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**REPORT**

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**Punishments and Prison Discipline :**

BY THE

**COMMISSIONERS**

APPOINTED TO

**REVISE THE PENAL CODE**

OF

**PENNSYLVANIA.**



*Commissioners :*

HON. JUDGE SHALER,  
HON. JUDGE KING,  
T. I. WHARTON, Esq.



SECOND EDITION.



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## TO THE READER.

Impressed with a due sense of the great importance to the welfare and safety of society, of a proper system of prison discipline, which may operate not only to reform criminals, but to deter from crime,—a number of citizens of Philadelphia, New York, and Baltimore\* have presumed it would be useful to have an edition of this Report printed for gratuitous distribution.

Although the majority of them highly approve of the Auburn system, i. e. solitary imprisonment by night, and labor in company by day, under the most strict regulations to prevent communication between the criminals, as eminently calculated to promote the two valuable objects above stated, yet it by no means follows that this is the case with all of the contributors. Some of them have never read the Report. The motive, nevertheless, of the whole is the same—that is, to direct the public attention to the subject, and to produce a full and liberal discussion of it.

If those who advocate the system of unceasing solitary confinement, would distribute the arguments in its favour *pari passu* with this Report, it would enable the public to weigh them against each other, and to deduce a sound result from the comparison.

The documents appended to the Report, are omitted—as, although they illustrate and enforce the doctrines of that document, they are not indispensable to the proper understanding of it, and more particularly as they would greatly enhance the expense of the publication, without any proportionate advantage.

*Philada. Sept. 2, 1828.*

\* The names of the citizens of Baltimore, are—the venerable Charles Carroll, Isaac M'Kim, Joseph Townsend, Robert Oliver, and John M'Tavish, esqs. In New York, Stephen Allen, esq.



*To his Excellency J. Andrew Shulze, Governor of Pennsylvania.*

SIR—

We now transmit to your Excellency, in order that they may be laid before the legislature, the results of our labours, upon the Penal Code of this Commonwealth, and upon the other subjects with which we have been charged.

We are sensible that a considerable period of time has elapsed since the passage of the resolution, under which we were commissioned; but we are not aware that any important interest of the Commonwealth has suffered in the interval, and we feel assured that sufficient reasons will appear for the delay that has occurred when the legislature shall consider the magnitude of the trust committed to us; the difficulties of some of the questions we were required to pass upon, and the impediments arising from our local position, and from the pressure of other duties or engagements.

We are very respectfully,

Your excellency's most obedient servants.

CHARLES SHALER,  
EDWARD KING,  
T. I. WHARTON.

Philadelphia, Dec. 24, 1827.

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## REPORT

### ON PUNISHMENTS AND PRISON DISCIPLINE.

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*To the Honorable the Senate and House of Representatives of the Commonwealth of Pennsylvania.*

The resolutions of the legislature, under the authority of which we received our commissions from the governor, having required of us to submit such suggestions and observations as might be necessary to a proper determination upon the important subjects with which we were charged, we now respectfully lay before the legislature an exposition of the principles upon which we have proceeded, in respect to that branch of our duties, which relates to punishments and prison discipline. We have prepared a more elaborate and detailed report than, perhaps, the resolutions of the legislature seemed to require, because we are anxious to satisfy the public mind, that sufficient pains have been taken to arrive at correct conclusions on a subject so immediately affecting the primary interests of the commonwealth; and that, although we may have erred in our recommendations, they have not

been the result of careless or prejudiced examination. We have felt sensibly the weight of our responsibility, and the arduous character of our duties. A question upon which the attention of many civilized nations is at this moment turned, and which has remarkably divided public opinion among ourselves, was not to be settled, so far as depended upon us, without a careful research into facts and experience, a patient examination and comparison of testimony, and an anxious consideration of theories and arguments. Impressed with this conviction, we have earnestly sought after information from every quarter of our country, and of Europe; we have personally examined several of the penitentiaries in the United States; and we have consulted all the publications, to which we could obtain access. The resolutions directing the appointment of a commission required our report to be made to the succeeding legislature. Our anxiety to submit as full and matured report as possible induced us to ask of the legislature an extension of time; which, was promptly granted, and we trust, has not been unprofitably employed. Whatever may be the final decision of the legislature on this interesting subject, we shall have the satisfaction of reflecting that we entered upon the discharge of our duties with a single eye to the public welfare, and have spared neither labour nor expense to perform those duties to the best advantage for the commonwealth.

The just and enlightened spirit of modern times has established a philosophy of punishments, by the rules of which all systems must be erected, and according to whose principles all suggestions must be shaped. It is a cardinal maxim of this philosophy, that punishments must be so inflicted, as to produce the most direct and immediate correction of the offender, with the greatest possible effect upon the mass of society. Whatever goes beyond, or falls short of this object, is an act of oppression to the individual, or of injustice towards the public, and produces corresponding evils in society, which all prudent legislators are desirous to avoid. Keeping in view this fundamental rule, we shall endeavour, by an examination and comparison of the several modes of penal discipline, to arrive at such conclusions respecting their practical operation, as may assist the legislature in determining upon the most judicious and expedient of the several plans suggested to them.

The principal varieties of punishment adopted by governments in ancient or modern times, or suggested by political or philosophical reasons, may be classed under the following heads.

1. Capital punishments.
2. Mutilation.
3. Branding or other marking.
4. Whipping.
5. Banishment or transportation.
6. Simple imprisonment.
7. Imprisonment with labor, but without separation of the prisoners.

8. Solitary confinement, without labor of any kind.

9. Solitary confinement, with labor performed in solitude.

10. Solitary confinement at night, with joint and classified labor during the day.

We are not aware that any modes of punishment have been practised or suggested, which are not embraced under one or other of these divisions. A brief examination of the first six, thus enumerated, will, we conceive, be amply sufficient for our purpose.

1. Upon capital punishments the opinion of this commonwealth has been too long, and too distinctly expressed, to permit us to suppose that a suggestion of applying them to any other, than the single case of wilful and malicious murder, could meet with any favor from the legislature. The enlightened and benevolent founder of Pennsylvania set a memorable example to the nations in the Great Law; which rejected the severity of the English system, and carefully limited the punishment of death to the crime for which it is now inflicted. Neither the experience of that generation nor of the present, appears to us to justify any alteration of this humane code. It is well settled that the certainty of punishment operates with at least as decisive effect as the severity of it; and the experience of other nations has proved that the multiplication of capital punishments has never stayed the progress of crime, however it may have thinned for a time the number of offenders. But the mere severity of a penal code is known often to defeat its operation; because those who are charged with administering the laws prefer even a violation of their official duty to the sacrifice of human lives; and thus offenders escape without any punishment, to renew their assaults upon society. Reason and experience therefore, we conceive, unite in recommending an adherence to the present system respecting capital punishments.

2. Mutilation of the person of offenders, the barbarous punishment of a barbarous age, is deservedly repudiated by most civilized nations. Beyond the mere personal suffering of the individual subject, it answers no one purpose of penal infliction. Reformation or correction is little to be hoped for; while the impression on the public mind, produced by the spectacle, is one rather of sympathy with the offender, or of disgust at the punishment, than of horror or aversion from the crime. If the mutilation is carried so far as to deprive the criminal of a portion of his limbs, society suffers, in addition, by the necessary support of him during the remainder of his life. Little need therefore be said in opposition to mutilation, as a mode of punishment.

3. The punishment of *branding*, or other marking of the persons of criminals, has, we believe, never been applied to the higher species of offences, and has generally formed an addition to other punishments, rather than constituted the whole infliction. The observations to which it is liable are similar to those which we have advanced in relation to mutilation. The experience of other states and countries has been found, we believe, decidedly unfavorable to it. To fix a mark of public disgrace upon an individual, which must remain in all its deformity to the close of his miserable life, is perpetually to cut him off from

the sources of amendment, and the means of subsistence. Whatever, under other circumstances, might be his wishes for reform, he must move among his fellow beings as a diseased outlaw, a moral leper; alike detested by the public, and detesting the laws of his country.—Once enrolled by this badge among the class of criminals, no alternative seems left to him by society, but to pursue the calling, and acquire fresh marks of an infamous distinction; the moral effect of which, such as it is, decreases in an inverse ratio with the number of inflictions.—The inefficacy of this mode of punishment, therefore, is sufficiently obvious.

4. Nor have we reason to think more favorably of *public whipping*, as a punishment for offences. Like that, which we have just mentioned, it is rarely allotted to the higher species of crimes. As a spectacle, it has been found to excite no sensation in the public mind productive of useful results; and perhaps, the contrary might with safety be affirmed, from the operation of sympathy with the subjects of a punishment apparently severe and oppressive to the human frame. Whatever may be the pain or suffering to the offender for the time, it is but temporary; and when the sentence of the law is complied with, it leaves him at liberty to return immediately to his career of crime, and to qualify himself for higher and more durable and lengthened punishments.—We are not aware that the practice of any community has been found favorable to this species of infliction.

5. *Banishment or transportation* has been used as a mode of punishment from the most ancient times; and of late years has occupied a large share of public attention, and considerably divided public opinion, at least in other countries. The importance of the question under some circumstances may serve as our excuse for treating it more in detail than those to which we have had occasion to advert.

This species of punishment is of three kinds.

1. Simple exile.
2. Deportation; by which we would designate the compulsory removal of offenders to some foreign shore, where they should be left without further care on the part of the government.
3. Transportation, or the compulsory removal of offenders to distant place, where they are subjected to the penal government and discipline of the mother country.

We use these terms for the sake of convenience and distinction, and not perhaps, according to their exact signification.

1. We understand by *simple exile*, the mere banishment of the offender from the soil of the state or country whose laws he has violated; under some stipulation, or the denunciation of some severe penal infliction in the event of his return.

In the practice of modern times, this punishment has generally been allotted to political offences of a grave character. The moral right of a government to turn loose its convicts upon other nations, may, we think, well be questioned. The right of every other government to refuse them admission is unquestionable; and this would doubtless be exercised, were the practice of banishment for moral crime to become

at all frequent. In effect, therefore, a sentence of simple exile would for the most part be inoperative. If practicable, however, we respectfully submit, that it would be unavailing as a measure of correction.—A large proportion of offenders are transitory, and cosmopolitical in their characters. They have few, if any, of those attachments, which bind the virtuous part of the community to the country of their birth or choice, and which render exile to them a suffering only short of death. Simple banishment, therefore, where practicable, only removes the offender to another and perhaps, equally congenial scene of action; and upon the community at large produces no visible effect.

We cannot help in this place, calling the attention of the legislature, to a practice, which appears to prevail in some of the states of this Union, and which must in its operation prove extremely prejudicial to the interests of this commonwealth, as well as of others. We allude to, the banishment of offenders from the particular state, leaving them at liberty to commit depredations and outrages in every other state. A just sense of the rights and dignity of this commonwealth, seems to require that measures should be taken by remonstrance or otherwise, to put an end to this practice for the future. And if these should prove unavailing, a system of counter action appears to us to be equally requisite. It is manifestly unjust for any state to throw the burden of its convicts upon another state. The forced introduction of criminals into parts of this country, during their colonial condition, was one of the grievances, of which our ancestors loudly complained, and which led, in a measure, to the declaration of independence. The state which pardons its convicts on condition of their leaving its territory, enjoys an exemption from evil, at the expense of its fellow communities, which no constitutional or social relation obliges them to acquiesce in. No state has a right to require a sister state to become the penitentiary of its convicts. The right of self defence fully authorises the state in which such convicts may arrive, to remove them by compulsion, and return them to the state from which they were let loose. We conceive, therefore, that should it be found by experience, that criminals from other states arrive in Pennsylvania, under circumstances such as we have stated, the legislature would owe it in duty to the people of this commonwealth, to adopt such measures as would most effectually put an end to the practice.

2. We have applied the term, *deportation*, to that species of punishment which consists in the removal of offenders to some distant place, and the deposit of them at such place, without further care on the part of the government, whose laws they have infringed. It differs from simple exile in this, that the removal is the act of the government, by whom the place of deposit is selected for the purpose. We should have little to remark upon this method of punishment, were it not, that it has recently been pressed upon the consideration of the legislature and the public, by some of our active and well intentioned citizens. It has been suggested that the objects and ends of punishments might be attained in an effectual manner, were the government of the United States to take possession of some uninhabited island;

such as the island of Tristan da Cunha, in the Atlantic Ocean. The respective state governments might then, at stated periods, remove their convicts to this great depot of crime; and after supplying them with sufficient food and clothing for a time, and with tools of trade and implements of husbandry for future support, might with propriety and convenience, it is said, leave them to their own exertions. Necessity, it is argued, would soon produce order, and some kind of government among them; and the community, whom they had injured, would be effectually relieved from their presence, at a very limited expense. This scheme, it may be remarked, has never, according to the best of our information, been put in practice in any country, and depends for success entirely on the reasonableness of its theory. It is liable, we think, to many serious objections; among which we may enumerate the following. In the first place, it confounds all crimes, by imposing upon all, the same extent of punishment. As the banishment is to be without limit of time; it must be for life; and thus either the minor class of offences must be excluded, or receive an equal weight of punishment with those of the most aggravated character. Again, the plan presupposes the existence of a suitable place of deposit, and the power to acquire such place; neither of which is very obvious to our apprehension. Another, and perhaps the most serious objection, arises from the proposed abandonment of the convicts as soon as landed. It must be presumed, that all the convicts to be removed are able bodied persons, capable of acquiring the means of support—which of course implies that all others are to remain, and be the subjects of some other kind of punishment. If we believe that order will prevail among those removed, and that, contrary to all probability, rapine and bloodshed will not ensue among themselves; it cannot be doubted that this band of criminals will obtain the means of escape, or resolve themselves into a nation of pirates. Accident, ship wreck or other causes, must occasionally throw vessels, or the materials of vessels, on their shore; and the history of navigation teaches us how readily men, in similar circumstances, obtain the means of escape, and return to their own country. We must therefore conclude that this system of punishment would be found, in practice, attended with unavoidable and insurmountable difficulties.

3. The punishment of *transportation*, as adopted of late years, in Great Britain, consists in the removal of offenders for life, or for a term of years, to a distant place, under the jurisdiction of the government whose laws they have violated, and subjects them to penal discipline in such place, which becomes, in effect, only an enlarged penitentiary. Of the efficacy of this system of punishment in producing the desired results of penal law, we believe the experience of Great Britain does not authorise us to speak favourably. For the time being, doubtless, transported convicts are placed beyond the reach of repeating evil in the mother country. The insular position and remoteness of New Holland, and the rigorous system of government pursued there, have rendered escape and return to Great Britain difficult, if not altogether impossible. So far, too, as the convicts have, after the ex-

piration of their sentence, applied themselves to the cultivation of the soil, or other kinds of industry, their establishment in a new country may be considered as a beneficial exchange. We believe, however, that the corrupt habits and infirm constitutions of most of the convict settlers of New Holland, have rendered the number of useful labourers very small. But whatever advantages may attend the system of colonial transportation, they are attended with drawbacks and evils which probably counterbalance them. In the first place, the necessary expense of this system must in any event be of great magnitude. The removal of the offender to a distant place; his necessary support there for a time at least; the maintainance of the colonial government, all imply great charges, which must be defrayed by the mother country: and the experience of the British nation has been in accordance with this belief. It appears from the returns made to the British parliament, that from the year 1787, when the settlement of New Holland commenced, to 1820, the number of convicts transported amounted to 25,878. The cost of transporting is estimated at £100\* sterling each: And the annual expense is not less, probably, than £40† sterling; equivalent to \$177,60 of our money for each convict. From the returns laid before parliament, it appears, that the expenditure of the British government for the transportation to, and support of convicts at New Holland from 1786 to 1817 inclusive, was about four million pounds sterling, or upwards of seventeen and a half millions of dollars. In 1820 the annual expense of the colony is stated at £300,000‡ sterling, or \$1,332,000. It is estimated by British writers that *one tenth* of the sum expended on this colony would have subsisted at home the whole number of convicts, while something might have been gained from their labour to the public treasury, which was not obtained at New Holland. On the score of expense, therefore, the system of transportation is objectionable. Again, experience shews that reformation of the offender is not to be looked for in a community of convicts. From the returns to the British parliament before mentioned, it appears that out of 4376 convicts, whose sentences had been remitted, or whose time had expired, only 369 were considered respectable in conduct and character. In fact, the same causes which have operated to render our own penitentiaries the seats of crime and the schools of iniquity, namely, free intercourse with the contagion of vice, have operated on a larger scale, and with more powerful effect in New Holland. Other objections exist to transportation as practised by the British, of which one only need be mentioned. In point of effect, all distinction of crime is confounded, by the difficulties in the way of the criminal's return, on the expiration of his sentence, whatever difference exists nominally in the number of years to which the sentence extends. The government does not undertake to return the prisoner; his means seldom permit of his return at his own expense, if the opportunity of a private conveyance occurred; and thus a punishment of exile is su-

\* Edinburg Review, vol. 13, p. 181. Quarterly Review, vol. 12, p. 42.

† Quarterly Review, vol. 12, p. 42.

‡ Quarterly Review, vol. 24, p. 247.

peradded, not less unjust in principle, than impolitic, in destroying the classification of crimes.

Such are the views we have taken of the punishment of banishment or transportation.

6. Simple imprisonment of criminals, or the mere restraint of their persons, by day and night, without labor or separate confinement, is so obviously defective as a mode of punishment for convicts, that little is requisite to be observed on this head. Neither personal suffering, nor amendment of the individual, nor any degree of influence upon society, is to be looked for in this case; and the expense of maintenance is borne by the honest portion of the community, exclusively. The experience of the evils of this system has accordingly produced an abandonment of it in almost every part of Europe, in which public attention has been turned to the subject of penal discipline. In our own commonwealth it has been repudiated from the earliest times. The tenth section of the laws agreed upon in England, in May, 1682, declared that "all prisons shall be *workhouses* for *Felons*, vagrants, and loose, and idle persons; whereof one shall be in every county." The same provision was repeated in the GREAT LAW; and Acts of Assembly were subsequently passed to carry this wise ordinance into effect. Labour has at most periods of our history, been inflicted as the just punishment, and meet retribution of convicts. The extent to which it shall be exacted, and the circumstances under which it shall be performed, are questions upon which a diversity of opinion has prevailed in the public mind, both here and in Europe. Under the remaining divisions of the subject, we shall offer to the legislature, the result of the best examination we have been able to give to these embarrassing questions.

7. Imprisonment with hard labor, but without classification or separation by day or night, was the earliest in the series of what are now usually denominated penitentiary punishments. It has been already mentioned, that the strong and far sighted intellect of the founder of Pennsylvania, perceived the expediency of employing labor as a means of punishment and a compensation to society, half a century before the legislators of Europe began to turn their thoughts to the subject. The earliest provisions of our laws directed the employment of convicts "at hard labor in the house of correction," for a term of years, corresponding with the enormity of the offence. Of the manner in which the punishment was inflicted, or its effect in practice, we have no means left of judging. The alteration of the criminal code which took place in 1717, in consequence of the pertinacious attachment of the British government to capital punishments, seems in practice, to have restored the dominion of idleness in the interior of our prisons; for although to some minor offences, the punishment of confinement for a short period at hard labor was annexed, yet the concurrent testimony of all, who remember its condition, represents the provincial prison of Philadelphia as a scene of profligacy and license, in which all sexes, ages and colors were confounded, without classification, without labor, and without restraint. During the revolutionary contest, it is not to

be wondered, that the attention of the legislature was diverted from the spectacle, or that it was deficient in the means of reformation. The constitution of 1776, however, had directed a reform of the penal laws, and the introduction of hard labor as the punishment for offences. One of the earliest measures after the consolidation of independence, was the reformation of the penal code, and the substitution in many cases, of the penitentiary discipline for the punishment of death. The act of 1786 provided, that certain crimes, which had before been capital, should, for the future, be punished with hard labor, "publicly and disgracefully imposed." The convicts were, accordingly, employed in cleaning the streets, repairing the roads, &c. Their heads were shaved, and they were otherwise distinguished by an uniform and peculiar dress. What were the results of this system of punishment, will best be told, in the words of a distinguished philanthropist, who was himself an eye witness of its operation. The directions of the law of 1786 were, he says "literally complied with, but, however well meant, they were soon found to be productive of the greatest evils, and had a very opposite effect from what was contemplated by the framers of the law. The disorders in society, the robberies, burglaries, breaches of prison, alarms in town and country—the drunkenness, profanity, and indecencies of the prisoners in the streets, must be in the memory of most. With these disorders the number of the criminals increased to such a degree, as to alarm the community with fears, that it would be impossible to find a place, either large or strong enough, to hold them. The severity of the law, and disgraceful manner of executing it, led to a proportionate degree of depravity, and insensibility, and every spark of morality appeared to be destroyed. The keepers were armed with swords, blunderbusses, and other weapons of destruction. The prisoners, secured by cumbersome iron collars, and chains fixed to bomb shells. Their dress was formed with every mark of disgrace. The old and hardened offender daily in the practice of begging, and insulting the inhabitants—collecting crowds of idle boys, and holding with them the most indecent and improper conversation. Thus disgracefully treated, and heated with liquor, they meditated and executed plans of escape—and, when at liberty, their distress, disgrace, and fears, prompted them to violate acts to satisfy the immediate demands of nature. Their attacks upon society were well known to be desperate, and to some they proved fatal."\*

The discipline of the prison was not less remarkably deficient in wisdom and humanity. It will hardly be credited, that so recently as the year 1788, the prison of Philadelphia presented the spectacle, of the confinement of debtors with criminals, of honest poverty with the most vile and revolting of crimes, and the indiscriminate intercourse both by day and night of women and men, whether debtors or convicts. Nor was this all, spirituous liquors were sold at a bar, inside of the wall, to all its inmates, and produced, as might be expected,

\* Account of the alteration and present state of the penal laws of Pennsylvania, &c. by Caleb Lownes.

scenes of profligacy and impurity, disgraceful to the city of Penn. It is the peculiar blessing of free institutions that no abuse can long survive the broad light of public examination. The legislature were no sooner made sensible of the evils of the prevailing system, than they attempted its reform with vigour and earnestness. The acts of 1789, 1790, 1791, 1794 and 1795, prove the anxiety that existed to correct mistakes, and establish a system of punishments, which should combine severity and certainty with humanity; and by removing public disgrace, and the temptations to excess, leave room for the possible entrance of reformation. The system of penitentiary discipline, now pursued in the prison at Philadelphia, and subsequently imitated at New York, Boston, Baltimore, and other places, was prescribed by the acts we have enumerated; and consists of that species of punishment which we have ranked as the seventh in the order enumerated. From the establishment of the penitentiary system in full effect in the year 1794, to the present time, its progress and results have been watched with intense anxiety, by a large portion of the public. A problem of immense importance to the condition of mankind was to be solved, and the natural interest in its solution, kept public attention earnestly fixed upon the subject. Fortunately, too, the means of obtaining insight into the working of the machinery, and of procuring all necessary information upon statistical facts, have been accessible to all; and, under these circumstances, it would seem easy to arrive at just conclusions upon this important subject. Very opposite results however are furnished by the early and recent history of the penitentiary at Philadelphia. Shortly after the first experiments in reformation were made, but before full effect had been given to the system, a striking improvement was observed in the criminal calendars. The number of convictions for offences, previously capital, was considerably less than in previous years, although population and wealth had rapidly increased. On the 3d of May, 1791, the number of convicts in the jail of Philadelphia was 143, while on the 3d of December, 1792, the number was only 37.\* It will be seen from the tables, which are subjoined to this report, and which we have taken pains to compile from the best sources of information, that the number of convictions for all offences was, in

1787	-	-	-	-	108
1788	-	-	-	-	98
1789	-	-	-	-	131
1790	-	-	-	-	112
1791	-	-	-	-	78
1792	-	-	-	-	65
1793	-	-	-	-	45
1794	-	-	-	-	92
1795	-	-	-	-	116
1796	-	-	-	-	145

In 10 years

990

\* This fact is taken from an official statement published in the ap-

Thus, apparently, proving that the introduction of penitentiary punishments did not produce any augmentation of crime. During the 10 years from 1797 to 1807 the number of convictions, for the same offences, was 1311; an increase perhaps not greater than might have been expected from the great augmentation of the population. From 1807 to 1817, however, the number of convictions rose to 2612; a frightful increase; being almost double those of the preceding term. During the last 10 years from 1817 to 1827, the convictions have amounted to 3151; an increase almost equally alarming.

