

## CRIMINAL LAW.

The following Extract, is from an able Review of a recent Work on Criminal Law, taken from a late number of the *Christian Examiner*, published at Boston, which the Editors have no doubt will be read with pleasure:

The criminal code is one of the defences of society against vice. Now it is manifest that with all the guards which religion and education and public opinion and the laws of the land have provided, crimes are perpetrated and the peace of society is invaded. If all these means combined cannot, as certainly they have not eradicated the vices of mankind, no one of them can be spared; for each, we suppose it is universally admitted, does something towards so desirable an end.

It is our object, then, not so much to speak of the importance of the criminal code, as of its condition, the character it has and ought to have, the difficulties which obstruct its execution, and to suggest whatever occurs to us as an improvement in its general features.

The criminal code prohibits such actions as, in the judgment of the sovereign power, are injurious to the state; provides for the arrest and trial of any one who is suspected of violating its provisions, and punishes with appropriate penalties whoever is convicted of offending against the laws. Its object is to preserve the peace of society; and its means of accomplishing this object, is to punish, and thereby, if possible, reform the guilty; to strike a salutary terror into the minds of those who might be endangered by the impunity of vice; and to prevent the commission of offences by a practical illustration of the truth, that the way of transgressors is hard. It necessarily varies in its details in the different States of our confederacy, and in the statutes of the United States; but its general character throughout our country is in all essential respects the same. With two exceptions, it has grown up by successive, but not very methodical arrangements, as time and opportunity allowed, or more probable as some immediate exigency seemed to demand. The learned and profound investigations of Mr. Livingston, have given to Louisiana, and the laborious industry and wisdom of the Legislature of New-York, have secured to that State more judicious and regular systems, and brought a high order of intellect to the consideration of a subject, which directly concerns the happiness of multitudes, and oftentimes the character of society.

The first remark we have to make on the condition of the criminal code, is, that it is an error to take its operations as an index to the moral character of a nation. Yet this is almost the only standard to which writers on this branch of statistics, are in the habit of referring. We find it invariably the case that the record of convictions is adduced as evidence of the quantity of crime. But it hardly furnishes an approximation to the fact. Crimes are perpetrated and no prosecutions ensue; the offenders are unknown, or elude pursuit. Again, prosecutions are instituted, and the accused party is discharged, not because a crime has not been committed by some one, but because the person charged is not proved guilty according to the rules of law. Nor are these defects uniform or nearly so. Detection depends on the degree of vigilance exerted by the police, which is greater or less at different times; on the skill, ingenuity, and perseverance, which hunts through all the covert of iniquity, and seizes on fugitive offenders. It depends on the rapidity of pursuit, on the thoroughness and extent of it, and of course on the pecuniary means which are supplied for the purpose.

We secondly remark, that institutions for the execution of the criminal code, are too frequently considered of importance in proportion to the number of convictions which occur, as the nets of the fowler are valued by the game he is enabled to capture. In pursuance of this most erroneous notion, Courts & their appendages for the prosecution of criminals, are sometimes thought to be less necessary, as the number of cases within their jurisdiction is diminished. It is forgotten that they are of the nature of citadels for defence, and that their most important object is attained, when they prevent aggression by the display of a force that would certainly overwhelm it.

Men who live in the habitual commission of crime, if they do not bring the intellectual powers into proper exercise and so are not to be considered wise men, are yet, as a class, not to be treated as fools. It is not politic to regard them as destitute of a fair proportion of intelligence. There are many miserable dolt among them, but the class is not deficient in natural talents or acquired information. Indeed it is frequently ingenuity unsupplied which has led them from the path of honesty. Good citizens make an unfortunate mistake, when, in forming the laws, or preparing the mode of administering them they consider depraved and lawless men as beings of inferior capacity. It is not so. The public prisons are tenanted by at least an average portion of human intellect, and often by men of a character of mind eminently fitted to exert a commanding influence in any society of which they are permitted to be members. Such men calculate with accuracy the general causes of detection. They have as regular an estimate of the hazards of their mode of life, as a merchant has of the winds and storms of the ocean, or the risks of commerce. When the history of their lives is disclosed, we turn with disgust from the repetition of crimes and the depth of iniquity, which are unfolded; but we ought to look to the more practical truth, that these felon's speeches never fail to

disclose to us, how feeble, namely, they have found the barriers of the law; how often they have committed atrocious crimes without being suspected; how often they have been suspected and not taken; or taken and tried, but have contrived artfully to escape through the meshes of the net which enclosed them. The competency of the judicial tribunals, the vigilance that is to bring them to the bar, the care and accuracy with which the forms of proceedings against them will be arranged, the possibility of buying off witnesses, or the means they may have of deceiving a jury by false evidence or purchased sophistry, are as regular items in the account current of their chances, as any that are entered in the ledger of honest employment.

