, Mr. W. said, was a mere matter of opinion. But we have something more than opinion in its favour; we have the experience of our sister States, and of other countries. We have also the experience of other countries to shew that sanguinary punishments have not a tendency to reduce the number and enormity of crimes. No laws are more sanguinary than those of Great Britain, and in no country are crimes more frequent; but he believed wherever this ameliorated system had been in existence, crimes had been diminished.

This bill did not purpose, as the gentleman from Johnston had stated, a plan for the reformation of convicts; but to ameliorate our present criminal code, by punishing offenders in such a manner as shall comport with justice, and tend to deter others from committing like crimes. But it is also hoped, that the reformation of criminals will be an end attained, in addition to the due punishment proposed, and that offenders will come from prison with soberer and more industrious habits; and with this expectation it was, that it had been said that this would be one of the effects of this bill.

It had been objected, that the expence of this establishment would be greater than we are in a situation to bear; that the Penitentiary House at New-York, had cost that State 3 or 400,000 dollars. But it ought to be considered, that the situations of the States of New-York and North-Carolina are very different, and that it cannot be proper to compare the two States together. In the State of New-York is a very large and populous city, and every one knows that large cities are the hotbeds of vice; and the truth is, that the city of New-York produces more convicts than all the rest of the State put together. The Penitentiary there erected is calculated to contain from 3 to 400 prisoners; whilst the one proposed by this bill, contemplates a house to contain 75 only. The expence of the two establishments, therefore, are not comparable.

It had been said by the gentleman from Johnston, that this measure was advocated on the ground that it would raise a revenue to the state. It was not advocated on that principle; it was mentioned only that this had been the effect produced in other States, and that therefore the measure would not be so expensive as the opposers of the bill would have it believed. This objection of expence, said Mr. W. is always brought forward whenever any new measure is proposed, however great and useful may be the ends which it is calculated to effect. But, however proper it may be (and certainly is), to calculate the expence of any proposed measure; yet if that measure is a necessary and desirable one, the expence if we are able to meet it, ought to be met.

It is said that institutions of this kind can only be supported where there are Manufactures to employ the convicts upon. Mr. W. in reply to this objection, thought the institution would be likely to increase our manufactures, particularly those of the most simple kind; since it is often found, that men who go into the Penitentiary common labourers, come out of it Artizans, from the instructions they have received there. In New-York, the shoe-makers had found it necessary to enter into a combination to purchase all the shoes made in the Penitentiary, to prevent the price of shoes being lowered. And if such an institution had existence in this State, it is probable that we should no longer find it necessary to import from other States, so large a quantity of these necessary articles as we do at present; for it is a fact, the city of Raleigh alone imports