The condition of the prison of Philadelphia, during the first 10 or 15 years after the change of system, became the subject of universal remark. Foreigners, as well as our own citizens, were struck with the degree of order and decorum that prevailed, with the exact discipline pursued, and the great apparent amendment of the demeanour and habits of the convicts.

We quote from a memorial of the inspectors to the legislature, dated January 8th, 1821, the following testimony to the character of the prison, in its early stages, and at a period when solitary confinement was not spoken of, except to enforce the prison discipline.

"The prison was well managed. Industry was encouraged among the prisoners. Employment was abundant, and in consequence of the number of the criminals being small, classification to a certain degree was observed. The consequence was, that the internal part of the building appeared to a visitor, rather like a well regulated manufactory, than a prison. Instances of reformation in the early period of this system occurred, and among all the prisoners, order and good discipline were maintained."\* The successful result of the experiment in this state, led, as is well known, to the adoption of the penitentiary system in almost every other state in the Union, and has been quoted as authority and evidence for reformation in Europe. Within the last twenty years, however, a remarkable and melancholy change has taken place, which so completely reverses the picture, that a stranger might well doubt whether it were drawn for the same institution and the same community. In 1803 it appears from a petition to the legislature, by "the society for alleviating the miseries of public prisons," that the prison was then "no longer capable of containing the prisoners in such a way as to answer the intention of the legislature." In 1816 the same valuable association published "a statistical view of the operation of the penal code of Pennsylvania," in which it is stated, that "the institution already begins to assume, especially as respects untried prisoners, the character of an European prison, and a seminary for every vice, in which the unfortunate being, who commits a first of-

\* Senate Journal 1820—1, p. 335.

pendix to the very instructive essay on the punishment of death, by the late William Bradford, Esq. The difference may possibly have been caused in part by the recent occurrence of a criminal court, at the last mentioned date.



fence, and knows none of the arts of methodized villainy, can scarcely avoid the contamination, which leads to extreme depravity; and with which, from the insufficiency of the room to form separate accommodations, he must be associated in his confinement." The same judgment was pronounced, in almost the same terms, by a committee of the legislature of Massachusetts, who in the year 1818 visited this state, for the purpose of examining into the operation of the penitentiary system.

In 1821, the then board of inspectors addressed a letter to a committee of the senate, in which the condition of the prison was forcibly delineated, and some of the causes of the unhappy change were clearly and justly indicated. We make the following extract, because it must be considered as an authentic exposition.

"It seems to be generally admitted, that the mode at present in use in the penitentiary, does not reform offenders. It was intended to be a school of reform; but it is now a school of vice. It cannot be otherwise, where so many depraved beings are crowded together, without the means of classification, or of adequate employment. There were in confinement on the first instant, (January) 424 men and 40 women convicts. For want of room to separate them, the young associate with the old offenders; the petty thief becomes the pupil of the highway robber; the beardless boy listens with delight to the well told tale of daring exploits, and hair breath escapes of hoary headed villainy; and from the experience of age derives instructions, which fit him to be a pest and terror to society. A community of interest and design is excited among them, and instead of reformation, ruin is the general result."\*

Many other testimonies might be cited, if necessary, to prove that the condition of the prison of Philadelphia, within the last ten or fifteen years, has been the standing reproach and contradiction of the friends of the penitentiary system, and furnishes a melancholy contrast to the evidences and promises furnished by its early operation. Such being the existing state of things, it becomes important for a just determination upon the subject, to ascertain whether the recent evils have sprung out of the system itself, or are the result of an imperfect or vicious mode of administering it. For which purpose, it is necessary to take a brief review of the different acts of assembly, by which the penitentiary system was established, that it may be seen whether they have been duly observed in practice, and if not, what circumstances have occurred to prevent their proper observance.

The act of April 5th, 1790, (2 Smith's Laws, 531,) which repealed all the former laws upon the subject, and completed the essay of the penitentiary system, after providing the punishment of hard labor for certain offences, directed, in the 8th section, that the commissioners of Philadelphia county should cause a suitable number of cells to be constructed, *six* feet wide, *eight* feet long, and *nine* feet high, "for the purpose of confining therein the more hardened and atrocious of-

\* Senate Journal 1820—1, page 334.

fenders," who may have been sentenced to hard labor for a term of years. Separation between convicts, vagrants, and persons charged with misdemeanors, was directed to be enforced "as much as the convenience of the building would admit." The convicts were to be clothed in habits of coarse materials, uniform in color and make; the males were to have their heads and beards shaved close, at least once in each week; they were to be sustained on the coarsest food, and held to labor of the hardest and most servile kind, during which they were to be "kept separate and apart from each other, if the nature of their several employments will admit thereof;" and "where the nature of the employment requires two or more to work together, the keeper of the goal or one of his deputies shall, if possible, be constantly present." A subsequent section enacted, that if proper employment could be found, the prisoners might also be permitted to work *in the yard*; provided it were done in the presence, or within view of the keeper or his deputies. The numbers of hours of work was also prescribed, viz.: *Eight* in November, December and January, *nine* in February and October, and *ten* in every other month.

An act, passed on the 22d of April, 1794, (3 Smith's Laws, 186,) provided, (sect. xi.) that persons convicted of crimes, which by former laws were punishable with death, (except murder in the first degree,) should be kept in the solitary cells, on low diet, for such portion of the term of imprisonment, (not more than one half, nor less than one twelfth part thereof,) as the court in their sentence should direct and appoint. The act of the 18th April, 1795, (3 Smith's Laws, 246,) enacted, that the inspectors of the prison should have full power to class the different prisoners, in such manner as they should judge would best promote the object of their confinement. The provisions of the act of 1790, which directed that the clothing of the convict should be of the coarsest materials, and their labour of the hardest and most severe kind, were repealed; as was also a clause of the same act, which allowed the keeper of the prison a commission of five per cent. on the sale of articles manufactured by the convicts.

These are the chief provisions of the acts relating to penitentiary punishments. It will be seen, upon examination, that they contemplated a system of classification, at least as between the tried and untried, of severe and unremitting labor during the hours at which labor is practicable by day-light; and of separation of the offenders, during the period of labor, where the nature of the employment permitted of it. No provision was made, however, for any general system of solitary confinement, nor even for the solitary confinement of any class of criminals, during the whole period of imprisonment. All that appears to have been contemplated was solitary confinement, for a greater or less term, according to the sentence of the court, and the subsequent return of the offender to the society and intercourse of other convicts. Certainly, no provision was made for separate dormitories, or separation during meals. The size of the cells, which the act of 1790 required to be constructed, seems to negative the idea of their being intended for the separate confinement of individuals. The cells in the

Auburn prison are only *seven* feet long, *seven* feet high, and *three* and a half feet wide, and are sufficiently capacious for the intended purpose. The area of the cells at Philadelphia, according to the directions of the act, was to be more than twice this size, or as 48 to 21. It is evident that the limits of the prison would not have admitted of the construction of cells of this size for more than a small number of prisoners. And it soon became evident, that the cells constructed by the commissioners were not sufficiently numerous even for "the more hardened and atrocious offenders." Consequently, the intercourse between the convicts, both by day and night, became constant and corrupting.

The alterations in the system, produced by the act of 1795, were perhaps more important, than they appear at first sight. The repeal of the clause in the act of 1790, which directed the convicts to be clothed uniformly in coarse habits, the heads of the males to be shaved, and that they should be subjected to the hardest and most servile labour, may have produced a prejudicial effect on the discipline of the prison, or the penitential operation of the punishment. We are, at all events, unacquainted with the causes which induced the repeal; and inclined to believe, that, especially that part of the old laws which required the labor of the convicts to be of a severe and servile character, was sound in theory, and serviceable in practice; and that, one of the great faults of the existing system, so far as we have had an opportunity of personal examination, is the lightness of the labor, both in respect to its character, and the extent of time devoted to it. The provision, which gave to the keeper of the gaol five per cent. commission on the sale of manufactured articles, may also have excited on his part an interest in the labor of the convicts, which tended to produce more constant application, and left less time for idleness and corrupting communication. The repeal of this clause, therefore, may have been prejudicial to the interests of the institution. The same act repealed a clause of the act of 1790, which authorised the infliction of moderate whipping, not exceeding thirteen lashes each time. We are ignorant, however, whether the punishment of whipping was frequently administered, or otherwise, under the former act.

Whatever may have been the operation of these alterations in the law, it is certain that a considerable increase of conviction took place about this period. The number of convictions which in 1792 was 65, and in 1793 was 45, amounted in 1794 to 92, in 1795 to 116, and 1796 to 145.

The testimony of all who have had opportunities to examine the progress and present state of the Philadelphia prison, united with our own observation, convinces us that the flagrant evils of that establishment, are referrible to the communication, which takes place between the convicts by day and night, during their work, at their meals, and in the perilous interval between the conclusion of their labour in the evening, and the resumption of it the next morning.—Other causes have also operated to produce the same result; among the principal of which is the frequency of pardons, and the system up-

on which they have of late years been recommended and obtained.—The enormous increase in the number of convicts, and the insufficiency of the prison accommodations have, we understand, reduced the inspectors to the necessity of applying annually, for the pardon of a number of the convicts, to make room for others; and by this means it has happened, that the average term of imprisonment actually passed, has been far below the amount inflicted by the sentence of the courts. The operation of a state of things like this, could not be otherwise than mischievous. The frequent changes in the persons of the inhabitants, the occasional enlargement of the most vicious, the abbreviation of the term of punishment of all, would probably, if the discipline of the prison were in other respects perfect, lead to the results we have mentioned; and which have caused the prison of Philadelphia to forfeit the high character it once possessed, and to become a reproach to the city in which it is located, and to the state by whom it ought to be superintended.

The prevailing evils of the prison may, therefore, be considered partly as the necessary consequences, and partly as abuses of the system established by the acts of 1790, 1794 and 1795. The same is true, we have reason to believe, of most, if not all, the prisons in England and this country, established about the same period. Differing as men do in some respects as to the causes of these evils, all agree that a change or reformation of practice is imperiously required by every motive of policy and humanity. In what manner the system shall be reformed however is a question, upon which as we have already intimated, there exists a great diversity of sentiment: The different suggestions that have been made with this view will be considered under the remaining divisions of punishments.

#### *S. Solitary confinement, without labour of any kind.*

This species of punishment has been advocated by some respectable persons, in our commonwealth, and elsewhere, with great earnestness and animation, under the conviction, that no other project promises so favorably for attaining the great end of penal infliction. It is alleged, that the suggestion of solitary confinement as a judicial punishment for crime is entirely new, and deserving at least of a trial; that no objection can be urged against it arising from the experience of other prisons, while our own knowledge of its operation as a means of prison discipline, authorises us to entertain the most favorable expectations of its efficacy on a broader scale and under suitable auspices.

To exhibit as fully and fairly as possible the views of those who would recommend to the adoption of this commonwealth the system of solitary confinement without labour, we shall lay before the legislature the arguments and reasoning by which they are enforced, together with such observations as have occurred to us in relation to them.

1st. It is alleged by the advocates of solitary confinement, in the first place, that it possesses the important and unique advantages of separating the criminals from each other; thereby rendering each con-

vict, for the time, an insulated being; and both sheltering him from the contagion of evil company, and rendering harmless whatever stock of vicious propensities he himself might possess.

The prevailing evils of penitentiaries have arisen, it is said, from society. The association of individuals has been at all times and under all circumstances, powerful both for good and for evil. It produces some of the best results for society when good men unite; and in the same proportion, in the society of a prison, it lends to vice and crime, a moral support of incalculable strength. The mere aggregation of individuals is well known to inspire sentiments of confidence and hardihood. When this association, however, ripens into intercourse, the consequences become positively and widely mischievous. A single irreclaimable convict is sufficient to taint the whole mass, to keep down any springing wish for amendment, to sear the conscience, and to excite the flagging or doubting spirits. The relation of former exploits, the expectation of new scenes of a similar character, but more fortunate result, the communication of lessons of skill and experience in the business of villainy, and the combination of new schemes to be executed in the event of enlargement, are all the ordinary routine of the intercourse of convicts. Whether the association occur by day or night, the result is pretty much the same. No system of inspection or discipline can prevent an understanding between convicts, when they are allowed to be in each other's company. The principle or feeling of association still continues, however strict the watch kept over them, and stands in the way of every attempt at reformation. No remedy it is alleged can be found for the radical evils existing, other than close, strict, solitary confinement by day and night, during the whole term of imprisonment.

2. Solitary confinement, without labour, will operate, it is said, as the severest kind of punishment upon the individual convict; and, more than any other will produce a beneficial impression upon the public mind, and serve as a terror and warning to all evilly disposed.

The advocates of this punishment derive their arguments in support of this position from the well established truth of the universal attachment of man to social intercourse. Association is one of the first impulses of human beings in all conditions and character; as it is found to be one of the strongest motives of action in every age.—Whatever therefore counteracts or mortifies the ruling passion, must be felt with a sensibility proportioned to the intensity of the impulse.—Even the narrowing the circle by compulsion is a severe punishment. How severe then, it is argued, must be the suffering of total and absolute seclusion from all mankind; how subduing the misery of confinement within a narrow cell, without the possibility of beholding a human form, or hearing a human voice, without the least relief to the monotonous round of existence, or the slightest variety in the contemplation of the same gloomy objects. Pain, even of the most excruciating character, may be inflicted on a criminal, but in any event it must be of short duration, and, its cessation or suspension produces sensations, more agreeable than existed previous to the infliction.—

But the unbroken tenor of solitary confinement knows of no degrees of suffering, and no comparison of feeling. It is all, one uniform unvarying infliction of the kind least easy to be borne by human feelings; and as such must be felt and acknowledged by the criminal as the severest of punishments; while it must be admitted to be a just retribution for his violation of the duties of social life, to withdraw him from society, and leave him to drink of the bitter waters of perpetual solitude.

In proportion to the theoretical weight of this punishment, it is supposed will be its influence on society. The spectacle of offended law consigning the culprit to a living tomb; the ideas attached to unmitigated solitude; the impression produced on those who enter the walls of the prison by the sight of the cells, and the inscriptions which it has been proposed to place upon them, cannot fail, it is said, to engender feelings of awe and terror, which will prevent the commission of crime. If the experience of criminals is to have any weight with their associates, surely those, who return to society after the expiration of their term of imprisonment in solitary cells, will have arguments enough, arising from their own recollections, to deter their companions from evil courses. As a punishment and warning, therefore, solitary confinement is supported.

3d. Solitary confinement is beneficial, for a third reason, say its advocates, because it operates directly and forcibly upon the *mind*.—When the sources of external excitement are removed; when the mind is no longer supplied with images and consolations from abroad, it must turn back upon itself for employment, and thus, will reflection be generated, and made active. Now, reflection in the mind of a criminal, must be beneficial, because it will convince him of the error of his ways, and lead him to resolve upon thorough reformation. The passions will be subdued by solitude, the suggestions and excitements of evil counsellors will no longer pre-occupy the mind; and the seeds of good, which may have been originally sown, but which unfavorable circumstances have checked, may spring up under auspices propitious to their development. The bible or some other suitable book will always be at hand to assist and enlighten; and thus in the retirement of the cell, the foundation may be laid of a virtuous and useful after life. Complete reformation, therefore, it is said, may confidently be looked for from a system of solitary confinement.

4th. In the *fourth* place, it is argued, that the public will gain by the adoption of this system, because the term of imprisonment will necessarily be shortened. The severity of the punishment of close solitary confinement, is said by its advocates, to be so great, that a much lighter term of sentence will be found necessary. Where a sentence of *seven* or *fourteen* years imprisonment is now inflicted, *three* or *six* years in solitude, will be found amply sufficient for the purpose of punishment. Thus, the public will save as much as the difference between the periods of imprisonment; and moreover, will probably be benefited by receiving back a repentant and reformed prodigal, instead of the confirmed and pestilent profligate, whom our prisons are now daily discharging upon the community.

Such are the principal advantages, which, a number of our worthy fellow citizens believe, will arise from the adoption of the system of rigid solitude by day and night, without labor. Labor of any description, or to any extent, is earnestly deprecated by them, as interfering with the symmetry and hopes of their plan. It has been objected to by them, because impracticable (except under peculiar circumstances) within the walls of the cell, and otherwise inconsistent with strict solitary confinement; and because it would be considered as a relaxation and an amusement, and therefore at variance with the main object of solitude, namely, severe punishment. These objections, however, will be fully stated and considered hereafter.

We propose, now to examine the several arguments we have stated, in support of the advantages which have been assumed for solitary confinement without labor; and shall proceed to express, as briefly as possible, the view which we ourselves have been induced to take of the subject. We shall consider the several points in the order we have already stated.

1. In the first place, then, it is argued for the system, that it puts an effectual period to all intercourse between convicts, and that thereby the great evils of the existing penitentiaries are removed. This argument, it will be seen, applies to solitary confinement of every character, with, or without labor. We shall therefore consider it in reference to both.

We are prepared to admit, in the fullest extent, that the intercourse between convicts is an evil of the greatest magnitude; one which, as its taints and poisons the whole system of penal discipline, and, by its consequences, infests even the population outside of the prison, no effort or sacrifice would be too great to destroy, and, which any remedy, however severe, must be adopted to cure. Our own researches and personal inspection of prisons, made under the direction of the legislature, have given us ample reason to be satisfied, that the evils of a communication between convicts, have not been exaggerated by those writers, who have so earnestly invoked public attention to the subject. We have witnessed, in more than one penitentiary, a confident and hardened assurance in the looks and manners of the convicts, which argued, what indeed was abundantly evident to the observation, the almost total want of restraint over their intercourse with each other.—Every where, reconviction was in proportion to the looseness of prison discipline, which has rendered most of our old penitentiaries the theatres of ease and profligacy, instead of the abodes of sorrow and repentance. Deeply impressed as we are with the sins and dangers which infest these hospitals of crime, we should be among the last men in this community to suggest a doubt of the necessity and practicability of separating convicts from all intercourse with each other. We are anxious, indeed, to urge their separation by every argument in our power. But, while sincerely desirous to prevent the pernicious communication between convicts, we prefer the adoption of such measures for the purpose, as will comport with the general system of penitentiary punishment.

It is not, we think, the dictate of a sound philosophy to proscribe *all* assemblages of convicts, because there are times and circumstances in and under which such assemblages might be dangerous; any more than it would be wise in men, not convicts, to condemn themselves to all the rigors of solitude, because there are evils and dangers in a general intercourse with mankind. The practice of abjuring society on account of the crimes and follies that exist in it, which prevailed in the earlier ages of christianity, has, in most countries, given way to a sounder and safer system, founded on a more enlarged view of the capacity and duties of our nature. It is more prudent, we conceive, and consistent with the spirit of the age, to examine into those points, in which the structure of society is defective, or dangerous; to avoid social intercourse in whatever quarter it is prejudicial, and to keep a strict guard and watch over ourselves in all permitted relations of society.—The principle is the same, we respectfully suggest, with regard to the little community of convicts. It is more philosophical, perhaps more humane, to investigate the origin and causes of the corruption in penitentiaries; to inquire whether the evils attending the intercourse of criminals may not have arisen from *particular*, rather than *general* causes: whether they are not attributable to some particular seasons of their intercourse, rather than others; and whether it is not practicable to modify and govern that intercourse, so as to prevent the recurrence of the evils complained of rather than to embrace the sweeping and expensive experiment of total solitude. Those, who would proscribe all assembling of convicts, no matter for what good purpose, lest evils might collaterally arise, have, it seems to us, overlooked or neglected, an intermediate process by which perhaps the same end may be obtained, at less hazard, and under more favourable circumstances for the public.