The object most desirable is to obtain the means of detecting the guilty person, — a branch of our inquiry which we shall presently consider. But we remark in this connection, that the careful organization of the criminal courts, with the proper means of immediate pursuit known to be at their command, is quite as useful to say the least, in preventing crimes as it ever could be in punishing them. But in regard to the punishment which is to be inflicted, the mildest that is not so trifling as to be laughed at, is more likely to be efficacious, than that severer discipline which is threatened without being applied.

Our community is averse to capital punishments. These are adopted by the criminal code, and in certain cases we have no doubt are warranted by the laws of God, and required by the stern necessity of public preservation. But whenever they are decreed, a strong sentiment of commiseration is excited. The executive is beset for a pardon, be the guilt of the party what it may, and in case of an execution, we are sometimes left in doubt which receives the greater share of public condemnation, the magistrate or the criminal. Something of the kind is found in all cases of conviction. Popular feeling is adverse to severity, and where a discretion is allowed, judges have found it wise to go to the extent of their power. The reaction of the public mind, in cases of any excitement, is extraordinary, & much more powerful than one not accustomed to watch its movements, would suppose. The first account of crime excites indignation. People are on the alert, and a detestation of the offence rouses them to a general pursuit, or whatever other effort is required to detect the suspected party. He is taken and put on trial, and there begins to be an inclination to doubt his guilt. He is convicted, and he excites sympathy. He is punished, and his suffering creates commiseration. Humanity laments over his misfortune. Generosity is awakened. His humbleness and helplessness disarm resentment. What good can be done by the exercise of power on a wretch already rendered incapable of doing further injury to society? — He has connexions, a family, a wife, children and perhaps other dependants, and his disgrace throws its darkness upon them. Their misery, great enough by the fact of his guilt, is aggravated by the disgrace of its penalty. Every blow inflicted on him draws blood from the hearts of his innocent offspring. Every day's confinement to which he is subjected, deprives them of the means of subsistence. While he is in prison, they are in poverty; while the State punishes him, food must be provided for his family, or they must starve in the streets. This with a vast number is the language both of feeling and of fact. It is difficult to find an answer to it. The common law of Providence involves the innocent in the punishment of the guilty, but the extent of this communion is oftentimes man's work. — We say guilt must be punished, and innocence protected; but we have not the means of accomplishing both. If we discharge the convicted felon, we encourage a herd of prowling wolves to drink the blood of our children, or riot on the plunder of our property. If we punish him, we draw tears of anguish from hearts pure, perhaps, as our own, and seem to be exerting the whole weight of society on a being, bound, fettered, and helpless, too insignificant for resentment, or too dull for reproach. In this dilemma is the judge of a criminal court often placed, when to be just is to appear cruel to one class, and to be merciful is to be unjust to another.

Undoubtedly, that law would best answer its purpose, which should take early measures for preventing the opportunity of crime, and extend its cordon of observation round the deluded and unprincipled part of the community. But when this may not be done, such punishment as may not bring odium on the law itself, and of course a mild and moderate system of penalties, is most to be commended as a sanction for the criminal code. Not only must cruelty be avoided, but nothing encouraged that looks like vengeance, or even severity. The terror of the law is inspired by a different principle. Its certainty is more efficacious than its weight. When there is a great probability that the punishment that is threatened will be awarded, that what is awarded will be inflicted, although this may be small, and wholly inadequate as a retaliation for the wrong done to society, there is a better hope that the object will be secured.

The power of pardon has a direct connexion with criminal code, & it is not to be inferred from what we have said, that we join with those who think it should be never, or very sparingly exercised. It may seem singular, after what we have already remarked with regard to the difficulty of executing the sentence of the law, that any should be found to resist its remission. Such contradictions, however, are not unfrequent on a subject which is of

daily recurrence, and appears so plain to common apprehension, that most men speak about it in a manner dogmatical. — But so it is. While a constant clamor is raised against the course of proceedings in relation to the punishment of criminals, an outcry not less perplexing is made as to the exercise of pardon. The executive is importuned by applicants for clemency, while abroad there are those of some influence and weight, who are not satisfied with any relaxations of the sentences which from time to time are pronounced by courts of law.