We shall therefore, proceed to consider, under what circumstances the intercourse between convicts is most prejudicial to themselves, and inconvenient for the public, and, how far the prevailing evils and vices of penitentiaries can be obviated, without the total destruction of all associations.

It may be assumed as demonstrable, that the *night season* is that, in which the communication between convicts, who are in the same apartment, can take place with the greatest facility, and to the most dangerous extent. According to the prevailing and indeed necessary system pursued in the prisons at Philadelphia, Boston, New York, Baltimore, and some other places, the prisoners, after having finished their labor for the day, are locked up in rooms in size of from twenty to thirty feet square, to the number, on some occasions, of *thirty* in each room; where they remain, without inspection, until the hour for breakfast next morning. During the summer season, this period amounts to *eleven* hours; and in the winter to *fifteen*, and, on the average of the whole year, is equal to the period passed outside of the sleeping rooms. One half, then, of the allotted time, for which criminals are sentenced to confinement in these prisons, and, which the law considers as passed in penitentiary discipline, is in point of fact, either spent without

any discipline, or control at all, and as we shall presently see, in unbounded license, or else utterly forgotten in sleep. We might add to this period of exemption, the Sundays, and those days, in which, in consequence of unfavourable weather, or other circumstances, the convicts are prevented from performing their usual labor, and, necessarily, locked up in their rooms; but we are willing to confine ourselves to the period between the cessation of labor at night, and the resumption of it the next morning. It might easily be conceived, were there no existing proof, how this interval would be spent by a company of criminals, where no control or inspection could conveniently be maintained over them. But, we are not left to conjecture on this subject. All accounts agree in representing these night rooms as the means of the most corrupting communication, and the scenes of the most hideous depravity; as the asylum of free and unrestrained conversation, where the opportunity is eagerly seized to relate former exploits, to plan new adventures of villainy, to elevate the character of crime, and to dissipate the suggestions of conscience. We shall quote a few passages from documents of authority which support this position.

In a memorial of the "Philadelphia society for alleviating the miseries of public prisons," and of the inspectors of the prison of the city and county of Philadelphia, presented to the legislature of 1803, it is stated that "the convicts are for want of room, obliged to be kept in too large numbers, in one apartment, by which the amelioration of their morals is either prevented, or greatly impeded, the keeping of them attended with great hazard; and they have more opportunity of laying plans of escape; their labour is rendered less productive than it might be, and the idea of solitude is nearly obliterated." In the valuable reports of the Boston "Prison Discipline Society," we find the evils of intercourse at night among convicts, so fully and emphatically stated, that we shall we trust, be excused by the legislature for copying their language.

"Another cause of the increase of crime is the crowded state of the night rooms in the penitentiaries. In the New Hampshire and Vermont penitentiaries, from *two to six* are lodged in each room; in Massachusetts from *four to sixteen*; in Connecticut from fifteen to thirty-two; in New York city twelve; in New Jersey ten or twelve; in *Pennsylvania twenty-nine, thirty and thirty-one*; in Maryland from seven to ten; in Virginia from two to four. In Philadelphia the rooms are eighteen feet by twenty; and it is a common rule to allow to each convict a space on the floor *six feet by two; as large as a coffin*. If a convict is not already lost to virtue, it is difficult to conceive in what manner his ruin can be consummated more speedily, than by thrusting him into such a place."

Several opinions of competent persons are cited in support of this conclusion. Mr. Pillsbury, the superintendent (at that time) of the New Hampshire penitentiary, states that the plots, which have been designed during his term of service, have been conceived and promoted in the night rooms. He has spent much time in listening to the conversation of the convicts at night, and thus has detected plots, and learned whole histories of villainy. Judge Cotton, superintendent of

the Vermont penitentiary, declares that great evils might be avoided, could the state prison be so constructed, that the convicts might lodge separately from each other. The commissioners of the Connecticut legislature, state, that their principal objection to the existing prison, in that state, is the manner in which the prisoners are confined at night; turned in large numbers into their cells, and allowed an intercourse of the most dangerous and debasing character. "It is here," they add, "that every right principal is eradicated, and every base one instilled. It is a nursery of crime, where the convict is furnished with the expedients and shifts of guilt; and with his invention sharpened, he is let loose upon society, in a tenfold degree, a more daring, desperate, and effective villain."

Similar opinions have been expressed by the superintendants of the penitentiaries in New York, New Jersey and Virginia; and the expediency of applying the proper remedies has been urged in emphatic language by GOVERNORS PLUMER of New Hampshire, LINCOLN of Massachusetts, WOLCOTT of Connecticut, and CLINTON of New York. We might cite many passages from the writings of capable observers in corroboration of the facts above stated, but we forbear to press them on the legislature.

There is one feature in the miserable picture of evils produced by crowded night rooms, of a character so frightful and revolting, that we would gladly pass by it without comment, did it not appear to us necessary to impress deeply on the minds of the legislature, the paramount importance of separate dormitories. We allude to the nameless and unnatural crimes, which concurrent testimony proves to have been frequently perpetrated in those chambers of guilt and misery. We are spared the task of entering into any particulars upon this subject by the nature of the offence. It is sufficient to remark, that the prisons of Massachusetts, Connecticut, New York and Philadelphia, have been defiled and outraged by the commission of sins, which, alone, require of the legislature in imperious language, an immediate and radical change of system. In the eloquent language of the governor of Massachusetts, "Nature and humanity cry aloud for redemption from this dreadful degradation. Better even that the laws were written in blood, than that they should be executed in sin."

It appears then, from this authoritative testimony, that the great evils of intercourse between prisoners, arise from their association *at night*. It would seem to follow that a sufficient remedy would be found for these evils in abolishing *all* intercourse at night, by providing separate rooms for the prisoners.

Let us consider, now, whether association together *in the day time* be necessarily productive of evils, of a nature imperiously to require the separation of criminals. If we are able to shew, that convicts *may* be brought together in the day time, without necessarily producing the evils so justly deprecated, then we shall have gained another, and a very important step in the discussion of this important subject.

We defer, for the present, an examination of the question whether the employment of convicts at hard and productive labour jointly, or

severally, is or is not desirable, with reference to the public, and to themselves, and assume it for the argument's sake as settled, that labor in some shape is preferable to idleness. If labor be not imposed by law, and the discipline of the prison, as a duty and punishment, then we agree, at once, that solitary confinement is the only thing left, and that it must be adopted and inflicted to any extent, and at any hazard, rather, than that the spectacle should exist, for a moment, of the unchecked communication of an idle and profligate horde of convicts. But if labor, strictly and laboriously pursued, be an essential part of the system of discipline, and, if the convicts be brought together in the day time for this and no other purpose, then, we believe and maintain, that perfect silence, submission and order to the full extent of excluding *all* communication between them, during the period of labor, may be enforced by the employment of a reasonable number of keepers, or superintendants, of common firmness and ability. The first and essential points, in this view of the question, undoubtedly are the employment of a competent number of persons, to direct and enforce the labor of the convicts, in their workshops, and the enactment and rigid enforcement of severe penalties for the transgression of the rules, requiring strict silence and abstinence from all intercourse by looks or gestures. The first of these is surely not difficult, nor does it appear to us *a priori*, that a large body of superintendants would be requisite. If the natural bent of a convict's mind can be so far constrained, as to compel him to labor, and not only that, but by the force of discipline he can be brought to execute the most difficult and delicate workmanship, as every penitentiary in this country has witnessed, is it unreasonable to suppose, that the same class of persons may be trained and enforced to habits of silence and order? The same authority which compels them to work against their will, is surely competent to prevent any communication between them, while working. Should, however, a larger number of superintendants be required for the purpose, than are generally used, at present, in the old penitentiaries, the expense, we think, would be effectually counterbalanced by the increased amount and value of the products of their labor, consequent upon a more fixed and constant attention to their work. We have said also that *severe* punishments, rigidly and instantly applied, will compel the observance of the prison discipline. The word is used here, and in other passages, to signify that painful and rigorous suffering which we think justice and policy require to be endured by the violators of the law. We take the occasion to remark, that the course of our enquiries and observations has not tended to impress us with the belief that any great benefit is to be expected from appeals to the reason or the moral sense of convicts in general. Many humane persons, we are well aware, conceive that persuasion and gentle treatment, will be found sufficient to reform offenders, and to uphold both the laws of the land, and the discipline of prisons. Governed by these amiable sentiments, they are apt to regard with aversion all painful punishments, and to consider those who would compel obedience to the laws, as unnecessarily severe, and unjustifiably vindictive. Led too far by

their theory, their sympathies seem to be all on the side of convicts; and the comforts and conveniences which they would place in the way of a criminal, to induce him to reform, are so great, as to render his situation incomparably more pleasurable and gratifying, than that of many honest persons in the community, who have never violated the laws. Our view of the character of convicts in general is, however, unfortunately, a different one. We think that the impressions most likely to be effectual with them, are those which are addressed to their bodily wants or feelings. It may be, that in some foreign countries, an arbitrary exercise of power has immured in prisons the good, and wise, and virtuous, for whose sufferings a just sympathy ought to be felt; but, in our own country, where the means of obtaining an honest livelihood are abundant, and where no one can be subjected to punishment, except for a wilful violation of known laws, proved against him in open courts, before a jury of his fellow citizens, and where the heaviest punishment that can be inflicted, for the worst offences, amounts to no more than restraint of the person for a few years, with an ample provision of food, and clothing, and fuel, and comforts of all kinds, we really think, that there is little danger of convicting any number of virtuous persons, and still less occasion for sympathy with the lot of those condemned. The great mass of the tenantry of our penitentiaries, appeared to us, from personal observation of their manners and habits, to be persons of coarse, brutal temperament, of stupid ignorance, and low cunning, or of sufficient intellectual capacity, and some cultivation, but an entire aversion to the inconvenient restraints of the law, and of a spirit to obtain a living in any other way, than by the pursuit of honest labor. To such persons, we have always thought, and our opinion has been confirmed by all the superintendants of prisons, with whom we have conversed, that there could be but one kind of argument addressed with any hope of success, one, namely, that came home to their sense of bodily suffering. Appeals to the reason or consciences of such persons, must, from the nature of things, be utterly ineffectual; and more especially, do we think, that severe personal punishments ought to be inflicted for the violation of prison discipline. We believe that we possess a just sense of the frailty and impurity of our common nature, and of the degree of forbearance that ought to be shown by erring men towards the sins of their fellow creatures, yet we think, that there must be a limit to the exercise of this charity, otherwise the distinctions of right and wrong will lose their value and efficacy. Now, when a criminal, who in Europe would pay with his life the penalty of his transgressions, is by our merciful code simply confined within a well warmed, well aired, and in all respects comfortable dwelling, called a penitentiary, with sufficient food and abundant clothing, it is not we think bearing too hard upon him to require, that he shall conform to the regulations of the prison, by performing his allotted share of labor, (which in almost all cases is less in amount than most honest laborers out side of penitentiaries perform,) and by abstaining from all conversation or other intercourse with his fellow convicts; and, if he refuses to adhere to these regulations, it is not, we



think, cruel or tyrannical to inflict immediate punishment upon him. And yet there are, on this, as well as on the other side of the Atlantic, worthy and respectable men, whose sympathy for criminals seems to increase in exact proportion with the growth or heinousness of their offences. If they violate the laws of the land, they are objects of interest and feeling; but if, after having been condemned to prison, they violate the laws of the institution, and thus become doubly criminals, and manifest their ingratitude to the community, which has spared their lives, the sympathy and feeling for them increases in due proportion. We confess that we are not moved by sentiments of this nature. We have thought it to be our duty to recommend such measures as appeared to us most effectual for maintaining the due observance of the laws, both in prisons and out of them; and we have ventured to suggest the adoption and enforcement of such punishments, as we thought would most completely reach the assailable points of criminals. We shall hereafter take occasion to state particularly the kind of punishment, which we think will prove sufficient to deter criminals from violating the prison regulations; among which we include those enacted to prevent any communication between the convicts while in their work shops. What we have here advanced with respect to the practicability of bringing convicts together for the purpose of labor, without danger of corrupting intercourse, is, as the legislature will have observed, founded on reasoning and opinion only. We shall hereafter, advert to those prisons in which the experiment has been tried, and, as we believe, with decided success.

It is said, however, by the advocates of solitary confinement that any association of convicts is prejudicial, no matter how rigid the discipline maintained among them; and that the mere sight of each other, or the knowledge of each other's presence is sufficient to keep alive a spirit, at variance with the design of punishments. We cannot agree with this proposition. We cannot understand how the mere knowledge of each other's presence, without conversation, or any other medium for the exchange of ideas, can operate to produce a corrupting and deleterious effect on the habits of convicts. Example is supposed to be of powerful influence over all conditions of mankind. We should suppose, therefore, that the spectacle of an orderly, industrious, and submissive community, would produce a happy effect rather than otherwise, and, that convicts who entered the walls with their usual aversion to regular labor, and disposition to license, might by the force of example be brought to acquire habits of sobriety and industry. Every thing, therefore, seems to us, as we have already intimated, to depend upon the degree of discipline maintained. If the prisoners in the work shops are allowed the use of their tongues, and hands, and eyes, we admit, most readily, that these apartments may become the scenes of as much corrupting conversation and profligate intercourse as the night rooms. But, on the other hand, if strict discipline be maintained, if conversation be totally and effectually prohibited; if the hands of the prisoners be kept steadily employed upon their work, so that signs cannot pass between them, and if their eyes be likewise fixed on their la-

bor, as must, necessarily, be the case, in most instances, then, we cannot think, that the assemblage of convicts in common workshops, classed as they may be, can possibly be prejudicial to the objects of penitentiary punishments. Those who aver their belief to the contrary have not, as far as we have been able to ascertain, supported their averments by any specification of the manner in which the contagion may be communicated, or by any evidence of facts derived from existing prisons. It may be remarked in addition, that if the mere consciousness of the neighboring presence of other convicts be animating and injurious, then, the knowledge that convicts are in adjoining cells, must also excite a feeling of companionship, equally prejudicial; and for that reason even this kind of confinement should be avoided; and the cells ought to be built, no matter with what expense, at a considerable distance from each other. We do not believe, however, that either in one case or the other, mere vicinity would produce any evil effect on the prisoner. We shall in another part of this report advert to the testimony in corroboration of our views with which an examination of some of the prisons in the United States has furnished us.

We submit, therefore, that it is sufficiently manifest, that convicts may be employed together, in common workshops, without necessarily incurring the evils deprecated, and the existence of which is urged as sufficient to justify their total separation. We have already shown, that these evils are to be attributed to the assemblage of convicts in common *night rooms*, and we have suggested that the most rational mode of removing the complaint is the obvious one of separating the prisoners at night.

We answer then to the first argument urged in favor of total solitary confinement, that to obtain the desired result, it is not necessary that convicts should be separated from each other's presence on *all* occasions; and therefore, that infliction of solitary confinement would be an exercise of power unphilosophical in principle, and uncalled for by circumstances.

2. The next argument in favor of solitary imprisonment without labor is derived from its supposed efficacy as a positive punishment upon the offender.

The punishment of solitary confinement consists, as has been already stated, in the severance of the connexion between the individual and society, and, especially in the case of solitude *without labor*, in the monotony of the convict's life. The character of this species of punishment has been described in strong language, both by its advocates and opponents. In the letter of the Inspectors of the Philadelphia Prison to the committee of the senate, in 1821, to which we have before referred, we find the following description of its supposed practical operation: "To be shut up in a cell for days, weeks, months, and years alone, to be deprived of converse with a fellow being, to have no friendly voice to minister consolation, no friendly bosom on which to lean, or into which to pour our sorrows and complaints, but, on the contrary, to count the tedious hours as they pass, a prey to the corroding of conscience, and the pangs of guilt, is almost to become the

victim of despair."\* On the other hand, *William Roscoe* of Liverpool, an earnest opponent of the system, makes use of the following expressions, in relation to solitary confinement. "This mode of punishment, the most inhuman, and unnatural, that the cruelty of a tyrant ever invented, is no less derogatory to the character of human nature, than it is in direct violation of the leading principles of christianity"; and, afterwards, says of the convict in solitude, that he will pass "through every variety of misery, and terminate his days by an accumulation of suffering which human nature can no longer bear."† And we have the opinion of the great and virtuous *La Fayette* that, to adopt this system would be, "to revive, and restore the cruel code of the most barbarous and unenlightened age.‡

Notwithstanding, however, that such high authorities unite in representing solitary confinement as an *universally* severe and oppressive punishment, it may be allowed to us to suggest that the expressions used by both parties, are too broad and general; and, we may be permitted to enquire, whether a distinction does not exist in human nature, which renders solitude as a punishment grossly unequal. It will be remembered, that the opinions of the writers first quoted refer to the operation of solitary confinement on the *mind* or *feelings* of the convict; in which light also it is chiefly viewed by *Roscoe* and *La Fayette*; and it is to this point that we propose now to confine ourselves. We shall have occasion hereafter to treat of its effects upon the *body* and *senses*.

It seems to us, therefore, that in its effect upon the feelings or sensibilities, compulsory solitude may produce very different results. If we suppose the case of a person of delicate moral organization, whom a course of education and training may have rendered acutely sensible to the stings of shame and remorse; we can conceive that, for a time at least, the weight of solitude upon such a person would be almost intolerable. The uninterrupted reflection on the past, which would present only scenes of horror and guilt, the upbraidings of conscience, and the prospect of the unhappy future, would combine to torture the mind of such a convict, into a condition to which bodily pain would undoubtedly be preferable. Whether a total overthrow of the intellect would not be the consequence, in the case of such an individual, is a question into which we do not at present enter. Supposing the mind still to remain unshaken, it may still be a question, whether the all-powerful force of habit may not, even in such a case, render solitude familiar and endurable. However this may be, the effect of solitude upon the educated and refined, is not to be considered as the measure of its operation upon the great mass of convicts, who certainly are not persons of very lively sensibility, or active consciences. It will be borne in mind, that it is of solitary confinement *in idleness* that we are

\* Journal of the Senate 1820-1, page 337.

† Roscoe on Penitentiary discipline, London 1827, p 24, 26.

‡ Letter of Gen. La Fayette, quoted in Roscoe on Penitentiary discipline, page 31.

now speaking, and that, in general, it must be inflicted upon persons, whose moral sense has become blunted by long familiarity with vice, to whose remembrance there seldom arise the endearing thoughts of home and domestic relations, and by whom laborious industry, in any shape, is felt as one of the most onerous and mortifying inflictions. To such men, it seems difficult to believe, that mere idleness, though in solitude, can appear as a punishment of a very grievous nature. It is true, that they are cut off from their ordinary amusements, and profligate excitements; but this is the consequence of every restraint in a well regulated prison, and is not peculiarly the merit or the grievance of solitary confinement. It is contended that the mere sameness and monotony of life, produced by idle solitude is, of itself, a punishment of the harshest kind, to all classes of convicts; that the slow progress of time, and the absence of any thing to occupy or divert attention, must be felt with a degree of intensity, in comparison with which hard labor would appear as a luxury and amusement. Now, we have two remarks to make upon this argument. In the first place, no allowance is made for the working of an agent, which, as we have already remarked, is all-powerful for good or evil. We mean *habit*. It is a true, though very common remark, that there are few things to which human nature will not accustom itself. The first days or weeks of solitude will, doubtless, be irksome to all descriptions of convicts; and it is, perhaps, because heretofore it has not been the practice to confine convicts in solitude for more than a few weeks in Philadelphia and some other places, that such exaggerated ideas of the influence of solitary imprisonment have been entertained. Gradually, however, by little and little, will solitude become less intolerable to the convict; until, as the history of some European prisons informs us, if the imprisonment be greatly protracted, the mind adapts itself with wonderful ease to its situation, and becomes almost reconciled to its new position. Under such circumstances, sources of amusement and interest are found, of which it is not easy for those, to whom the world is open, to form an idea. We believe it has never been intended to exclude books from the solitary cells. Wherever the convict is able to read, he will find a sufficient source of amusement and occupation for his mind, in literature to prevent the monotony of his life being felt so severely. We know it will be said, that none but books inculcating moral or religious duties will be permitted, and therefore the moral effect of their introduction will be good. We admit the benefit of them, wherever the convict is able to read; but we shall argue, hereafter, that all this benefit of moral instruction may be obtained, on another system, without perpetual solitude. *Habit*, therefore, we conceive, will familiarize the mind with the monotony of solitude, and teach it to value and be interested in subjects of comparatively small moment.

In the second place, the hope of pardon, where the power exists, and the approach of the period of discharge, where the confinement is limited by the sentence to a term of years, will probably operate to reduce the quantum of suffering. Where the law sentences the criminal to solitude for life, and no hope of pardon is permitted, there is



reason to believe that despair soon terminates the career of the victim. Upon this point, we have been favored with the opinion of the directors of the Virginia penitentiary, at Richmond, as expressed in their report to the legislature, in December, 1825, in which it is stated, that since the pardoning power had been taken away from the executive, no instance had occurred of a convict, sentenced for life, surviving an attack of sickness. In every case the attack proved fatal.—In the comparatively short period, however, now allotted in this state for penitentiary punishments, and the still shorter term which the advocates of solitary confinement propose to affix in future, the prisoner will have before his eyes, in no remote perspective, the termination of his solitude, rendered still more brief by the hope of pardon. Under such circumstances, the mind, if not interested in some industrious and profitable pursuit, such as a well conducted prison labor ought to be, will, we conceive, be frequently engaged in planning schemes for future occupation, of which it is to be feared that honest labor will form only a small part. We are told, by LA FAYETTE, that in his solitary dungeon at Olmutz:—"During the whole time of my imprisonment, all my thoughts were directed to one single object, and my head full of plans for revolutionizing Europe."\* And he adds, speaking with reference to the system of solitary confinement, proposed to be put in execution at the new prison near Philadelphia;—"So I think it will be with the thief; and when he shall be restored to society, it will be with his head full of plans, concerted and devised during this singularly favorable opportunity." Thus engaged in speculation for the future, and animated with the hope of an early discharge, it does not strike us, that, either the reflection on the past, or the monotony of confinement, will operate with the severity and effect attributed to them, upon the great mass of convicts. In order to ascertain how far our opinion and conjectures were supported by facts, we have taken some pains to collect all the information that is extant in print upon this subject, and to make the necessary inquiries of persons conversant with prison discipline, and shall proceed to lay before the legislature such testimony as we have obtained. We begin with foreign countries.

In the year 1819, the British house of commons appointed a committee "to inquire into the state and description of gaols, and other places of confinement, and into the best method of providing for the reformation, as well as the safe custody and punishment of offenders." This committee, having called before them a large number of persons, who were considered most competent to give testimony on the operation of prison discipline, made a voluminous report, which we have procured from England. Appended to the report, are the minutes of evidence, taken by the committee, from which we extract the following passages, in corroboration of the sentiments we have expressed.

Mr. John Orridge, governor of Bury jail, gave it as his opinion, that "solitary confinement operates in different ways; on an idle,

\* Letter before referred to.

sluggish mind, it has no effect; on men of an active mind it operates very differently." In answer to an inquiry, whether it would be prudent to continue a system of solitary confinement, without employment, for a length of time, he replied, "No, I should not, for after a certain period, I think, it becomes familiar, and has not the same effect; but for seven, fourteen or twenty-one days, I think it has a good effect."\*

Mr. William Brindle, governor of the gaol at Ilchester, for eleven years, having been asked whether a short period of solitary confinement was not sufficient to subdue the most refractory prisoners, replied, "It may in many cases; but I think if a short period of solitude will not be sufficient, a longer one will not. I think, after a certain time, a person in solitude gets hardened, he gets callous, and does not care what becomes of him." He added that he spoke of solitary confinement without labor.

Mr. Thomas Bruton, governor of the gaol at Devises, testified (among other important matters to which we shall recur hereafter,) that solitary confinement had rather an ill effect upon the spirit and disposition of the prisoners; and being asked in what respect, he answered, "dullness and constant heaviness; the prisoners have appeared dull and heavy in consequence of their solitary confinement."

Sir G. O. Paul, an acting magistrate of the county of Gloucester, for seventeen years, expressed an opinion, that solitude *with* occupation or employment would reform the most hardened criminal; but he admitted that "the effect of solitude depends on the character of the patient;" and generally, he thought, solitude ought not to be continued more than a month, without some occupation of mind or body.

We might multiply extracts from the testimony laid before the British committee, to the same effect; but these will probably be sufficient to show the sentiments entertained in England at that time. A very recent report of a select committee, appointed at the last session of the British house of commons, "to inquire into the cause of the increase in the number of criminal commitments and convictions in England and Wales," and which bears date June 22d, 1827, furnishes equally strong evidence of the opinions entertained there at the present time. We make the following extract, as sufficient for the purpose: "As for solitary confinement, it operates on different individuals very differently. A sluggard would sleep the greater part of the time; whereas it would drive an active person nearly to madness."

In our own country, the experience and observations of persons best qualified to judge of the operation of solitary confinement, as a punishment, is not less conclusive. Captain Lynds, the very intelligent agent of the New York state prison at Sing Sing, and who was for several years superintendent of that at Auburn, agrees with the English committee in considering solitary confinement as extremely unequal in its effects. He also satisfied himself by the experience of two

\* Report on gaols, p. 380.

years infliction of it, the particulars of which will be given hereafter, that the continuance of solitude, for any considerable period, hardened the disposition of the offender, in a great majority of cases, and rendered him either reckless or stupid. According to his observation, a convict left to himself in a solitary cell, would in most cases pass his time in utter inactivity both of body and mind, and, unless roused by external application, finally settle down into a condition of brutal torpor and listlessness.

The enlightened and humane persons, who constitute the Prison Discipline Society of Boston, bear the same testimony. In the first report for 1826, (page 26,) they have enumerated among the objections to solitary imprisonment, the inequality of its operation, considering it as a terrible punishment to the man of cultivated intellect, and acute sensibility; but as a comparatively light infliction upon the ignorant, the dull and the torpid.

In the state of Maine, the experiment of solitary imprisonment without labor, has been tried to a considerable extent. The result in respect to the point we are now considering, corresponds with the ideas we have advanced, and the experience of other places. The following extract from the report of the superintendent of the prison is taken from the second report of the Boston Prison Discipline Society, (page 64.)

"The great diversity of character, as respects habits and temperament of body and mind, renders solitary imprisonment a very unequal punishment. Some persons will endure solitary confinement, without appearing to be much debilitated, either in body or mind, while others will sink under much less, and if the punishment were unremittingly continued, would die or become incurably insane." Several cases are adduced to prove that long periods of solitary imprisonment may be endured by some, without sensible suffering, while in others both mental and bodily diseases have been produced.

We shall not augment the volume of our report with further testimony and reasoning on this point. Sufficient we think has been produced to show that solitary imprisonment, without labor, is not deserving of commendation as a regular, and equable, and certain punishment. In the examination of the question we have taken it for granted that *complete* seclusion was practicable, and have been content to discuss the subject on that basis. We shall probably, hereafter, be led to inquire whether it be practicable to cut off the convict from all intercourse with society, consistently with some essential provisions of every humane system of prison discipline. If it shall appear that entire separation from all intercourse with other persons is not practicable, then, of course, the degree of punishment inflicted by solitary confinement, without labor, is proportionably lessened, if not rendered altogether abortive.

3d. The next argument, in favor of solitary confinement without labor, is derived from its supposed tendency to produce serious and valuable reflections, in the mind; whereby the heart and disposition of the offender may be reformed.

The advocates of this system, it is to be observed, would devote the *whole* time of a convict to solitary meditation upon past crimes, and future prospects. No system, which would allot a suitable portion of time to this purpose, nothing, in fact, short of this perpetual unmixed meditation, from the hour of waking to the hour of sleep, appears, in the minds of the friends of this theory, sufficient to accomplish the object. We reply, however, to the arguments by which their views are sustained, that in the first place, it is not clear to our apprehension, that amendment of the purpose or heart will always, or to any considerable degree, be the result of abandoning convicts to their own reflection. That the natural disposition of man is prone to evil, is a truth taught by holy writ, and confirmed by all experience. Of the crimes and offences, for the commission of which the civil magistrate is called upon to impose the penalties of the law, it is well known, that very few are committed by persons, who have had the benefit of a religious or moral education, by which men are taught to keep down the natural propensities to sin. A very large proportion of convicts consists of persons of neglected education, and habitual vice, in whose hearts the prevailing and rooted sentiment is one of disregard for moral obligation, and of contempt or hatred for the law of the land. To such persons, of what avail would be solitary reflection in a moral point of view? It might induce regret for the commission of the offence, since its result was disastrous; or mortification at the triumph of the law; but it is hardly to be expected, that the foundation upon which, alone, true repentance and a determined purpose of amendment can be erected, can be prepared by unassisted reflection; or that we can reasonably hope to gather a harvest of good out of the barren waste of a convict's heart, in which probably the seed of a single virtue has never been sown. We fear that those who look for this voluntary reformation, from the internal fountain of the heart, will, in most cases, be disappointed; and that, instead of a lively and sincere penitence, we shall witness a result, similar to what has already taken place in some of our penitentiaries, namely, a sullen dogged indifference, which is content to sleep through the period of probation, or an affected and hypocritical conversion, assumed for the purpose of exciting sympathy, and obtaining an early pardon. We are told, however, that reflection is not to be left to itself, but will be aided by religious and moral instruction. Now, instruction may be administered in two ways; by lectures or *verbal discourse*, and by means of *books*. The first would so materially impair the *solitude* of confinement, that we should suppose it out of the question, to say nothing of the expensiveness and inconvenience of employing so many religious teachers as would be necessary for instruction of detached pupils. If the proposed instruction is to be by means of books conveyed to the cells, it is to be considered how few convicts are able to read with advantage; and we presume that it is not intended to break either the stillness or monotony of solitude, by the establishment of a school inside of the prison for the purpose of teaching the illiterate to read. Again, supposing any considerable number able to read the bible, it may be questionable

whether, without due explanation and assistance, its awful denunciations, perused in the gloom and stillness of perpetual solitude, may not produce a state of feeling greatly to be deprecated. If then, there be a sensibility to the operations of conscience in the heart of a convict, it seems to us, that the abandonment of it to perpetual solitary reflection, would be most likely to produce an intense excitement and overaction of the moral sense, ending in nothing short of mental disease. If, on the other hand, the moral sense is wanting or has become callous by frequent exposure to vice, we cannot perceive how reflection in solitude can improve the individual.

In the second place, we believe that all the good that is anticipated for perpetual solitary reflection, may be obtained, at a less expense, both to the convict and the public, by solitary confinement, for a portion of his time, viz: during the hours of evening and night. In the quiet, and stillness, and composure, of the night season, the mind is naturally disposed for reflection, and in those hours, a sense of religious awe and responsibility is more apt to be awake than at any other period. Abundant time, too, is afforded for such meditation, on this subject; since, even at the season of the longest day labour, the convicts would be nine or ten hours out of the twenty-four, in their cells, besides one entire day out of seven, which might be devoted to this purpose. We believe it to be in accordance with philosophical experience to suggest, that the mind is not so constituted, as to be able to dwell incessantly on any given subject without injury, and that, probably, as much would be gained for any valuable purpose by devoting one half of the 24 hours to reflection, as by leaving the whole to it. We cannot, therefore, agree with the advocates of continued solitary confinement without labor, in the belief of its paramount efficacy and value in reforming the heart and disposition of offenders.

4th. It is argued, in the fourth place, that, inasmuch, as the term of imprisonment, will be shortened by the adoption of the system of solitary imprisonment, without labor, therefore the public will be the gainers by its introduction.

It is evident, that this argument pre-supposes the soundness of all the other reasons, urged in support of this system, viz: the superior and conclusive efficacy of the punishment of solitary confinement, both on the mind and body of the convict, and its tendency to produce his moral reformation. If we have succeeded in shewing that in neither of these respects is there reason to suppose it will operate so beneficially as its friends suppose, then we destroy the foundation upon which this last argument rests. It seems to us indeed, that a reduction of the present period of confinement will tend in a great measure to defeat the object of the law, and to destroy whatever hope might be entertained of the efficacy of the punishment; since, if a period of only *six* or *eight* years be thought sufficient, even for the very highest crimes, the prospect of an early emancipation, especially in the case of lighter offences, will serve to counteract any impression which the prison would otherwise make. On the score of economy too, whatever saving might be effected by shortening the term of imprisonment,

will be more than balanced by the expense which solitude *with or without labor*, will entail upon the public. We think this point may be dismissed without further comment.

We have now gone through the examination of the several reasons urged in favour of the adoption of solitary imprisonment without labor, and have endeavoured to shew, that those arguments are either unsound in themselves, or inconclusive in the present controversy, because equally applicable to other, and less expensive, and inconvenient modes of punishment. We proceed, now, to point out to the legislature, certain positive objections to, and arguments against, this system, which we have not had occasion before to notice.

And, first, it is no small objection to the system of solitary imprisonment without labor, that it imposes upon the community a great annual amount of expense. We are aware, that it may be said, as it often has been urged, that, in a question of subduing vice and protecting the innocent, expense ought not to be considered; and, that inasmuch, as the great number of offences affect property, it is the truest economy to adopt the most effectual, however expensive, means of guarding it from invasion. Notwithstanding this argument, we cannot but think, that the question of cost is an essential ingredient in all discussions of penal discipline. In every community the honest and virtuous suffer more or less in their property from the dishonest and vicious. A large portion of what is paid, from the hard earnings of the industrious, or from the savings of the prudent, for municipal taxes, is appropriated to the prevention or punishment of crimes. Under any system of penal discipline, whether offenders are hung or imprisoned, the expenses of arresting and convicting them, must be borne by the virtuous part of the community. All these, it must be remembered, are over and beyond the annual loss of property occasioned by the crimes of robbery, arson, counterfeiting, &c.; the amount of which is not easy to estimate, but which must certainly average a very considerable sum. Such being the fact, it appears to us, that the system of punishment ought to be one, in which the least expense is incurred to arrive at a good result. The honest part of the community being already so heavily taxed by the depredation of offenders, it ought not to be additionally burthened by great annual expense in maintaining them. We wish however to be fully understood. If it can be shewn, that the system of solitary imprisonment without labor, is able to work the almost miraculous effect of extirpating crime; if criminals are to be reformed or banished by the dread of the punishment from our land, then indeed the past cost will have been well expended. But, as we have seen no reason to think that crimes will cease; and as we believe that all that can be hoped for, from *any* human system, is the diminution of the number of offenders, for the time, or the amelioration in the character and shade of crimes, the question becomes a mixed one, involving considerations of the capacity to produce a certain result, and of the expensiveness of the machinery employed in the operation. And, in this view of the subject, it becomes material to enquire how far legislators may justly go, in imposing taxes upon the honest and industri-

ous, for the support of criminals in idleness, and for their attempted reformation. If a comfortable dwelling house, and an annual salary, sufficient for the purchase of fuel, provisions and clothing, were to be presented by the commonwealth to every person convicted of larceny, it is probable that the convicts so provided for, would steal no more; but it will hardly be contended, that the result would justify the expenditure. In comparing, therefore, one mode of punishment with another, the question of the greater or less expensiveness of the several plans becomes material and important.

Let us consider, then, the system of solitary confinement with reference to its annual cost. To enable us to give a full and proper view of this part of our subject, it is necessary to enter somewhat into detail respecting the two great penitentiaries now built or building at Pittsburg and Philadelphia.

First of the penitentiary at Pittsburg.

The official report of the commissioners appointed by the Governor, in pursuance of the act of April 1, 1826, which report was made to the last session of the legislature, states the whole cost of the Pittsburg penitentiary at - - - - - \$165,346; which has provided 190 cells, calculated exclusively for solitary confinement, without labor. How far it answers the intended purpose, we shall see hereafter. The annual interest upon the sum thus expended, is - - - - - \$9,950.

The prison affords accommodation, as we have stated, for 190 convicts. At the date of our last report, however, there were only 30 persons in confinement; the prison having been finished only a short time. The number that will probably become inmates of this prison, can be ascertained with sufficient precision, by taking the returns from those counties, which have heretofore sent their convicts to Philadelphia; but which are now, by the act of assembly, to send them to Pittsburg. According to the returns which we have received from the inspectors of the prison in Philadelphia, the average number of convicts in that prison from those counties was, as follows,

In 1823	- - - -	85
1824	- - - -	94
1825	- - - -	92

Making the average of the three years amount to ninety; which, we have reason to suppose, will be about the number to be confined in future in the Pittsburg penitentiary. Now, according to an estimate with which we have been furnished by the inspectors of that prison, the present annual expense of maintaining convicts there, (*exclusive* of the salaries of officers,) amounts to \$77 57 for each prisoner.\* Taking the future average number of convicts at ninety, and calculating the annual expense of each at \$77, the whole cost of support will

\* It is believed that this expense will be somewhat reduced with the increase in the number of convicts; but in the same proportion must the number of officers be increased, and the consequent expenses of the establishment.

be \$6,930 per annum. The amount now paid for salaries is \$2,000 per annum; but this amount must be increased with the increasing number of convicts. The annual expense of the Pittsburg penitentiary, therefore, will be not less than - - - - - \$8,930 Which we think, for reasons that will be stated hereafter, must be defrayed out of the state treasury. If we add to this the amount of interest on the first cost of the prison, already stated at - - - - - 9,950

It will be seen that the annual cost to the public of the Pittsburg penitentiary with 90 convicts supported without labor, will be not less than - - - - - \$18,880

2d. The state penitentiary at Philadelphia not being yet completed, we cannot pronounce with exactness upon its cost. From the last report of the commissioners to the legislature, it appears, that the expenses already incurred, and which have been contracted to finish the wall, the front building, the centre house, and three out of the seven blocks of cells, amount to - - - - - \$330,649

Which will furnish accommodations for 114 convicts.

And the whole cost of the penitentiary, upon the original scale, is estimated at - - - - - \$430,627

We may safely add to this estimate five per cent., inasmuch as the actual expense of all such undertakings largely exceeds the estimates; which would make - - - - - \$452,127

We will suppose, however, \$450,000, as the probable cost of the whole penitentiary; which will contain 266 cells, making the total cost for each cell \$1,691.

The annual interest on this first cost of this prison estimated at \$450,000 will be - - - - - \$27,000

The prison, when completed, will afford room as we have stated for only 266 convicts. The actual number of prisoners, however, in the Walnut street penitentiary, from the counties which, by law, are hereafter to send their convicts to Philadelphia, was for the last three years as follows;

1823	- - - -	502
1824	- - - -	469
1825	- - - -	525

Making an average of 498, which we must suppose will be about the future number.

In order to ascertain the probable annual expense of supporting this number of convicts, in solitary confinement without labor, we have caused returns to be made from the Philadelphia prison, of the actual expenses of that institution for support, clothing, &c. for the last five years. We have also obtained returns from the penitentiaries of New Hampshire, Massachusetts, New York city, Auburn, and New Jer-

sey, from which the annual expense of maintaining their respective convicts may be ascertained. It is to be observed, however, that in most of these the *actual* cost is not stated; because the labor of the convicts in the prison, in preparing food, making the materials of clothing, making up the garments and other clothing, and performing the menial services of the household is not charged; which items will form a material part of the expenditure of a prison without laboring convicts. The details of the expenditures of the prisons, we have spoken of, will be given hereafter. At present, it is only necessary to state, that the returns from the Philadelphia prison enable us to ascertain very nearly the actual annual expense of each convict, because they furnish estimates of the whole value of the convict labor employed about the establishment. From these returns it appears that the *total* annual expense of the institution, for the six years ending with 1825, was as follows:

<i>Years.</i>	<i>Number of Convicts.</i>	<i>Total Expense.</i>
1820,	470	\$38,467
1821,	466	36,876
1822,	501	44,062
1823,	552	46,503
1824,	560	47,057
1825,	582	46,695

The annual expense for clothing, provisions, fuel, lights, medicine, &c. including the estimated value of convict labor employed in the prison for these purposes, during the same years, was in

1820,	\$27,120
1821,	26,389
1822,	32,690
1823,	33,848
1824,	34,525
1825,	34,039

The difference between these sums, and the total amount of expense above stated, consists of the salaries of the officers, repairs of prison, furniture, &c. The average annual cost, therefore, of each convict during these six years, calculated on the total annual amount, of expense, is \$82 90. Calculated however, on the annual amount of expenditures for clothing, support, &c. the average is \$60 26; which agrees remarkably with the cost in the New York city prison for the year 1823, where the expense of each convict, including the materials, &c. furnished within the establishment, averaged \$60 28. The subsequent reports from that institution are incomplete, in not furnishing estimates of the value of the materials and labor provided within the prison.

It appears, then, that the annual cost of maintaining a convict in the Philadelphia penitentiary, may safely be estimated, from the most accurate data, at not less than sixty dollars. Taking the probable future number of convicts to average 500, as we have before shewn, it

will be seen that the annual expense for maintenance, fuel, &c. will be \$30,000

The average of the annual salaries of the officers of the present prison, for the last three years has been 10,500

Making the actual annual expense for the future, not less than 40,500

Which, as in the case of the Pittsburg penitentiary, must it is believed be paid out of the state treasury.

If we add to this amount the annual interest on the first cost of the new penitentiary as stated above, 27,000

It will be seen that the annual cost to the public of the state penitentiary at Philadelphia, with 500 convicts supported without labor, would not be less than, 67,500

Add to this the annual cost of the state penitentiary at Pittsburg, 18,880

And the whole annual expense to the state will be 86,380

If, however, we confine ourselves to the mere annual expenditure for support and government, and omit the charge of interest on the first cost, it will be seen that the annual charge will be

At Philadelphia,	\$40,500
At Pittsburg,	8,930

Making \$49,430

or little less than \$50,000 a year, to be paid out of the treasury of the state, for the support of convicts, if the system of solitary confinement without labor should be adopted. It has doubtless been observed, that we have supposed accommodations to have been provided for the whole number of 500 convicts; whereas, in point of fact, the new penitentiary will admit only 266, leaving 234 unprovided for; the expense of cells for whom, somewhere, must be furnished by the state, and will form an additional item in the expense. We shall shew hereafter what proportion of the annual charge above stated may be defrayed by the convicts themselves, under a judicious system of labor. We have not included in this estimate the cost of transporting convicts from the different counties to the penitentiaries, which in the three years previous to 1821, averaged \$8,681 per annum.

We are justified, then, we think in calling the attention of the legislature to the greater comparative expense of the system of solitary confinement, without labor, as an important consideration in determining upon its relative merits.

2. The next objection that we feel called upon to make to solitary confinement without labor is its tendency to produce bodily infirmity, and perhaps mental diseases or imbecility.