The power of pardon in some parts of our country have been greatly abused. In Pennsylvania, one chief magistrate is said to have released eleven hundred criminals. In New-York, it was customary to pardon the old convicts, to make room for new ones, in a prison not large enough to contain all. This was little less than a repeal of the criminal code. In Massachusetts more discrimination has been made, and we think with good effect. The pardoning power has its appropriate limits, beyond which it cannot be carried without injury; but the power is an indispensable part of the system of criminal law, which, without its liberal exercise, would be cold, and dreary and stern infliction of severity and suffering, at which all feelings of humanity would revolt, and even the rigid principles of justice turn aside in disgust. To repentant guilt let the hand of mercy be readily extended. Let it remove from the oppressed heart the punishment which has already had its perfect work. Let it restore the child of error to the path of duty, chastened by the perils he has passed, and bound to virtue by gratitude for that kindness which visited him in prison, and restored him to liberty. Let it alleviate a severe sentence and remit an unjust one. Courts are obliged to act by general laws, by circumstantial evidence and established forms. These may in particular cases bear severely, and perhaps oppressively; but the judge cannot always exert his power for their alleviation, or to the peculiarities of different offenders. The force of temptation, the seductions of bad company, the pressure of misfortune, the wrong direction of the mind by want of early education, or parental discipline, or kind friends, cannot always enter into the consideration of a judge, even if, as rarely happens, they are made known to him. The different character and condition of offenders of apparently the same class, the state of mind which renders the same penalty so different in its effects on different individuals, must be beyond the cognisance of a judicial officer; but the intelligent and careful dispenser of clemency regulates these inequalities. Each case is before him with its palliatives and its aggravations, and in those in which the operation of general principles have been too stern, or where peculiar circumstances present a claim for mercy, it is wise and just, as well as humane, that he should have the power of forgiveness.

Upon the criminal, too, this power of pardon is the influence that draws him back to society, and connects him with the virtuous and the worthy. It is the little light that throws a cheerful ray upon the darkness of his solitude, and sheds a kindly warmth on the coldness of his cell. — Without it he could hope nothing. — The world is not his friend, nor the world's law. All that chance of amendment which springs from good feeling and a softened mind, would be lost forever. — The only hold society has upon a culprit, is in his feeling that there is yet a living sympathy in his misfortunes, — a belief with which he is impressed, that the power which punishes is just, but not vindictive, and however rigorous, is never cruel; that there is yet in operation a benevolence that would delight to bring him back to the path of virtue. There are no other means of amendment. If these fail, if they cannot soften the heart, and melt the obduracy of hardened guilt, it will be in vain to expect reformation by any human exertion. We believe they do, and much more frequently than is generally supposed; but good resolutions are overcome by new temptations, and the desire to do well vanishes before the allurements and necessities of the world.

None probably think of abridging the constitutional power of pardon, which every where in our country is lodged in some department of government. But the desire to curtail its free and liberal exercise amounts to the same thing. — With some opportunity of observation, we are satisfied that the power of pardon, judiciously exerted, is, not less than the power of punishment, indispensable for the good of society, and vastly more beneficial in its tendency to reclaim the deluded and misjudging violators of the law. And it does not lessen this conviction to be told that this power cannot be exerted, and therefore does not operate, on every transgressor. It is enough that it exists, and can be exerted in any case, and will be in many. Some, therefore, must, and all may be its objects. The chance is open to every one. The self-exertion, which controls chance and begets favor, is practicable, and there is a good motive to practise it. The mind thrown back upon itself by the sufferings it experiences, has a double inducement to reform; it is impressed at once by the penalty of guilt and the reward of amendment.

Nor are our views changed by the fact, that the records of our prisons frequently show that they are tenanted by many, who have once been pardoned. It proves only that the discretion of the chief magistrate was in such instances wrongly exerted; & this is not wonderful. He is obliged to depend on the information that is given him, and is too often guided by extraneous influence, interested solicitation, and resistless importunity. Society, also, must

take something of the reproach, itself for the convict is pardoned indeed, but his pardon merely gives him liberty to go from the solitude of his cell into the more dreary solitude of a crowd that avoids him. The curse of the felon hangs upon him, and because he can get no employment, and can neither beg nor borrow, he is compelled again to steal.