It has never been distinctly stated, by the friends of this system, so far as we recollect, whether it is their intention to propose that the solitary convict should be fed upon the diet of bread and water, most

frequently used in cells, or receive the ordinary prison allowance of the present penitentiary. If the first be contemplated, then we have no hesitation in averring our conviction, that the confinement cannot be continued for any considerable period without materially and sensibly affecting the health and strength of the prisoner. A slight knowledge of the human constitution especially of the constitutions of that class of persons who are found in our prisons, is sufficient to support this belief; which is fully sustained by the experience of all the superintendants of prisons to whom we have applied for information.—Captain *Lynds*, to whose testimony we have already referred, stated to us, that, in his opinion, health could not be sustained in solitude, upon a diet of bread and water, beyond a very short period. At Auburn, the experiment of solitary confinement was tried in 1823, by direction of the legislature. Where the system of low diet was continued beyond 60 or 70 days the inspectors were under the necessity in most instances of transferring the convict from his cell to the hospital, where tonics and nourishing food were necessary to restore his strength.

Mr. *Gibson*, the keeper of the state prison in the city of New York, informed us that he had known men kept seventy days in the cells on a bread and water diet. At the expiration of that period, they were found so emaciated as to be unable to walk; and in many cases were with difficulty recovered. He thinks, that a confinement of more than *thirty* or *forty* days on bread and water is injurious to the health.

Mr. *Labaw*, the keeper of the New Jersey state prison, expressed to us similar sentiments. He stated, that he had known cases in which a confinement upon bread and water, for so short a period as *twenty* days, had rendered it necessary to transfer the convict to the hospital. We avoid citing any other testimonies to the same purpose, because we are satisfied that the scheme of attempting to support convicts in solitary confinement on a very low diet can find but few advocates.

What will be the effect upon the bodily condition of solitary confinement without labor, where the convict is furnished with the usual prison allowance of food, is a question of, perhaps, more difficult solution. That bodily infirmity will be created, appears to us probable, when we consider that the air of the narrow and close cell, in which the convict must be confined, will in all likelihood be unwholesome; that he will be deprived of the advantage of exercise, or at all events exceedingly limited in the use of it, and that wherever the mind or spirits of the convict become affected by his confinement, the body will suffer in proportion. We proceed, now to ascertain whether we are borne out in our suppositions respecting the influence of solitary confinement, on the minds and bodies of convicts, by the experience of those prisons in which the experiment has been tried. We begin with the state of *Maine*.

It appears,\* that the state prison of Maine has been in operation about three years. A large number of the convicts have been sentenced to six months solitary confinement, day and night and to a period, afterwards of solitary confinement by night, and hard labor by day. Others have been sentenced to solitary confinement, by day and night, for the whole term of their imprisonment. The result of the experiment has been stated in a report to the legislature, by the superintendent, who is represented to be a physician by profession, and a person of general ability and intelligence. *Eleven* cases are particularly mentioned; of whom *five* were necessarily removed to the hospital, after short periods of confinement; *two* committed suicide in their cells; *three* endured each three months, and *one* six months solitary confinement without any visible effect on their health, bodily or mental. The general result however may be stated in the words of the superintendent.

"In general, nearly as much time is necessary *in the hospital*, to fulfil long solitary sentences, as in the cells." "Some persons will endure solitary confinement without appearing to be much debilitated, either in body or mind, while others sink under much less, and if the punishment was unremittedly continued would die or become incurably insane. However persons of strong minds who suffer in what they deem a righteous cause may be able to endure confinement and retain their bodily and mental vigour, yet it is not to be expected of criminals with minds discouraged by conviction and disgrace."—"Long periods of solitary imprisonment, inflicted on convicts sentenced to be confined at hard labor, are in my opinion worse than useless, as a means of reformation; and are very expensive to the state. By debilitating the body and mind, it renders the convict both indisposed and unable to perform profitable labor. They will therefore be maintained for a considerable part of their time of imprisonment as invalids, at an increased expense for medicines and hospital food."

In consequence of this report, the legislature of Maine, in February last, passed an act abolishing solitary imprisonment, except as an instrument of prison discipline, and substituting the punishment of hard labor.

In *Massachusetts*, the experiment of solitary confinement has also been tried, but without any valuable results. We were informed on a recent visit to the state prison in Charlestown, near Boston, that one prisoner had been in solitude without the possibility of communication with any other for nearly five years, but without any visible advantage. Another had been in the same kind of seclusion for two years without any benefit.

We come now to the state prisons of *New York*. We have already quoted the opinion of Captain *Lynds*, the former superintendent of the Auburn prison, in which place the experiment of solitary confinement was fully tried, as to the effect of the punishment with a diet of bread and water. A valuable record of the experience of that prison,

\* 2d Report of the Boston Prison Discipline Society, page 61.

and an useful document for our own state, is to be found in the report of Messrs. Allen, Hopkins, and Tibbitts, the commissioners appointed by the legislature of New York, in 1824, to visit the state prisons and report upon their discipline and comparative efficiency. Their examination of the question of solitary confinement appears to have been conducted with great minuteness and impartiality, and the report goes into much detail. We are anxious to illustrate and strengthen our opinions by their valuable labors; but we are restrained from making many extracts by the fear of increasing too much the bulk of this report. The following passages, however, are too important to be omitted. It will be seen that they bear upon all the objections to solitary confinement.

"The convicts doomed to solitude, amounting to 36, have been separately examined in the cells, and a minute made of their criminal history; the number of times they have been imprisoned and pardoned; the sentence of the court, and the term expired at the date of their pardon; the length of time they were at large before the second or third offence; the time they served in prison in solitude or at labor; the effect of confinement upon their constitutions and their feelings as to the difference of punishment between solitude and labour. There are 26 confined in cells who are on a 2d conviction, 3 on a 3d, and one on the 4th, and six are sentenced on their first conviction to solitary confinement: ten of those who are in on a second conviction, 3 on a third, and one on a fourth had been confined for previous offences in the state of New York, but none of them in solitude. Sixteen of those who were in on a 2d conviction, were confined for the first offence in the Auburn prison. Eight were pardoned before the expiration of their first sentence, *two of whom had been upwards of 2 years in solitary confinement, and one two years and three months*, 5 had escaped from the keepers while working on the canals, and were either retaken or convicted of fresh crimes against the community; and 2 served out their term of sentence; 7 have been in the cells from 7 to 9 months, 9 from 10 to 12 months; 11 from 13 to 22 months; and one had been in solitude for 29 months. One was sentenced for life on his first conviction, and served 3 years and 4 months, (*2 years and 6 months of which in solitude*,) when he was pardoned:—*he was out 3 months when he was again convicted and returned to his own cell*. Four were sentenced to 5 years, one of whom served one year and 3 months in the yard, and 2 years in solitude; the second served 2 years, the third 2 years and 2 months, and the fourth 2 years and 4 months at labor, when they were pardoned. *The first was out of prison 4 months*, the second 2 years, the third 9 months, and the fourth 8 months, when they were again convicted."

"From a pretty close examination of the prisoners, as to the effects of solitary confinement upon their constitutions and general health, we were led to the conclusion, that upon most of them the effects were injurious, particularly those who had been in confinement one year and upwards. They generally complained of excessive weakness and debility; some of violent and others of slight affections of the lungs;

some of rheumatic pains, numbness and swelling of their limbs, which they described as paralysed or frequently falling asleep. One stated that he was ruptured, which he attributed to weakness brought on by his confinement; and another that he was frequently attacked by convulsions, which left him much debilitated; several that they had lost much flesh, since their confinement, that their appetite was poor, and their sleep much disturbed. They generally declared that they would prefer the hardest labor and the coarsest food to their present condition, and two of them begged they might have work in their cells, in order to make the time pass off less irksome." It was the opinion of the inspectors that in many cases confinement in solitude for a year or more produces nervous affections or extensive debility, and that, in a few instances, diseases of the lungs had been contracted in solitude, which have proved fatal. "Some of the convicts, (they observed) would sink under this mode of punishment, unless they were permitted to go into the yard, for a few weeks, when fresh air and light labor invigorates their constitutions, and generally restores them to health. And it was the opinion of the physician, that solitary confinement had an effect on some constitutions, to accelerate the progress of consumption. The quiet and submissive demeanour of the Auburn prisoners, before mentioned, is strong proof of the power of solitary confinement to subdue the perverse tempers of bad men. But, unfortunately, we have been furnished with no evidence, proving, that those who have been released from this punishment by pardon, have been made good by the operation. On the contrary, the instances furnished tend to prove the reverse; for we find that three who had experienced a long confinement in the cells, before they were pardoned, returned to their prison a few months after their liberation. If any conclusion can be relied on founded upon a comparison of those who have been in solitude, and those who have not, previous to their pardon, taking into consideration the time they were at large before their second commitment, it would appear that the punishment by labor, with the discipline of the prison, had been more effectual in retarding the commission of crime than in solitude," &c.

There appears to have been some difference in opinion among these commissioners as to the expediency of an absolute or immediate repeal of the laws of New York, which provide the punishment of solitary confinement. After stating their several opinions they conclude as follows:

"The result of the whole will be, that a majority of this board respectfully recommend to the legislature the repeal of the laws for solitary confinement in connection with the full adoption of an effectual government and discipline; and that a majority of us would not recommend the same as a separate measure, nor in any case except in connection with such effective system of government and discipline."

With the statement of these commissioners, respecting the effects of solitary imprisonment on the health, the official reports of the prison entirely coincide. From the report of the physician for 1823, it appears that there had been ten deaths; seven of them by consumption,



five of whom were from among the solitary convicts. The patients who came into the hospital from the cells, were affected with difficulty of respiration, pain in the breast, &c. We give the following passage in the words of the physician.

"It is a generally received and acknowledged opinion that sedentary life, no matter in what form, disposes to debility, and consequently to local diseases. If we review the mental causes of disease, we shall probably find that sedentary life in the prison, as it calls into aid the debilitating passions of melancholy, grief, &c. rapidly hastens the progress of pulmonary disease." The report of 1824 stated, that of nine deaths, five were persons who had been in solitary confinement, and who died with consumption, accompanied with effusions of water; that a number were pardoned by reason of disease, which by continued confinement would have terminated in consumption and death; and in fact some cases did so terminate after pardon.

"A number of these convicts became insane while in solitude; one so desperate that he sprang from his cell, when the door was opened, and threw himself from the gallery, upon the pavement; which nearly killed him, and undoubtedly would have destroyed his life instantly, had not an intervening stove pipe broken the force of his fall. Another beat and mangled his head against the walls of his cell until he destroyed one of his eyes."\*

The result was the abandonment of solitary confinement without labor, and the introduction of the system of separate dormitories with joint labor; of which we shall have occasion to speak hereafter.

In *New Jersey*, a number of the convicts have been sentenced to solitary confinement in the state prison at Lamberton, and in some instances have remained eighteen months, and even two years in solitary cells without intermission. We call the cells *solitary*, because the convicts are corporeally separated from each other; but in fact, as we personally observed on a visit to this prison, the neighboring criminals are able to converse, with little more impediment, than if they were in the same apartment. They do actually converse with each other; and therefore one great character of solitary imprisonment is wanting here. It is true, that in the cells, exercise is impracticable to any extent; but we found, on inquiry, that the physician occasionally directed that they should have the benefit of a change of air and exercise. Nothing of value as testimony upon the point we are now discussing is to be derived from this prison. We may add, however, that at the session of the legislature of New Jersey of 1826-7, a joint committee was appointed to examine into the condition of the prison, who made a report recommending the abandonment of solitary confinement, in the following words. "They consider solitary confinement as not answering the purposes expected, in improving the morals of the prisoners, any more than hard labor, if so much; and they recommend confinement at hard labor in future, as the best mode of punishment and the most productive to the state.

\* Account of Auburn prison by G. Powers, page 36.

In *Virginia*, the system of solitary imprisonment without labor has had a full trial; and we believe is still in operation. We have already made an extract from a report of the directors tending to shew the effect of such confinement on the *spirits* of the prisoner, where a hope of pardon was permitted. In the report for 1825, of the physician to the establishment, we find the following strong testimony as to the bodily health of the convicts. "I believe it a duty I owe to my country, and to humanity, to remark, that whatever may have been anticipated from the effects of solitary confinement under the present arrangement, the practical operation is not in accordance with the principles upon which the penitentiary system of punishment was established. Whether it is the climate, the construction and ventilation of our cells, or from what other cause I am unable to say; but from a fair experiment nothing has presented itself to my observation, (since I have had charge of this institution,) more destructive to the health and constitution of the convicts, than the six months close and uninterrupted solitary confinement upon their first reception into the prison. The scurvy and the dropsy are the diseases most prevalent; a demonstration of this fact is known to you, from the frequent application to the proper authorities for their removal from the cells to the hospital, and the length of time remaining there, debilitated and emaciated by these distressing maladies, before they are in a condition either to be returned to the cells or put to any regular business."

The intelligent superintendant of the Virginia prison\* has favored us with his opinion on this subject, which is entitled to great consideration in consequence of the experience acquired by his official situation. We make the following extracts from his communication to us.

"There is perhaps no punishment that can be devised, better calculated to keep vice in check, than solitary confinement; but how far this should be extended consistently with the principles upon which the penitentiary system was originally established, is a subject which has called forth a diversity of opinions. To be close and uninterrupted, (as far as my experience goes,) will destroy the constitution of seven-tenths of those on whom it is inflicted, and kill many. To confine for limited periods, and then associate them together, will destroy all the moral effect the confinement has had on the convict; to confine separate, and to work at the same time, (by which the health is preserved) is perhaps the best plan; but the kind of work that they can do alone would be unprofitable, that I doubt if any would pay the cost of the materials except shoemaking, which, in a close room would aid the confinement in destroying the constitution of the prisoner. One of the great objects of the penitentiary system of punishment, is to put the offender in a condition that may enable him to be useful to himself.— If this is not desired at the present day, and the only object sought is to place him where he has no power to injure society, then the close and uninterrupted solitude is the plan. While in this condition, society is as safe as if the offender were dead. Upon being discharged so—

\* Mr. Samuel P. Parsons, a member of the society of Friends.



ciety would in a great degree be secure, few would have the strength to do much injury, because of their broken down constitutions: the public would have them, generally, to maintain. I have not seen but one that stood close solitude twelve months, that was able to get a living from his own labor. It strikes me very forcibly, that the experiment of close solitary confinement, (so far as it relates to our climate,) would turn loose on society a mass of emaciated human beings, without trades, money or friends, to be supported by the public; thereby increasing pauperism instead of diminishing it."

The importance and value of the information furnished by the different passages we have cited, must furnish our excuse to the legislature, for their length. They sufficiently, we think, sustain our proposition that the system of solitary confinement without labor is likely to produce either bodily or mental infirmity in its subjects. We are aware, that it may be said in favor of the new penitentiary near Philadelphia, that by providing airing or exercising yards for the prisoners, it removes a principal cause of complaint; but we fear that the advantage is more specious than solid. For, 1st—these airing yards are without cover, and therefore exposed to rain, snow, and inclement air; 2nd—where no inducement to exercise exists, as in the case of labor, it is believed the opportunity will not be resorted to by the convicts; and 3d—in consequence of the construction of the yards, it is supposed that the convicts will be out of the reach of inspection, and will be able to hold conversation with each other, as we shall show more fully hereafter.

3. A *third* objection to the system of solitary confinement without labor, arises from the effect it produces upon the habits of the convict, and his ability to pursue an honest calling after his discharge from imprisonment.

We will suppose that a convict has passed his allotted period of one, two, three or four years within the walls of his cell, without having pursued any species of labor; and, that, (contrary, as we think to all probability) he leaves it in as good a state of health, and with equal powers of body and mind, as when he went in, it is important nevertheless, we think, to ascertain with what *habits* and *dispositions* he is likely to re-enter society. We have already had occasion to remark, in connection with this subject, upon the influence of the habit on the springs of human actions. No one who has had an opportunity to make the observation can doubt, we think, of the paramount power of habits of idleness. No one but must be sensible how difficult it is, with the best intentions, to regain the facility of industrious labor, which, even a short time passed in idleness has disorganized. With this knowledge of the human constitution, it is not difficult to anticipate the consequences to a convict, of even a single year of utter idleness and inaction. Whatever may have been the previous habits of the individual, it is to be feared, that the time thus spent, will unfit him in more ways than one, for those industrious and laborious pursuits necessary to virtuous success in life. Even in the case of the most active and industrious, who had been previously educated to, or, had

pursued some honest calling, it is believed that the dominion of indolence would be found predominant. But, in point of fact, we understand that of the tenants of our penitentiaries a large proportion consists of persons who have never adopted honest labor, in any pursuit, as the means of obtaining a livelihood. Of 522 convicts in the state prison in the city of New York, in 1810, it appears that 218 had no particular calling or occupation. In the Auburn prison, the whole number of convicts received from the commencement, amounted on the 1st of October, 1826, to 997, of whom only 365 had been engaged in any mechanical occupation. If we suppose one half of the number of convicts in our penitentiaries to be destitute of the knowledge of any useful trade or art, it strikes us as affording a strong objection to the system of solitary confinement without labor, that it sends them out into the world without the means of earning an honest maintenance. Let us suppose the case of a solitary convict discharged without money, friends, habits of industry, or the capacity of pursuing any business. We will suppose also that solitary reflection, or a course of religious instruction within the prison has reformed his disposition, and inclined him to prefer virtue to vice, and the honest profits of labor, to the quicker gains of fraud; yet, surrounded by temptation, and pressed perhaps for subsistence, which he has no means of obtaining by his own labor, it will not be a matter of surprise if he relapses into his former train of evil doing. Let us remark, too, that unless the habits are radically affected; unless a course of industry is worked into the grain of the convict's life, the impression produced by the course of reflection on solitude for which so much good has been anticipated, will probably be of short duration. In the gloom and solitude of a cell, promises of amendment will doubtless be often made, and in some cases, perhaps, seriously intended to be performed. But, he has taken only a superficial view of human nature, who believes that such intentions are likely to withstand the influence of the passions, and of example, when the convict comes again to mix in the world, without resources or employment, and at a period of life when mere impressions are not likely to be very permanent. Of 997 convicts in the Auburn prison, no fewer than 585 were under the age of 30 years; and it follows that about the same proportion was discharged at that critical period of life. We see great reasons to fear, therefore, that very serious consequences will ensue the discharge of convicts from confinement in solitude without labor. A very respectable member of the British parliament, who has paid great attention to the subject of the prison discipline, has the following passage in one of his writings, the soundness and truth of which, we think must be apparent to the legislature.

"Besides the rights of the individual, there are duties to the community. *Parum est improbos coercere poena, nisi probos efficias disciplinam.* One of the most important of these duties is, that you should not send forth the man committed to your tuition, in any respect a worse man, a *less industrious*, a less sober, or a *less competent man*,

than when he entered your walls. Good policy requires that, if possible, you dismiss him improved."\*

We have thus stated the principal advantages which have been supposed to arise from the system of solitary confinement without labor, and the objections to which it has appeared to us to be liable. And upon the whole, we feel assured that the legislature will concur with us in the opinion, that the inconveniences and dangers which seem to be inseparable from the system, greatly outweigh the benefits that are expected from it. We proceed now to consider the next in order of the several species of penal infliction, viz.

#### 9. *Solitary imprisonment, with labor.*

This system contemplates the seclusion of the person of the convict during the day time, as well as night, but enjoins the performance of labor entirely in solitude. The advantages that are anticipated for it, are

1. Entire separation from society.
2. The acquisition of habits of industry.
3. The contribution to the expense of maintenance.

1. The beneficial effects of separating convicts from each other's society have been considered, and admitted under the previous head. The friends of solitary confinement urge strenuously the importance of this seclusion, and we have freely conceded the absolute necessity of preventing, at any sacrifice, the pernicious intercourse which heretofore has been allowed to prevail. We have contended, however, that the evils complained of, are not justly attributable to the system of joint day labor, under proper inspection; and, that, the provision of separate dormitories would in a great measure, if not effectually, cure these evils. With this view of the subject, we are not prepared to admit the necessity of separation from society, to the extent contended for, by the advocates of the system now under consideration.

2. The acquisition of habits of industry.
3. The contribution to the expense of maintenance.

We will consider these points together, and will take the occasion to state our general view of the character and imperfections of the system. That we regard both of these objects, viz. industrious habits, and the relief of the public from the whole expense of maintaining convicts, as of the highest importance will have appeared from the objections we have felt ourselves called upon to make to the plan of seclusion without labor. We consider the system of solitary labor, as beyond all comparison superior in value and efficacy to the system of solitude *without* labor; but after all the examination we have been able to give the subject, in its plan and details, we feel compelled to dissent from those respectable citizens who have recommended the adoption of this system; because we believe that the same results that are expected from it, can be obtained with greater certainty and at a less expense by another more practicable system.

\* Inquiry into prison discipline, &c. by Thomas Fowell Buxton, 2d edition, p. 18.

1. In the first place, let us consider what species of labor is compatible with solitary confinement in a cell. And here, as our suggestions are intended particularly for the penitentiaries now built or building at Pittsburg and Philadelphia, we will adapt our remarks to them. At Pittsburg, it is well known to the legislature, that the penitentiary was erected with a view to solitary confinement *without* labor; and that no working yards are attached to the cells. Unless an alteration be made in the arrangements of the prison, therefore, there can be no work performed, except inside of the cell, the dimensions of which are only        feet by        feet. In the penitentiary now building near Philadelphia, the cells are 12 feet long, 8 feet wide, and 10 feet high. Attached to each cell is an enclosed space denominated an exercising or working yard; 18 feet long, 8 feet wide, and the walls of which are        feet high; there being no roof or other covering at the top. It is obvious, therefore, that *all* the usual kinds of prison labor cannot be performed in the interior of the cell, either at Pittsburg or Philadelphia. For the further elucidation of this point, we subjoin a statement of the occupations of the several prisoners in six of the principal penitentiaries of the United States; for the materials of which we are indebted to the report of the Boston Prison Discipline Society.

Of 859 prisoners, there were employed

In sawing or hammering stone,	-	-	-	-	-	-	177
As Shoemakers,	-	-	-	-	-	-	145
Weavers,	-	-	-	-	-	-	135
Coopers,	-	-	-	-	-	-	124
Smiths, (of all descriptions)	-	-	-	-	-	-	121
Tailors,	-	-	-	-	-	-	54
Carpenters,	-	-	-	-	-	-	32
Nail makers,	-	-	-	-	-	-	16
Brush makers,	-	-	-	-	-	-	14
Rope and Thread spinners,	-	-	-	-	-	-	14

Total, 832\*

We may suppose that the employments to which the largest numbers are attached are the most lucrative or convenient for the interests of the prison. In the Walnut-street prison of Philadelphia, we understand that the most profitable employment is the sawing of stone. Now it is evident that of the above occupations, only two, viz. those of shoemakers and tailors, embracing less than one-fourth of the whole number of persons, could with any convenience be pursued within the cells at Philadelphia; while at Pittsburg it would be entirely impracticable. It requires no explanation to convince the legislature that neither the sawing of stone, nor the business of a smith of any kind, nor that of a cooper or carpenter, nail, brush, or rope maker, could be

\*The occupations in the Philadelphia prison are not stated here, as we had not the means in our power. A large proportion of the convicts, however, is believed to be employed in sawing stone and weaving.

carried on in a contracted cell, with the least shadow of convenience or advantage. We see no reason to think that a loom of the ordinary and accepted size, could be used within the cells, without circumscribing the conveniences of the prisoner, and probably affecting his health. Of the occupations we have enumerated there remain those of the shoemaker and taylor; for which we suppose that the necessary room exists inside of the cells; but they are still liable, in common with all other occupations pursued in the cells of a prison, to the following objections.

1st. The want of sufficient light. The cells in the new Philadelphia penitentiary are light enough for the ordinary purposes of a cell, but we conceive they are not sufficiently illuminated for the purposes of handicraft business, especially those of the shoemaker and taylor. The same remark may be made of the Pittsburg penitentiary. 2d. Solitude is incompatible with the performance of the business which only can be pursued in the cells. For they require skill and art, which few convicts possess when they are first committed under their sentence; and consequently a course of instruction will become necessary for a considerable period of time, during which, of course solitude must be suspended. In general we understand that a course of two or three years apprenticeship is necessary to make men even tolerable proficient in these trades; during which time they must be under constant superintendence and instruction, and are as respects their individual results, unprofitable laborers. We do not see, clearly, how these two or three years, or even one year can be spared from the short terms proposed to be allotted to solitary confinement. Again, supposing the requisite knowledge and skill to be acquired, and the convict set to work in his cell at the business of making clothes or shoes, it seems to us that constant superintendence will be necessary, both to compel obedience to the stated duty, and to provide the necessary implements and materials of labor from time to time. In the event of any failure or accident in respect to materials, the convict must remain without relief, unless some superintendant be stationed near him; because, it is supposed, that the construction of the cell forbids any communication by the convict with those outside of it. The principle of solitude, therefore, would be materially interfered with, by applying the convict to labor, even in those cases in which labor is practicable. 3d. It is believed that the sedentary labor of the shoemaker and taylor, added to the inconveniences arising from the narrow atmosphere of the cell, would soon break down the health of the convict, and compel his removal to the hospital. This suggestion requires little illustration. It must be obvious, that if confinement without labor, in a solitary cell, be prejudicial to health, as we have already shown, the same confinement at sedentary labor, will produce still more disastrous consequences. It is feared, however, that more precise objections may be made to labor inside of the cells in the Philadelphia penitentiary, arising from their construction. On this point we prefer quoting the language of the Boston Prison Discipline Society, from their last report, (page 124.) "There is a peculiarity in the construction (of the cells at Philadelphia,) not yet mentioned. Each cell is a

water closet. From what may be seen of similar places in hospitals, prisons, and steam boats, we are apprehensive that this part of the design will fail. It will be very expensive in the construction, and probably will not answer a good purpose. It is proposed to accomplish the object by cast iron pipes extending under the whole establishment and communicating with every cell. These pipes are to be frequently filled with pure water, which may be drawn off, in the expectation that the filth will be removed in the current. Apartments have often been visited, in which similar designs have been adopted for the accomplishment of the same object; but the object was not gained. The air could with the greatest difficulty be inhaled by a person who came from the fresh air. It would be well to know, whether this peculiarity in the plan will answer the purpose, in a few cells, before the expense is incurred of extending it to the whole establishment.

These, very briefly stated, are some of the objections which occur to us against the use of those species of labor, which are in any degree compatible with confinement in the solitary cells of Pittsburg and Philadelphia. Perhaps, individually, these objections may not be considered conclusive against the system; but, taken in connexion with some others which we have already suggested, or shall hereafter mention, they are, we think, entitled to at least grave consideration.

So much for the practicability of labor in the interior of a cell. It is said, however, that, at Philadelphia, most of the objections to solitary labor have been removed, by providing a working yard for each cell. Now, it is true, that the yard is larger than the cell, by six feet in length, and is also lighter; but it is liable to objections from which the cell is free. In the first place, no work can be performed in it in wet weather, because there is no roof or other protection from rain or snow. Now, it is calculated that there are, upon an average, at least one hundred days of wet or stormy weather in the year, in our climate, which days must, of course, be passed within the cell, and subtracted from the earnings of the convict. Again, during a considerable portion of the year, the severity of the weather will prevent the convicts from working in the open unsheltered yards, where it is impracticable to warm them. We think that the legislature ought to be informed whether it is expected by the advocates of this system, that shoemakers, tailors, weavers, and persons of similar occupations, will be able to pursue them in the open air in our climate, during the months of November, December, January, February and March. If not, then a large portion of the year will be passed in idleness, or an attempt must be made to perform the labor inside of the cells, under all the disadvantages we have mentioned. 3d. Another objection to the plan of working in the yard arises from the impracticability of maintaining a due superintendence and inspection of the convicts, while in the yards, and the difficulty of preventing conversation between them, which of course would be fatal to the system of solitude. Upon this point we cannot do better, than again quote the remarks of the managers of the Boston Prison Discipline Society, from their last report.

"When the prisoners are let out of the cells into the exercising yards, the sentinel in the passage could not prevent their conversing

with each other over the walls. Nor is it perceived how conversation over the walls of the exercising yards can be prevented if a considerable number are let out of the cells into the yards at once. If they should be all let loose at the same time, it would require a keeper probably to every five yards to prevent conversation. And even with this number of keepers, which would be fifty, they would labor under many disadvantages in preventing evil communication. The tops of the walls of the exercising yards are not prepared for the keepers to walk on them, and the passages between the cells are so separated from the exercising yards, that the keepers being in the passage could not easily prevent evil communication while the prisoners were in the exercising yards. The keepers, therefore, would probably take their station either in the exercising yards or on the outside of the wall while the prisoners were in the exercising yards. If they should do this, their means of preventing conversation would not be good. If, to avoid this trouble, only a few prisoners should be let out at the same time into the exercising yards, and these should be in the yards separate from each other, it would require a great deal of time, from a number of keepers, to let them all out of their cells *daily*. If it is not done as often as this, the question would arise, whether it is expedient to build 250 exercising yards for 250 prisoners. It has been urged, in favor of this plan of building, that it gives great facilities for inspection:—So great that the keeper in the observatory in the centre of the large yard, as well as the keepers in the lofty towers on the external wall, may overlook the whole establishment. It is true, that they can see from these points of observation the roofs of the cells, and the tops of the walls of the exercising yards; but it is also true, that they cannot see the prisoners when they are in their cells; *nor while they are in their exercising yards, unless the prisoners choose to shew themselves*. From the tower in the centre of the south wall, which is one of the most lofty, the eye can see no further into the exercising yard of the nearest cell than the top of the door between the exercising yard and the cell. The plan of building, therefore, does not afford great facilities for inspection, but on the contrary makes inspection very difficult and expensive, both in regard to time and labor."

The same or still stronger observations might be made of the difficulty of inspection, which experience has proved to exist at Pittsburg. We refer the legislature to the report of the inspectors of that prison, which was made to the last session, for evidence upon this point. The passages which we have quoted from the report of the Boston society, coming as they do from an unprejudiced as well as intelligent source, cannot fail to convince them of the inconveniences, that will probably attend the experiment of settling the convicts to labor in the working yards of the new prison at Philadelphia.

We have proved then, we think, that of the several kinds of labor usually performed in prisons, only a small portion can be pursued in solitary cells by reason of physical impediments; that, to such as can actually be performed in cells, strong and perhaps insurmountable objections exist, and lastly, that the supposed improvement of separate working yards is liable to equally strong objections, and is perhaps en-

tirely incompatible with the system of seclusion from intercourse with the rest of mankind. We pass now to other considerations affecting this subject.

In the second place, therefore, supposing that labor can be performed with convenience in the cell or yard, and that the danger of disease in the close cell, or of intercourse in the yard, is chimerical, we object that any kind of solitary labor will be attended with great expense and little correspondent profit. The enormous cost of constructing separate cells and working yards, has been stated in a previous part of this report. The difference between the annual interest upon this expenditure, and the interest upon the necessary cost of a prison containing separate dormitories and joint workshops, is therefore fairly to be considered in estimating the annual productiveness of labor, performed according to either of these systems. Now, we have estimated the cost of each cell and yard in the new Philadelphia prison, from official statements, at \$ 1690. If, however, a deduction be made from the aggregate cost for the expense of the wall, so far as the same may be considered not absolutely necessary to the system, the cost of the cells and yards, (including therein the cost of the buildings erected for inspection and for other purposes,) may be estimated at about \$1400 for each cell. Now, in order to ascertain the probable expense of cells on the system of separate dormitories and joint labor, we will take the estimates of the Auburn and Sing Sing prisons in the state of New York. The first named prison, of which we shall give a more particular account hereafter, was originally designed upon the old system of large night rooms, which permitted the association of convicts. In 1821 an alteration was made in the original plan, in consequence of which the north wing and front were devoted to separate dormitories. The cost of three cells, 550 in number, together with of the workshops, guard houses, engine houses, &c. is stated by judge Powers in his very valuable account of that prison (page 75) to have been only \$50,800; which would make the cost of each cell only about \$ 92.—As the expense of the necessary appurtenances of the keeper's house, and of apartments for cooking, &c. is not included in the estimate, something ought to be added to the above amount.

The state prison now building at Sing Sing, will also be more particularly noticed hereafter. It is sufficient for the present to state, that the principal building when completed will be about 500 feet long by 40 feet wide, having 800 cells arranged in four tiers or stories of 200 cells each. The sum originally appropriated by the legislature for the building was \$ 70,000, which, it has been supposed, would cover the whole expense of materials, and pay the first cost of the scite; the ground purchased for which amounted to \$ 20,000. The whole labor of construction, down to the making of locks and keys, for the cells, has been performed by the convicts. Supposing only \$ 70,000 to have been expended, the cost of each cell to the state would be only \$ 87, 50 or thereabouts; but in consequence of the employment of convict labor, this cannot be considered a just statement of the cost as compared with other prisons. If we double the amount we shall probably come nearer the actual cost of the prison.

A state prison has very recently been erected in Connecticut, on the

plan of those at Auburn and Sing Sing, which contains 136 cells. The whole expense, including shops and appurtenances of all descriptions, will, it is said, not exceed \$30,000; which makes the cost of each cell about \$220.\*

If, therefore, we take the highest of these sums, and consider the cost of the Connecticut prison, as affording a fair average of the expense of a prison, constructed on the Auburn plan, we may estimate the cost of each cell at \$220. The expense of the new Philadelphia prison, independent of the wall, we have estimated at the lowest amount, at about \$1400 per cell, making a difference of eleven hundred and eighty dollars for each cell, or the sum of \$70,80 per annum, for each convict in the prison. In other words, the annual *expense* to the state of Pennsylvania of *each* convict confined in the Philadelphia prison, on the system of solitary confinement, will be \$70 80 greater than the annual expense of each convict in Connecticut, supposing the earnings of their labor to be equal in each. It would not be difficult, however to show that the profits of joint labor must always be greater, than those of solitary labour. We should trespass too much upon the valuable time of the legislature, if we were to enter minutely into this point. It may be sufficient to repeat that the most lucrative occupations are necessarily excluded from solitary cells, and even from solitary working yards, and to add that with respect to those which may be pursued in solitude, various circumstances combine to render them more active and productive, when the artisans work together. Looking, therefore, to the annual cost of solitary workshops as compared with joint ones, and to the delays and difficulties attending solitary labour, we feel sustained in the objection, that the profits of labor in solitary confinement will be comparatively small.

3d. Another objection that may be stated to the system of solitude with labor, arises from the difficulty of enforcing the requisite discipline and obedience to the required labor. We will suppose that a species of labor suitable to a cell or work yard is provided, and that by the regulations of the prison certain hours are to be devoted to labor, or a certain extent of work is required to be performed. It has already been shown, that actual inspection of the convicts, while at work in their yards, is impracticable, without a multiplication of keepers far beyond any precedent, and at an expense, which could not be tolerated. The only course left, it seems to us, where actual supervision is not practicable, is to require, that a certain extent of work should be performed on certain furnished materials; the measure of the labor necessarily varying with the age, sex, strength, skill and ability of the convicts; and thus it may be remarked in passing, must a degree of intercourse be kept up, between the keeper and convicts, altogether at variance with the theory of solitary confinement. We will suppose, however, that the degree of labour proper for each convict is accurately ascertained, and directed accordingly; the question then arises, in what manner the direction is to be enforced. What sanction have the friends of this system for their police regulations? Will it be said that

a refusal to perform the required labor may be punished by solitary confinement? *That* has been already inflicted. The confinement cannot be made more solitary than it already is, according to the theory of the system; and there will doubtless be found persons who will prefer idleness in solitude to labor in solitude. It is presumed that corporal punishment will not be inflicted, because the practice of administering it at other places, has been loudly condemned by the friends of the solitary system; and, because it will be much more liable to abuse in the secrecy and solitude of the cells, than in the open and frequented workshops. It is said, however, that there is no reason to fear any failure to perform the stated duty of labor, because labor will be regarded by the convicts as a desirable relief to the tedium and monotony of solitary confinement. Admitting the fact to be true or probable, it is evident that the argument destroys the character of labor as a punishment, and proves the impracticability of connecting it with solitude. If labor be performed by the convicts as a relaxation and relief from solitude, they will perform it only so far and so often as they find it preferable to idle solitude, and no further; and thus, that which ought to be imposed as a burden and a punishment, will come to be considered as a matter depending upon the pleasure of the convict. How far such a state of things would be compatible with a sound system of penitentiary punishment, it is perhaps not difficult to determine. If the labor imposed be really *hard labor*, according to the words and spirit of the penal code, it may not be considered, by the general mass of the inmates of the prison, as a very desirable relief from idleness.

We submit, therefore, that it will be found difficult to enforce hard labor in solitude in the manner in which alone it ought to be performed within the walls of a prison, namely, by constant, rigid application at certain prescribed hours.

With these suggestions we leave for the present the subject of solitary labor, and proceed to consider the system of punishment which we have placed last in the order above stated, namely,

10. Solitary confinement at night, with joint and classified labor during the day.

In order that the legislature may possess a distinct idea of the general character and practical operations of this system, it will be necessary for us to enter somewhat into detail respecting it: and we believe the object will best be attained, by an account of one or two of the prisons in which the system has been thoroughly tried.

It was remarked by the excellent and enlightened HOWARD, so far back as 1776, that "the prisons in the United Provinces are so quiet, and most of them so clean, that a visiter can hardly believe that he is in gaol. In most of the prisons for criminals there are so many rooms that each prisoner is kept separate. The states do not transport convicts; but men are put to labor in the rasp-houses, and women to proper work in the spin-houses: upon this professed maxim; make them diligent, and they will be honest," &c.\*

\* State of prisons, &c. by John Howard, F. R. S. page 44, 3d edition London 1784.

\*2d report of Boston Society. Report of the committee of the Connecticut legislature.

But the institution which beyond all others, does honor to the government of the Netherlands, is the penitentiary at Ghent, called the *Maison de Force*: which may be considered as having furnished the model for that at Auburn, and for other similar institutions in this country. We have prepared the following account of its organization and mode of operation from some authentic statements. \*

The prison is situated on the bank of a canal, and was designed on the plan of an octagon, with eight buildings, radiating from a common centre. At the period of Howard's visit (1776) only four sides were finished; in 1817 a fifth was added. The buildings designed for the sleeping apartments of the convicts are divided into four stories, on each of which is a corridor or passage, six feet nine inches wide, quite open to the air of the adjoining court or yard. Adjoining each passage is a range of bed-rooms, six feet ten inches by five feet four inches; and seven feet eight inches high; the door way 2 feet. Each convict therefore occupies a separate cell, which is furnished with a bedstead, a straw bed, a mattress, a pillow, a pair of sheets, two blankets in winter and one in summer. Each room has a little bench, and a shutter to the lattice window, (19 inches by 15 in the door,) which, when opened and turned down, serves for a table. In the wall is a little cupboard, two feet by one, and ten inches deep. All the rooms are vaulted, to prevent fire from running from story to story. Prisoners are committed to this penitentiary to remain from one to twenty years, according to their crimes. On their arrival they are suitably cleaned; and each receives an uniform suit of clothes marked with the number of the room which he is to occupy.

At an early hour in the morning, the prisoners leave their rooms at the sound of a bell, and repair to the apartment for meals, where after hearing prayers, they obtain their breakfast, for which half an hour is allowed. They then proceed to their work, which is performed according to classes, in rooms 170 feet long and 26 feet broad. The principal employment, in 1817, was weaving calico, damask, and sackcloth; but there were shops for sawyers, carpenters, blacksmiths, &c. The manufactory is under the charge of a contractor, who furnishes each prisoner daily with 26 ounces of brown bread, and 2 quarts of soup, for which he receives from the government 3 pence half penny of English money per head; equal to about 6½ cents daily. He provides also raw materials for the manufactory; these are weighed when they are given out, and when they are returned; and the prisoner must pay for any deficiency. The contractor also finds machinery; but the person who uses it is answerable for any accident. The work done is estimated according to a regulated price, and the prisoner received at one time the whole amount of his earnings every week. The contractor appoints from among the prisoners, two or more overseers in each room, whose duty it is to inspect the operations of the others, and preserve silence. At noon the prisoners are allowed two hours for dinner, for making their beds, (which in fair weather they bring out to

air) and for exercise. At night they have an hour for supper. A bell placed at a widow over the gateway, gives notice of the arrival of the hour of meals, &c; when the convicts are conducted in perfect silence and order, to their appointed places. Spirituous liquors are expressly prohibited. Divine service is performed every Sunday. At dark the prisoners are shut up in their respective cells. The discipline is enforced by solitary confinement, in cells without beds or other comforts, for a period not exceeding ten days. Corporeal punishment by stripes or flagellation is also allowed; but in practice it is not resorted to "merely because it was found to be unnecessary." \*

We will now state the opinions of some judicious observers upon the system thus pursued at the Ghent penitentiary. Mr. Howard, who visited it in 1776, in 1778 and in 1783, speaks thus: "I was present during the whole time the men criminals were at dinner, and much admired the regularity, decency and order, with which the whole was conducted. Every thing was done at a word given by a director; no noise or confusion appeared, and this company, of near 190 stout criminals, was governed with as much apparent ease, as the most sober and well disposed assembly in civil society."—"I revisited the prison in 1778 with one of the magistrates, and found that they were still carrying on a well regulated manufactory. There were 280 men prisoners, and 117 women. These latter had on their house clothes, and were at work. Most of them were spinning or knitting, ranged in proper order, attentive and quiet. I was informed that all the prisoners were allowed one fifth of their earnings for themselves. I brought home specimens of the cloth as I did of the paper from Brussels; which I mention because I know an idea has prevailed, that no manufacture can be carried on by convicts, to any valuable purpose." "The number of the criminals, in December 1781, was 206. They were spinning, weaving, making nets, making and mending clothes, or working in the bakehouse and kitchen; and appeared clean and healthy; The doors of the bed rooms were open while they were out in the day time; and none of the rooms appeared in the least offensive."—"At my visit in 1783, I found here a great alteration for the worse; the flourishing and useful manufactory destroyed; and the looms and utensils all sold in consequence of the emperor's too hasty attention to a petition from a few interested persons. That which ought to be the leading view in all such houses is now lost. Many formerly ascribed the comfort and happiness of their lives to the trades they have learned, and the attention here paid them; but now the men and women (the former 326 in number, the latter 150) do not earn one with another seven farthings a day. Their victuals are also reduced, the bread now made in the house is ammunition bread. In consequence of this vile policy, I found the aspect of the prisoners quite changed; nor could I wonder to hear that a quarter of the house is soon to be fitted up for an infirmary."

This untoward state of things, fortunately, did not continue long.—The system of manufacturing labour was restored; and with it returned the good order, and good health of the convicts. Thirty-four years

\* Howard on prisons, 1784. Buxton on prison discipline 1818. Sixth report of London prison discipline society, 1823.



after the last visit of Mr. Howard, the penitentiary at Ghent was again examined by another benevolent and intelligent observer. Mr. Buxton, in his work on prison discipline, to which we have before referred, thus speaks of its condition in 1817.