With all the objections, which have been made to a liberal exercise of the pardoning power, we hope to see it freely, but judiciously exerted. In the whole object of the treatment of criminals there is nothing that is entirely what we could wish; but this branch of it is certainly not the most revolting, with whatever difficulties it is supposed to be connected. If mercy is sometimes poorly repaid by the gross ingratitude of its objects, it is oftener encouraged by its rewards. — It is the regenerating spark which brings to new life the erring and deluded offender, warms in his bosom the better sentiments of virtue, and excites him to repentance and reformation.

In our remarks on the criminal code, we ought before to have mentioned that we have reference to that of Massachusetts, which, like most of the States, is built on the English common law. In most of its principles, its forms of proceedings and rules of evidence, it remains unchanged. The amendments it has received chiefly relate to the punishments, which have been, with as much wisdom as humanity, made less rigorous and severe. The most important change in this respect was adopted in the year 1805, when confinement in the State Prison was substituted for those corporal scourgings, brands, and exposures in the pillory, formerly awarded.

### THE FRENCH CELEBRATION.

The Celebration of Thursday was brilliant, and worthy of the animating occasion; and the weather was mild, and every thing conspired to render the ceremonies agreeable and impressive. The procession, in all its parts, military and civic, was well arranged and imposing, and so extensive as to reach half the length of Pennsylvania Avenue from the President's square to the Capitol.

The Procession was formed, agreeably to the arrangements previously announced by the Marshal in Chief, on the Plain south of the President's House, and when it arrived opposite the Executive Mansion, it halted and received, in the place assigned to them, the President of the United States, the Heads of Departments, and such of the Foreign Ministers as accepted the invitation of the City to participate in the ceremonies. The French Minister and his suite attended in full dress, and wearing the national colors.

We cannot give a minute description of the Procession, of the various societies and other bodies which composed it — their badges, banners, mottoes, &c. but must content ourselves with a brief account of them, with such notice of particular features or incidents as demand special remark.

Of the military portion of the procession, besides the marine corps and our handsome city volunteer companies, the parade was rendered most brilliant by the attendance of Captain Page's fine infantry corps from Alexandria, and Captains Cover's, Haller's, and Thomas's handsome companies from Georgetown. The officers of the militia not in command, also appeared in uniform, and, with a number of the officers of the army and navy, contributed much to the general effect. Next to the military column followed the President of the United States, with the other high civil officers of the Government, and the French Legation; following these were the Orator of the Day. The Committee of arrangements, the surviving Officers of the Revolution, the natives of France residing in the city, carrying the tri-colored flag, with the distinguished Gen. BERNARD at their head; and next the corporate authorities of the city. — Succeeding these came the various Societies — the large and respectable association of "Mechanics and other Working men," with their splendid banner — the Printers, with a Press and other apparatus, on a large car, printing and distributing an ode written for the occasion — the Cordwainers' Society, the Hatters Society, &c. all having stages on which members were at work at their respective trades; and lastly, a large concourse of citizens. Several bands were distributed throughout the long line, and animated the procession with their fine music. The comfort of the long march was much promoted, by the attention of the Marshal and his active Aids.

The Procession did not reach the Capitol until nearly two o'clock; where, after the whole were arranged within and in front of the eastern portico, WALTER JONES, Esq. pronounced the Oration which he had been requested by his fellow citizens to deliver on the occasion. We bestow high praise on this discourse when we say that we consider it worthy of the distinguished talents of the Orator. — He addressed the assemblage an hour and a half in a strain of fervid eloquence, abounding in historical allusions, in just philosophical reflections and illustrations, clothed in the beautiful diction for which the speaker is so remarkable.

Previously to the delivery of the Oration, Mr. R. S. COXE publicly read the Letter which the Committee of Arrangements were instructed by a resolution of the citizens to address to General Lafayette in their behalf.

Immediately after the conclusion of the ceremonies at the Capitol, the military companies and societies returned to their respective places of dismissal, — the concourse dispersed, and in an hour after,

the bustle had totally disappeared, and the city was left in perfect quiet. The President was escorted to his mansion by a body of mounted militia officers, where they partook of some refreshment.

The public offices were closed during the day, as were also the shops of the city, and all business was suspended. Many of the shops on the Avenue had tri-colored flags suspended from their windows; the citizens generally, wore their colored badges during the day, and in the evening, the ladies as well as gentlemen, at the Ball, were similarly decorated.

A hands-on Ball, in the evening, at Carst's splendid assembly rooms, closed the rejoicings of the day. The Ball was attended by a number of distinguished strangers, among them the Minister of France, his Lady and suite, and it was kept up till near midnight. Amongst the decorations of the room, we were pleased to see on an elevated platform, at the head of the apartment, full length portraits of WASHINGTON and LAFAYETTE, whose names and characters are now indissolubly united in every American heart.

One or two incidents of the Celebration are worthy of particular mention.

Gen. BERNARD, who, at the request of the French residents, marched at their head, bore the venerable standard which was presented forty years ago from the French National Convention, by the hands of the Minister *Bouchet*, to the American Government, on the reception of which President WASHINGTON made his celebrated speech complimentary of the French people. The standard has been carefully kept in the War Office; and it is in good preservation, though somewhat faded. The other incident was, hearing at intervals, during the procession, and as a prelude to the oration, the martial notes of the trumpet which accompanied the flag of truce that went in to receive the capitulation of the Marquis Cornwallis at Yorktown, blown too by the same veteran who bore the instrument on that interesting occasion.

## Communication.

FOR THE RALEIGH REGISTER.

Pursuant to previous appointment, a meeting was held at the Academy in Kingston, on Wednesday 21st October, 1830, for the purpose of forming a Bible Society, to supply the destitute families in Lenaw County with Bibles.

After an appropriate Sermon delivered by Elder P. W. Dowd, from H. b. 13th c. and 16th v. "But to do good, and to communicate, forget not: for with such sacrifices God is well pleased," Elder A. Cogleton was called to the Chair and J. G. Dunn was appointed Secretary.

A Constitution was then read and unanimously adopted.

The following Officers were chosen at the meeting, viz: J. G. Dunn, President, Willie Mosely 1st Vice President, John Jackson, sen. 2d ditto; Dr. Reuben Knox, Secretary, Joseph Tidgman, Treasurer, John C. Washington, Deput. Alexander Mosely, Sneed Caraway, Jas. Edmonson, Trustees.

The following resolutions were also adopted:

Resolved, That our annual meetings shall be in Kingston on the Friday preceding the 3d Lord's day in each year.

Resolved, That Elder A. Conleton be appointed Agent to distribute the Bible.

Resolved, That we send on to the American Bible Society for five hundred Bibles, for immediate distribution.

### Bible Society of N. Carolina.

Raleigh, Nov. 4, 1830. THE annual discourse in behalf of this Society will be preached by the Rev. M. OSBORNE, of Newbern, on Sunday the 13th of December, at the Presbyterian Church in this City. The annual meeting of the Society for the appointment of Officers, and for the transaction of such business as shall come before it, will be held in the Senate Chamber of the Capitol, on the following evening at seven o'clock, when the attendance of the Members, and others who feel an interest in the Bible cause is requested.

To the Patrons of the Register and the Public. — After an experiment of seven years duration, we find that the population of North-Carolina is not sufficiently dense to support a semi-weekly Newspaper. We commenced the publication of the Register twice a week, with an insufficient number of Subscribers to warrant the increased expense attending it, confidently trusting that it would secure for itself additional patronage. Having been disappointed in this expectation, and having no reason, from the inconvenient arrangement of the Mails, to calculate on any material augmentation to our list of semi-weekly Subscribers, we have determined to discontinue that paper on the 15th November next, which day will complete the seventh year of its publication.

After that period, the Register will be published every THURSDAY morning, and in order that we may be enabled to give to our readers, a full detail of Foreign & Domestic Intelligence; a clear and satisfactory account of the proceedings of Congress, and of our own Legislature; a faithful record of passing events, as well as an agreeable variety of Literary and Miscellaneous Articles, we shall publish our Paper on a large Imperial Sheet with an elegant new Type, procured for the purpose.

We cherish the hope that the exertions thus made to improve the oldest and one of the most widely circulating Papers in the State, will not only merit the continuance of its present numerous Subscribers, but be the means of adding to their number.

The WEEKLY REGISTER will, after the above date, be forwarded to the late Subscribers of the Semi-weekly paper.