"The utmost order and regularity are preserved. No prisoner is allowed to speak; and to such an extent was this prohibition carried, that they did not answer our questions, when we addressed them. I never saw any manufactory in which the workmen were more busy; wherever we went there was no noise, but the motion of the shuttle; and every eye and every hand was engaged. Whether our conductor was with us, or at a distance no difference was observable. In fact order was carried to its highest point." "The number of sick did not exceed 25. The whole number of prisoners was rather more than 1300. To our question—"Out of 100 persons released from this prison how many return hither," the sub-jailer replied about five. In answer to the same question, the governor said, "That of the felons ten per cent. returned, but hardly any of the misdemeanants." "By this excellent system the convict gains habits of order, self restraint, and subjection of mind; diligence becomes habitual, and is rendered agreeable by the wages it produces. At present he receives the whole amount of his earnings, but this is a new and bad arrangement; and it is intended to revert to the old plan by which one third was reserved for his use on his departure. Many instances have occurred within the governor's recollection, of persons acquiring 2 or 300 francs, and at this time he knows many tradesmen in Ghent who on leaving prison had set up the business which they had learned, had been enabled to do so by the capital they have thus saved, and had flourished by those habits of industry, which they had thus acquired." Nothing in the whole institution struck me so much as the subdued, civil, submissive, decent behaviour of all the prisoners. There was a degree of cleanliness in their persons, and an air of cheerfulness in their countenances, in short an appearance of comfort and respectability, which was the strongest evidence of the success of the system."

Similar testimony is borne, in 1823, by the London society for the improvement of prison discipline. The following extract from their sixth report furnishes we think valuable information. "One third of the earnings is allowed to the prisoners, of which one third is reserved until their discharge. The other two thirds, which are accounted for to the government, serve, it is supposed, to defray all the expenses of the establishment. As the directors do not publish any statement of the weekly expenditure, it is difficult to form an accurate calculation of the proportion between the profits of the labor and the general disbursements. Profit being the leading object of the establishment, it has been found more advantageous to confine large numbers together with a view to the facilities of manufacture, than to subdivide them into a greater number of classes; a system so incalculably beneficial, especially in cases of juvenile delinquency, which are here very inadequately provided for. It must, however, be admitted, that if the officer who is always present during the day time, while the prisoners are at work, is able to maintain silence and good order, with half the

attention he appeared to pay to it, during the present visit, but little opportunity of mischievous or criminal instruction seems to be afforded to individuals, who are thus under constant employment and superintendence."

Such are the arrangements and character of the penitentiary at Ghent, which for the last half century appears from the concurrent testimony of competent observers to have effected very important objects in penal discipline. We proceed now to give an account of an institution upon a similar plan in this country.

The state prison at *Auburn*, in New York, was commenced in the year 1816, and with its wings and work shops, occupies the four sides of a hollow square, enclosed by a wall of 500 feet on each side. In the eastern part of the buildings, is the keeper's dwelling, the south front and wing are upon the plan of the old penitentiaries, being principally divided into large rooms, intended for the sleeping places of the convicts. The whole prison was originally intended to be constructed on the old plan, with halls on one side and large adjoining rooms on the other; but, in 1819, the legislature, alarmed at the progress of crime and the condition of the old penitentiaries, authorised an alteration in the plans, in consequence of which the north wing and front were constructed as they now stand. They contain in all 550 cells or separate apartments, distributed into four tiers or stories, and constructed on each side of the block or wing. In the centre of the block is a solid stone wall, two feet in thickness; the side walls are one foot thick, and those in front two feet. The cells are each 7 feet long, 7 feet high, and 3 1-2 feet wide. In the upper part of the door of each cell is an iron grate, about 18 inches by 20, the bars of which are round and about three-fourths of an inch in diameter, and are placed about two inches asunder, leaving orifices large enough to admit the necessary air, heat, and light. The door of the cell closes in the inner edge of the wall, leaving a recess between the door and the outer edge of the wall, of about two feet in depth. The door is fastened by a strong latch, connected by a hook with a bar of iron placed over it. This bar extends from the latch two feet horizontally to the outer edge of the wall, thence at a right angle eighteen inches horizontally to the lock, which is beyond the reach of the prisoner. The cells are ventilated by a pipe or ventilator two and a half inches in diameter, running from near the top, on the back wall of the cell, into conductors four inches square, fixed in the middle of the centre wall of the block, which extend from the bottom through the wall, and come out above; so that a current of air is created running from the warm halls through the cells and ventilators, which brings into the cells a constant succession of fresh air, and carries off the effluvia generated in each. In addition to this, large ventilators are constructed from the top of the halls through the arch and roof, which can be opened and closed at pleasure. The block, on each side of which these cells are arranged, is contained within walls, parallel to and equidistant from the block. The external wall is 206 feet long, 46 feet wide, and 3 feet thick. In these walls are three rows of windows, which are glazed, and secured by a strong grating of iron. They are sufficient-

ly large and numerous to afford perfect ventilation and light to the cells. The area between the cells and the parallel walls, which is ten feet wide, is open from the ground to the roof;—of this interval, three feet adjoining the cells are occupied by the galleries. Five small stoves, and six large, and twelve small lamps, placed in the open area, in front of the cells, beyond the reach of the prisoners, afford heat and light for 550 cells; and one sentinel or watchman is found sufficient to guard 400 prisoners, and to prevent communication between them.—The space in front of the cells forms a complete sounding gallery; so that a watchman in the open area on the ground can hear even a whisper from a distant cell in the upper story.

Such are the provisions and precautions for the separate confinement of the prisoners *at night*. In the day time, they are compelled to labor together, in an orderly and penitential manner. Soon after day light, on a signal given by the prison bell, the turnkeys unlock the doors of the cells, when the convicts, each with his night tub, water can, and mush kid, march out; and, having disposed of these articles according to the order of the prison, proceed to the workshops, where they begin the labor of the day. At a fixed hour another bell is rung, when the convicts form again in a line, and march in perfect silence, with closed files, to the mess room, where they sit down to breakfast, at narrow tables, so arranged, that they are placed with their backs to each other, and are unable to exchange even looks or signs. After an interval of from 20 to 30 minutes, they are marched back in the same manner as before to their workshops. At 12 o'clock dinner takes place, to which the convict is marched as at breakfast, and the same care is taken to prevent intercourse. On the approach of night, the convicts wash their faces and hands, and then, at the ringing of the yard bell, form in a line in their proper places, according to the number of their cells, march out of the shops to their rows of tubs, and at the word of command take them up, step forward and empty into the drain the water which had been placed in them in the morning to purify them. They then proceed with closed files, the tubs hanging on their arms, to the wash room, adjoining the kitchen, where their mush and molasses in a kid, and water in a can, for drinking, have been placed together, in rows, by the cooks; and, without breaking their step, the convicts stoop and take up the can and the kid, and march to their respective galleries, enter their own cells as they arrive at them, and pull the doors partly shut. Each gallery is occupied by one company, which is marched and locked up by one turnkey, with two keys differing from each other, and from all the rest. The convicts then eat supper in their respective cells. At an early hour they are required, by the ringing of a bell, to take off their clothes and go to bed, upon their canvass hammocks; but when well they are not permitted to lie down before the bell rings, nor to get up again, but from necessity, until the ringing of the morning bell. During the night, turnkeys are constantly employed in moving round the galleries, wearing woollen socks on their feet, and walking so noiselessly that the convicts are not able to discover their presence or absence; and thus, the whole wing, containing between 4 and 500 convicts, is preserved in perfect stillness and order. It is obvious,

from the local arrangements, that no communication whatever can take place between the convicts at night without the connivance or negligence of the turnkeys; which also is guarded against by the visits of the keeper and his deputies, at different hours of the night.

The labor performed in the workshops, at the Auburn prison, is of various descriptions; all however useful and profitable. On the 31st of October, 1826, the convicts then in the prison were employed as follows:

In the Carpenter's shop, - - - - -	27
Blacksmiths, - - - - -	28
Weavers, - - - - -	104
Shoemakers, - - - - -	65
Tailors, - - - - -	57
Coopers, - - - - -	106
Gardeners, Wood sawyers, &c. - - - -	15
Employed in the hospital, - - - - -	2
in the kitchen, - - - - -	17
	<hr/>
	421
Females, - - - - -	8
Sick, in the hospital, - - - - -	4
Insane, in the cells, - - - - -	2
	<hr/>
Total, - - - - -	435

For several years after the erection of this prison, the agent purchased all the raw materials, caused them to be manufactured in the prison, and sold them from the prison stores, on account of the state. Very serious losses resulted from this system, in consequence of which the legislature abolished it, and adopted the plan of hiring by contract, which is now pursued with decided advantage. The contractors furnish the materials, pay a certain fixed sum per diem for the labor of the convicts, and dispose of the articles manufactured exclusively on their own account. The following statement exhibits the contract prices for each kind of labor. It is proper here to remark, that the existing contracts were made under circumstances very unfavorable for the prison, and that when these contracts shall expire, it is expected that larger prices will be obtained *per diem* for the labor of the convicts.

Coopers' shop,	average <i>per diem</i> , about 23 cents.	
Tailors' do.	do.	15
Shoemakers' do.	do.	25
Weavers' do.	do.	20
Tool shop,	do.	30
Spoolers, (all invalids;)	do.	10

The whole number of prisoners hired on contract, in October 1826, was 327; the remainder being employed on work for the prison, or for customers, &c. The contractors are allowed at all times to visit the shops, where the convicts are employed by them, but never to speak to the convicts, or give them any directions whatever. Each shop is superintended by at least one turnkey, who is master of the mechanic busi-



ness pursued in it, who instructs new convicts, and compels the old to do their best work. The contractors give all their instruction through the mechanic turnkeys, with some exceptions. The convicts are forbidden to speak to each other, under severe penalties, and they pursue their labor with downcast eyes, and in an humble and penitential manner. In all the shops they are so arranged, as far as possible, as not to face each other; and all necessary communication on the subject of their work is performed through the medium of superintendents.

The discipline of the prison is enforced by the punishment of stripes, inflicted by the assistant keepers, upon the back of the prisoners, in such manner as to produce personal suffering in the delinquent, without danger to the health or any vital part. We say that the rules of the prison are thus enforced, because such is the authority given to the officers; but, as at Ghent, in point of fact the power is rarely exercised; since the existence of it, and the known determination to exercise it, seem to be sufficient to maintain entire subordination. An act of the legislature authorises the infliction of stripes, not exceeding 39 in number, in the presence of one of the inspectors; but in case of infraction of order in the workshops, the deputy keepers inflict the necessary punishment, without previous recourse to the inspectors. This practice seems to be entirely consonant with the principles of the common law, and appears to have received the sanction of the legislature, as well as of the courts of justice.

The expenses of the prison for the year ending on the 31st of October, 1826, (the last of which accounts have reached us) amounted to - - - - - \$30,718 05

If we deduct from this amount the sums expended for the transportation of convicts, the repairs of the prison, and other matters, not strictly chargeable to the annual expenses, amounting to 4,835 29

The actual expense of the convicts for the year, including the pay of officers, clothing, provisions, &c. - - - - - \$25,882 76

And the tolls for labor, will amount to - - - - - \$21,970 87

The receipts from the labor of the convicts during the same period, amounted to 1,182 75

Received from visitors, 1,182 75

Total receipts, 23,153 62

Leaving a balance against the prison from this source, of - - - - - \$2,729 14

The average number of convicts during the year ending on the 31st of December, 1826, was 433, making the actual cost to the state of each convict for support, &c. during the year, only \$6 30 cents.

We have, thus, stated the arrangements, operations, and financial concerns, of the Auburn prison, with a degree of minuteness, which we trust the importance of a complete understanding of the subject will excuse. It remains for us to state the effect which an examination of the prison has produced on the minds of capable and unprejudiced ob-

servers, and to add what occurred to ourselves in the course of two visits to this establishment.

The first report of the Prison Discipline society of Boston, contains the following passage: "At Auburn we have a more beautiful example still, of what may be done with proper discipline, in a prison well constructed. It is not possible to describe the pleasure, which we feel in contemplating this noble institution, after wading through the fraud, and materials and moral filth of many prisons. We regard it as a model worthy of the world's imitation. We do not mean that there is nothing in this institution, which admits of improvement; for there have been a few cases of unjustifiable severity of punishment; but, on the whole, the institution is immensely elevated above the old penitentiaries. The whole establishment from the gate to the sewer, is a specimen of neatness. The unremitted industry, the entire subordination, and subdued feeling of the convicts, has probably no parallel among an equal number of convicts. In their solitary cells they spend the night with no other book but the bible." "From one end of the shops to the other, it is the testimony of many witnesses, that they have passed more than 300 convicts, without seeing one leave his work or turn his head to gaze at them. There is the most perfect attention to business from morning till night, interrupted only by the time necessary to dine." "Under these circumstances they are provided with the word of God, by a law of the state which requires that every cell should be supplied with a bible or testament. They also receive the undivided attention of a most wise and faithful religious teacher, who spends all his time in the prison visiting the sick; teaching those who cannot read; preaching in the chapel on the Sabbath the unsearchable riches of Christ; and afterwards in going from cell to cell, to administer the reproof and consolations of religion, to individuals. The influence of the chaplain, according to the testimony of all the officers, is most salutary and powerful; and the various expressions of confidence and affection exhibited towards him by the convicts, is most cheering to himself." "It is hardly necessary to add that at Auburn there is an exclusion of all the positive evils of the old system, which arise from crowded night rooms, evil communication, instruction in all the arts of pick pockets, thieves, incendiaries, and counterfeiters; and, above all from the existence of a crime, which is not fit to be named among christians. These great ends are gained, partly by discipline and partly by construction." (Page 57—59)

Similar testimony is borne in the second annual report of this useful society.

Governor Lincoln of Massachusetts in his message to the legislature of January 1826, recommends the erection of a penitentiary on the plan of that at Auburn, of which he speaks in the following terms: "as the best model of a structure of this description, securing the most entire solitude of persons, with an effectual arrangement for detecting the slightest attempt at correspondence by conversation, the prison at Auburn in the state of New York is particularly to be preferred. The whole expense of the proposed building constructed as it should be of unhammered stone may be estimated not to exceed thirty-five thousand dollars."

In May 1826, a committee of the Connecticut legislature, appointed on the subject of the erection of a new penitentiary, made a report, recommending the construction of a prison on the plan of that at Auburn. The following extract exhibits their views of the question: "We cannot but feel, that the declaration of the last legislature contained in the resolution under which we act, 'that it is expedient that buildings should be constructed for Newgate prison, containing such a number of cells, that each prisoner may be subjected to solitary confinement, at least during the intervals of labor,' is one which will receive the assent of every man, who will yield his assent to the facts. The facts on which the foregoing remarks are founded, cannot with propriety be fully presented in a report," &c. "As to the plan of the building proposed to be erected, we are fortunately presented with one in the Auburn prison, in the state of New York, which has stood the test of experience. This prison has so entirely answered the view of its projectors, that the legislature of that state have ordered the erection of another prison on nearly the same plan, at Sing Sing near Hudson river; and have decided to abandon the state prison in the city of New York, on which has been expended more than half a million of dollars. On this subject, therefore, we feel ourselves authorised to say, with confidence, that the plan of the Auburn prison should in its principal features be followed as a model."\* In conformity with the recommendation of the committee, a penitentiary was constructed at Wethersfield on the plan of that at Auburn; and we understand is now in successful operation.

In 1824, the legislature of New York appointed three commissioners to visit the state prisons at New York and Auburn, and to report on their comparative efficiency for the purpose of punishment. From the report which was made on the 15th of January 1825, and to which we have already had occasion to refer, we think it material to our present enquiry to extract the following passages: "The Auburn prison, combining the construction of the prison with the discipline enforced in it, presents the following advantages: that the sentence of the law can be enforced with almost absolute certainty since escapes must be nearly impossible, and conspiracy quite so, and an attempt at insurrection therefore hopeless; consequently, that the prison is governed with great comparative safety to the lives both of the keepers and prisoners, which in case of insurrection are necessarily in danger. The separate cells by night, and the silence preserved always, entirely prevent all contamination among the prisoners; thus at once is excluded the great question of the classification of convicts, which has so much engaged the attention of benevolent men in Europe and America. By this system every prisoner forms a class by himself; and to all moral and social purposes he is insulated. The novice in crime may work for years by the side of the most expert felon, without making any progress in the mysteries of criminality. The prisoners are compelled to work diligently and profitably, and are deterred from spoiling their work.

\* Report of the committee of the Connecticut legislature, &c. New Haven, 1826, page 7.

And we may add, as an important feature of this system that if any human means can as it were enforce repentance and amendment it is this. The entire separation from all criminal associates, the sobriety of feelings consequent upon temperance and labor, and, most of all, the sadness of solitude most frequently make serious impressions. We have seen manifest proofs of such impressions among the prisoners; and only wish there were reason to expect they would be permanent."\*

In 1826, a commission composed of the same gentlemen, was appointed by the legislature of New York, to visit the state prison at Auburn. Their report, which was made to the senate on the 13th of January, 1827, contains an elaborate examination of certain charges of misconduct preferred against some of the subordinate officers of the prison. The following passage shews the opinion of the commissioners on the efficacy of the prison to be unchanged. "With these views, we consider now, as in our former report, that the Auburn prison with its government and discipline, as it was then, and now is, notwithstanding the faults and abuses in practice pointed out, is much better calculated to effect the purposes suggested, than any other which we have heard of or have any knowledge of."†

An additional and important evidence of the operation of the system pursued at Auburn, is to be found in the report made by the inspectors of that prison to the legislature of New York at their last session. It appears that measures had been taken to obtain information respecting discharged convicts, in order to ascertain what effect had been produced upon their habits, by the discipline of the prison. Returns are annexed to the report from 79 convicts; of whom it appears, that the conduct of 52 is decidedly good; that eight have been somewhat improved by imprisonment; that the behaviour of 16 is decidedly bad, and that three are not sufficiently known and described to form an opinion of them. The average term of sentence of the foregoing convicts was about seven years; and their average term of actual confinement only two years and five months.

We conclude these citations, with the following extract from the late work of Judge Powers, the present excellent superintendant of the Auburn prison, to whose kindness and intelligence we are largely indebted for the communication of valuable information. "Sufficient time has not yet elapsed fully to develop the influence of confinement in this prison, in reforming the habits and dispositions of men; but enough has appeared to promise the most favourable results. There have been fewer re-convictions according to the number of convicts in this prison, than in any other known; and their frequency is evidently diminishing. From 167 of the convicts last received, there were but three on re-convictions; one of whom was from the solitary class."

It appears from the report of the inspectors of the Auburn prison for 1826, that there were admitted into that prison during the year, 133 prisoners; of whom there were received,

\* Powers' account of Auburn prison, page 55.

† Report of the Commissioners, &c. page 86.

On first sentence,	129
second do.	4
	133

Compare this with the following statement, with which we have been officially furnished from the prison of the city and county of Philadelphia.

Admitted in 1825, 358 prisoners, of whom there were received

On first sentence,	270
second do.	67
third do.	15
fourth do.	4
fifth do.	2
	358

Admitted in 1826, 296 prisoners, of whom were received

On first sentence,	231
second do.	42
third do.	17
fourth do.	5
fifth do.	1
	296

Thus, at Auburn the re-convictions were as one to 32, while at Philadelphia they were as one to three and three and a half; a disproportion which can be fully accounted for, only by conceding to the system and discipline of the former, a great and enduring influence.

With the opinions which we have quoted respecting the visible operations of the Auburn prison, our own judgment, derived from a minute personal examination, entirely coincides. Having, previously to our visit to Auburn, inspected the prisons in the cities of Philadelphia and New York, we were forcibly struck with the contrast that presented itself in the general character and deportment of the inmates of the former prison, with those of the two latter. The quiet, orderly, humble, and apparently contrite demeanor of the convicts at Auburn, their exact attention to their respective labors, the results of that labor as evinced in the different productions exhibited, and the general neatness and propriety of every department in the institution, produced the same agreeable impression upon us, that has been felt by nearly all the numerous visitors of that prison. Having satisfied ourselves that no conversation, or other communication of any nature whatever, could exist between the convicts at night, after they were locked in their respective cells, we turned our attention particularly to their relative situations during the period of joint labor, with a view to the difficult problem of the practicability of conducting such labor without intercourse between the convicts. The result of our examination and inquiries was a conviction, that by due supervision, and by the prompt and certain punishment of offenders, it was practicable and easy to exclude all communication between convicts under such circumstances. Numerous facts might be adduced to prove that each convict is by force of discipline rendered an insulated being; and for all the purposes of penitentiary punishment is as effectually secluded, as if confined during the day as well as night in a solitary cell. We witnessed nothing of

that severity and oppression, which some worthy persons have supposed to accompany every motion of this institution. Great firmness and a determination to enforce strictly the police of the prison appeared in the officers, and entire submission and humility were displayed by the convicts; but the latter seemed to us no more than what was becoming and needful on the part of criminals as an atonement to violated law; and the former has been proved by all experience to be necessary in the government of penitentiaries.

Having thus given a view of two prisons in which the system of joint labor and separate dormitories has been most successfully tried, we proceed to offer such suggestions in relation to the system as have not been anticipated by our remarks upon other modes of punishment. The advantages, then, attending this system, as it appears to us, are:

1. The solitary confinement of the convicts at night.

This benefit is so great, so obvious, and has been remarked upon so much at length already, that we shall not trouble the legislature with any comment upon it. It will only be observed that intercourse at night is quite as effectually prohibited under this system, as under that of total solitude.

2. The employment of the convicts in useful and productive labor, with the advantage of its being *joint labor*.

That labor is preferable to idleness, inside of a prison, as well as outside of it, in the community of convicts, as well as in the circle of mankind in general; and considered relatively to the mind, the morals, the habits, or the future prospects of the prisoner, and to the interests of the state by which the prison is supported, we have, we think, satisfactorily established in a preceding page. If the question be, then, whether solitude by day as well as night *in idleness* be preferable to, or equally eligible with solitude by night, and hard labor, under strict discipline by day, we respectfully submit to the legislature, that the advantages both to the public and the individual, are all on the side of the latter system. Another question, however remains, namely, the comparative advantage of *joint* with *solitary* labor, upon which we have also offered some suggestions. We have shewn that, of the different species of labor performed in penitentiaries, only a few can be practised in solitary cells or working yards, without constructing them of a size and dimensions, which no reasonable person would propose; that, certainly, the greater number, and the most useful and profitable of the different kinds of prison labor, must be abandoned in the cells at Pittsburg, and the cells and working yards at Philadelphia; and, that of those kinds of labor which can be pursued in solitude, the inconveniences, the delays, and the expenses, would be such as to reduce greatly one of the advantages of prison labor, viz: its productiveness for the public. Regarding likewise the construction of the working yards at Philadelphia, we have expressed our doubts whether inspection of convicts at labor in them, were practicable, consistently with the principle of solitude, and with a reasonable regard to economy of the public money. If we are right in these views, it would seem to follow that prison labor must be performed in work shops, and not in

cells, and therefore that the system must be preferred—all other things being equal, which provides for joint labor.

3. Another advantage of this system appears from the circumstance of its lightening the public burdens.

This is manifest to the most superficial consideration.

1st. From the small, comparative cost, of the necessary buildings.

2d. From the great, comparative income, that may be derived from the labor of the convicts.

We have entered so fully into both these points, in considering another branch of this subject, that it will not be necessary to go into any detail respecting them. Indeed, they must be taken as conceded by the friends of the solitary system; who nevertheless urge, as we have already intimated, that the prevention of crime and the reformation of criminals being an object of paramount importance to society, the expense of the process by which this is to be effected is not worthy of consideration. Agreeing as we do that this consummation is most devoutly to be wished for, but at the same time entertaining serious doubts of its coming to pass, and at all events being unable to anticipate such results from the system of solitude, we cannot but think that the greater or less costliness of a plan, is a feature of considerable moment. It was one of the provisions in the penal code of the wise and good founder of this commonwealth, that "all prisons shall be work houses," and that convicts should be compelled to labor, "until the party injured shall be satisfied," that is, we suppose, until by the profits of the convict's labor, he had made amends to the prosecutor for the property taken or injured. This particular mode of redress may not be practicable in the present age; but we come nearer the spirit of the provisions, when we compel convicts to such labor, that by its profits the annual tax upon the community for the support of the prisoners, may be reduced as far as possible.

4th. Another advantage of the system is that it affords an opportunity for mental and moral improvement.

Whether a thorough reformation of the heart and disposition of the great mass of convicts is likely to be effected under any system of prison discipline may perhaps be doubted. Those, however, who are most sceptical on the subject of penitentiary reformation and repentance, still agree, that every opportunity should be given for improvement, and every facility afforded for amendment; and that at all events a foundation should be laid for moral knowledge by the administration of the elements of literary education to those who are ignorant; of whom the number in our prisons is always considerable.—Now this can best be done in classes, or where numbers are collected, of similar degrees of information, and it is believed that due order and submission may be obtained without difficulty. An hour in each day, or a certain number of hours on Sundays might be advantageously devoted to this important object. The experiment, if it may be called such, has been tried at Auburn prison with decided success.—Under the superintendence of the worthy chaplain of that institution, a Sunday School was instituted there in the summer of 1826, at which fifty of the most ignorant of the convicts, whose ages did not exceed

25 years, were placed. A course of instruction was commenced twice in each day by the students of the Theological Seminary, the result of which was highly gratifying. In the words of Judge Power "During the exercises of the school, in addition to teaching the scholars to read, great pains have been taken to impress upon their minds a deep and abiding sense of moral and religious obligation. The privilege presented them in the opening of this school was embraced with the greatest avidity and apparent thankfulness. Their conduct has been uniformly good, and their industry and application unremitting; and it is very gratifying to be able to state, that their progress has exceeded the most sanguine expectation. Nor is this all, an influence of a very salutary nature and tendency, it is believed, has been exerted on the minds of many of the members of this school; an influence which it is hoped will be felt through the whole course of their future lives."\* At the instance of the commissioners appointed by the legislature, who have expressed themselves strongly in favor of it, the school was extended so far as to accommodate one hundred members; of which number it now consists.

We ask now, how such a course of instruction is compatible with the system of solitary confinement by day and night. If the convicts are taken out of their cells to attend schools, of course the system of rigid solitude is broken in upon; and, it seems to us, that when broken in upon at all, it loses its chief efficacy. If, on the other hand, the course of instruction is to be attempted in the separate cells, it is liable to very serious objections; of which it is only necessary to mention, the multiplication of teachers, one being requisite for almost every cell; the slow progress which will be made by separate tuition; and the necessary interference with the principle of solitude, which must take place when the cell is visited for this purpose. It appears to us, therefore, that the advantages attending systematic literary instruction are all on the side of that system which admits of the occasional assembling together of the convicts, and are incompatible with the system of strict solitary confinement. The same remarks are applicable, and perhaps in a stronger degree, to a course of moral and religious instruction, pursued inside of the penitentiary. Religious worship, in a common assembly, is known to derive some of its impressive effects upon the worshippers, from the principle of association, and the union of the individuals in the common purpose; while it is evident that sermons and religious lectures may be heard by hundreds, with as much and perhaps greater advantage than by a solitary individual. Whatever benefits may be derived from the solitary perusal of the Holy Scriptures, and suitable religious works, are attainable by the convict in his dormitory, where, between the hour of finishing labor, and that of retiring to rest, on Sundays and at other periods, ample time and opportunity are given for the purpose. We may conclude, therefore, that wherever reformation or amendment may seem practicable, literary or religious instruction may be administered in the most convenient and effectual manner on this system.

\* Powers' account of Auburn, page 31.

Having thus very briefly pointed out some of the advantages attending the method of penitentiary punishment, we have last considered, we proceed with the same brevity to notice some objections which have been raised to it, and which have not been already examined in the preceding parts of this report.

And, it is said, in the first place, that the besetting sin of the old penitentiaries still subsists, though perhaps in a mitigated degree, namely, the intercourse between the convicts during the working hours, which, it is alleged, no degree of inspection or severity of discipline can altogether prevent. To this we have already we think made a sufficient answer in principle, and can, only, in addition to what has been already said, oppose the testimony of all who have visited the prisons of Auburn, Sing Sing and Weathersfield, to satisfy the legislature, that in point of fact the great evils alluded to are effectually prevented. It would be a waste of time in us to repeat the facts and reasoning upon which we have come to the conclusion, that no danger is to be apprehended to the discipline of the prison or the character of the convicts from that modified and controlled association, which takes place when convicts are assembled for joint labour, under a proper system of inspection. We dismiss this objection therefore without further comment.

In the next place, it has been made a matter of objection to the system proposed, that it requires for its object of thus subduing the convicts into silence and humility, while in the workshops, a degree of rigid discipline, which can only be maintained by severe corporal punishments, such as are practised at Auburn, and which are entirely inconsistent with the idea of reformation, and at variance with the humane spirit of our institutions.

This, undoubtedly, is a very serious objection, and deserving of thorough examination, and grave reflection. If the system of penitentiary labor can be maintained in silence and humility, only by the infliction of corporal punishments; and such corporal punishments must necessarily be cruel in their character, and prejudicial in their effects upon the disposition of the convicts, undoubtedly this would go far to counterbalance the advantages of the system, and would perhaps leave us no alternative but to adopt the system of solitary confinement without labour, under all its imperfections. We will take leave, however, to doubt, whether these gloomy features are the necessary characteristics or consequences of the system of joint labour. For, in the first place, we have seen no reason to believe that corporal punishment is absolutely necessary to the enforcement of discipline, in such an institution. That it has been inflicted with advantage to the discipline of prisons, we have no doubt; but there are other modes of punishment perhaps equally efficacious. Solitary imprisonment, for instance, on low diet, for a short period, has heretofore been used with signal success, as a measure of prison punishment; and we see no reason to think, that it would fail of effect under the circumstances we are considering. The cells used for dormitories would afford suitable places of confinement; and there, it is believed, on bread and water for a diet, would be found sufficient punishment to avenge the breach of prison

discipline, and prevent a repetition of the offence. The only objection to this kind of punishment is that it prevents the prisoner being employed at productive labor for the time, and may not be felt as a sufficiently severe punishment by the idle. To remedy which, we would provide, that the period of time passed in solitude for breach of the prison rules should not be considered as part of the original term of imprisonment; but that for every day so passed in solitary cells there should be added a certain number of days to be employed at hard labor. This, we think, would have the desired effect. Supposing, however, that it shall be found by experience that nothing is so effectual to restrain the evil disposition of convicts, and to compel conformity to the prison rules, as corporal punishment, we are next to consider whether this species of punishment be repugnant in principle, or, under proper control, injurious or dangerous in practice.

We are not aware of any principle of our political constitution, or of any reason of morals, which forbids the infliction of corporal punishment upon convicted criminals. The antiquity of this method of chastisement is vouched by the Holy Scriptures, which at the same time admonish us not to withhold it from those upon whom it ought to be inflicted. All nations of whom we have memorials, whatever may have been the freedom of their political constitutions, have sanctioned its application. If we examine the legislation of the venerable founders of our own commonwealth, we shall find that the punishment of whipping was authorized by express enactments. In the great law, adopted on the 7th of December, 1682, it is declared that whosoever shall be found guilty of adultery shall be *publicly whipped*, and suffer one year's imprisonment at hard labour in the house of correction. The same punishment was ordained for arson, rape and certain other crimes.—Such were the views of WILLIAM PENN, with respect to corporal punishments. In 1693 when a revision of the laws took place, the punishment of larceny and robbery was directed to be by the infliction of stripes not exceeding thirty-nine in number, and by imprisonment at hard labor. A still more distinct and applicable precedent however is to be found in an act of assembly of this commonwealth passed in the year 1717, by which it was provided, that in all cases of felonies for which the offender was entitled to the benefit of clergy, he shall be punished by imprisonment at hard labor, for a period not less than six months nor more than two years: "*And in case such person or persons shall refuse or neglect to work and labor, as they ought to do, the master or keeper of such house of correction or public workhouse respectively, is hereby required to give such persons such due correction as shall be fit and necessary in that behalf.*"

It appears, therefore, that the early legislators of Pennsylvania were not sensible of any thing unchristian, inhuman, or inexpedient, in the infliction of corporal punishment upon such as had violated the laws of the land. And when we reflect that in most of the modern countries of Europe military discipline is maintained by this means, and that in our own navy it has been used from the outset to enforce subordination, we think that there is no great reason to be shocked at a proposal of administering it to felons who have first violated the laws of the land, and then violated the laws of the prison in which they are placed.

How far the punishment of flagellation has been found by experience to be oppressive or injurious to the convicts or prejudicial to the interests of the prison, will be seen by a few short extracts which we propose to make from some documents of authority. In the first report of the Boston Prison Discipline Society is the following passage: "If the efficacy of the different modes of punishment were to be judged of by the discipline of the respective institutions, punishment by stripes, as at Auburn, would be preferred. The difference in the order, industry, and subdued feeling as exhibited by the prisoners is greatly in favour of the prison at Auburn," &c.—Judge Powers bears the following testimony; "The high reputation which the discipline of this prison has acquired is a sufficient argument to prove that stripes are the most efficacious means of coercion, that have ever yet been adopted. And it may well be added as an undoubted truth, that this mode occasions much less personal suffering to the convicts, as well as loss of time, than any other which could be devised. So certain and instantaneously does correction follow offences, that they rarely occur, and hence there is no loss of time, and but little amount of suffering. It is better as well as easier to prevent the commission of crimes, than to redress them by subsequent punishment; and this capital principle should be adhered to by all governments."

The report of the commissioners appointed by the New York legislature, in 1826, to visit the Auburn prison, from which we have already quoted some passages, contains the following remarks: "A vast majority of the convicts have found their way into the prison through a long course of chicanery, villainy, and crime. Artful, cunning, cheating, rambling, idle, rarely having any fixed residence, or practised any honest calling, and to whose feelings a regular course of honest industry and labor is of all things the most abhorrent; long experience has shewn that over indulgence, coaxing or hiring them to be better is pernicious, and often tends to disorder and disaffection. The few rules laid down for the government of the convicts are easily learned and practised, where there is a disposition to learn and practise them. But resistance or the evasion of these rules is often found to be uppermost in their minds; and a few days lounging in a cell, or even upon bread water, is preferred to the irksomeness of steady labor. The discipline of the Auburn prison, instead of this indulgence, takes measures for convincing the felon that he is no longer his own master, no longer in a condition to practise deception in idleness; that he must learn and practise diligently some useful trade, whereby when he is let out of prison to obtain an honest living." After detailing certain instances of real or supposed misconduct on the part of the subordinate officers, the commissioners finally give it as their opinion, that "the Auburn prison with its government and discipline, notwithstanding the faults and abuses in practice pointed out, is much better calculated to effect the purposes suggested, than any other which we have heard or have any knowledge of." It is stated by the commissioners, as a fact of importance connected with the question of the oppressiveness of the system of flagellation, that an extraordinary degree of health prevails in the Auburn prison. "The average number in the hospital is not three

per cent. A distinguished and venerable physician from a neighbouring state visited the hospital, and saw all the prisoners pass in review in our presence; and then declared without any reserve, that their health exceeded that of the country at large." With this statement the last annual report of the inspectors fully concurs. It is there said, "The health of the convicts is remarkably good. There is not a convict sick except from some chronic affection. By a reference to the physician's report it will be found that there have been seven deaths during the past year; four of which were of consumption."

Notwithstanding the opinions and facts here stated, we incline to the belief, already expressed, that the discipline of the prison may be preserved by the mode we have suggested, of solitary confinement on low diet, with the provision for lengthening the future imprisonment at hard labor, in every such case. It is highly important, however, we conceive, that the punishment should be certain, unchanging, and should follow immediately and without appeal upon the commission of the offence. It is only with these assistants, that it is likely in our opinion to supersede the necessity of corporal punishments.

From this view of the subject we see no reason to suppose that the legislature will regard the objection to the system of joint labor, which supposes the necessity of corporal punishments, as an insurmountable difficulty; but weighing all circumstances, and aware that no human system can be devised which will not contain some mixture of evil, they will be induced to think that the balance of good is to be found on the side of that system which has been shewn to be most likely to produce the great ends of punishment as respects the offender and the community, with the least burden upon the finances of the state.

We have thus, with as much brevity as was consistent with a fair and full examination of the important question at issue, endeavoured to comply with the directions of the legislature by furnishing "such suggestions and observations," as appear to us necessary to a proper determination on the subject of prison discipline. We have reviewed the several modes of punishment adopted by the different nations of the world, and examined their respective advantages and evils. Beginning with the highest and simplest of punishments, which consists in the deprivation of life, and passing through the several varieties of mitigated infliction, we have endeavoured to derive from an analysis of each, some light for our guidance in the difficult parts of penitentiary punishment. If, after an honest investigation of the subject in all its branches and bearings, we have come to the conclusion that the system of punishment, which prescribes hard labor, with due inspection, in joint workshops, during the day, and separate dormitories at night, is preferable to solitary imprisonment by day and night, with or without labor, the legislature and our fellow citizens may be assured, that it is a conclusion to which we have come with great and sincere reluctance. We entered upon the performance of our duty with a belief and wish that the system of solitary confinement proposed to be pursued in the new prisons at Pittsburg and Philadelphia, would be found, upon examination and experience, to be sound in theory, valuable as respects



convicts, and not inconveniently burdensome to the finances of the state. We have a common interest with the rest of our fellow citizens that the public money should appear to have been advantageously expended on the great undertakings at the two cities; and we trust that we possess a sufficiently just sense of what is due to the character and dignity of our state, not lightly to recommend the abandonment of any system which may be thought peculiarly the offspring of Pennsylvania. Our belief, however, in the value of solitary confinement, as a punishment for crime, has gradually given way before the irresistible conviction, which a thorough examination of the subject has forced upon us; and however the conclusion may be at variance with the sentiments of a highly respectable portion of our fellow citizens, as well as with our own pre-conceived impressions, we should be unfaithful to our trust, and to our consciences, if we hesitated, for a moment, to declare our deliberate opinion.

If, therefore, the question were entirely open in this state, if previous arrangements of a nature too serious to be overlooked did not interfere, we should earnestly recommend to the legislature the entire and absolute adoption of the system of solitary confinement at night, with joint labour in the day time, on the plan of the penitentiaries at Auburn, Sing Sing and Wethersfield. Situated however as we are in this state; with a prison completed at Pittsburg on the plan of solitary confinement without labor, and with another partially finished at Philadelphia intended for solitary confinement, and perhaps for solitary labor, we feel that we are not at liberty to use the same measure of suggestion that we otherwise should. Without an abandonment of the present buildings upon which so much of the public money has been expended, the system pursued at Auburn cannot be adopted in all its features. It remains then to be considered, whether it can be introduced partially in the existing condition of the two prisons and to what extent.

The prison at Pittsburg, it has been already stated, is nearly, if not entirely, completed on the plan of solitary confinement without labor, as originally adopted. From the draught annexed to this report it will be perceived that the cells are placed on the circumference of a circle; it being intended that the observatory of the keeper should be situated in the centre. Attached to each range of cells is an exercising yard. The prison was first occupied by convicts on the first of July, 1826. On the 8th of February last, a communication was made by the inspectors to the legislature, from which we make the following extract, to exhibit their views of the character and defects of the prison.

"This penitentiary, having been contemplated for solitary confinement without labor, a singular anomaly exists between the sentences of the convicts, and their mode of treatment. By the existing law, hard labor is a component part, and leading feature of the punishment; and under this system it is, that the term of servitude is extended to a longer period, than would probably be required under strict solitary confinement. But the board at Pittsburg has not the means, such as workshops and tools, of putting them to employment. Neither probably, is it at all desired that they should do so; as it is to be presumed that the system of solitary confinement is to be exclusively adhered to,

and a fair experiment made of its advantages. That this system is well, though expensively, calculated for the safety of society in the complete seclusion of the convict; and that it is as well adapted to cherish the hopes of his ultimate reformation as any that can be devised, there can be no doubt. It must however be admitted, that it is still made a question, whether the same effects could not be equally well obtained by compelling them to labor, at some useful occupation, either in solitude or in small companies, resorting to strict confinement for limited periods, as a severer punishment for the higher grades of crime, and when necessary using it as a means of disciplining and subduing the refractory. He could thus, as is alleged, be compelled in some measure to render up to society a remuneration for his maintenance and custody."

"It is hardly practicable with the present plan of the penitentiary to carry into effect complete solitary imprisonment, without keeping the criminals continually immured in their respective cells. So strict a course of confinement continued steadily for any considerable period of time, would, it is to be feared, occasion a waste of health. Exercise is necessary, and that exercise ought to consist of application to labor, or walking within prescribed limits. Yet we have seen that labor is not provided for in this penitentiary; and as to the opportunity of walking, that, under present circumstances, must necessarily be indulged in front of the entire row of cells, to which the prisoner may be attached, and is in full view and hearing of the occupants. To remedy this inconvenience, the board recommends that separate yards in one and two of the sections be laid off, and walled in, in front of each cell. This improvement can be done at a trifling expense; and if, hereafter, the laboring system should be introduced by the legislature into this penitentiary, the cells thus enclosed or separated would be peculiarly well adapted to the close confinement of the more refractory and desperate offenders."

With a view to ascertain the present condition of the prison, and its capability of being used on the system of joint labor we addressed a number of questions to the inspectors; from the answers to which we extract the following passages.

"The penitentiary is now nearly completed according to the prescribed plan. Defects in the plan have already occurred to the inspectors, all of which can be remedied without much inconvenience or unreasonable expense. The want of ventilation for the cells; some additional walls, subdividing the yards before some sections of cells; separate privies for the keepers apartments; a considerable alteration in the interior of the main or front building, so as to render it capable of accommodating an additional keeper, are the prominent improvements required. From 1500 to 2000 dollars would accomplish the whole and render it well adapted to its design, solitary confinement."

"As respects a system of labor, I was apprehensive that considerable alteration would be necessary for this purpose; but I have made a full enquiry and examination, and am satisfied that little else than the erection of workshops is necessary to make it a most admirable establishment, uniting the two systems of labor and strict confinement.

For such workshops there are ample spaces left, and in the most desirable position. Three large workshops, each about *forty* feet by *fifty*, may be erected on each side of the central yard. These in my opinion will contain ample room for the exercise of all the convicts in every kind of trade that can be profitably employed in an establishment of this kind. Three thousand dollars would build these six workshops, and enable the board to introduce the discipline of labor either entirely or partially."

It appears, therefore, that no impediments exist to the adaptation of the Pittsburg prison to the system of joint labor, with strict separation at night.

The new penitentiary, near Philadelphia, is well known to the legislature to be on a scale of greater extent than that at Pittsburg. The outer walls, which are built of stone, and are 30 feet high, enclose an area of nearly twelve acres, within which space there must doubtless be room for many extensive buildings. The cells, as we have already stated, were intended to be placed in seven blocks, diverging from the common centre; each block containing 38 cells, and being only one story in height. Of these blocks or radii only three have been completed, which are calculated to contain 114 convicts. The sum requisite to complete the remaining four blocks, according to the estimate furnished by the commissioners to the legislature in the session of 1825—6, would be \$99,978, or little short of \$100,000.

Should the legislature concur with us in the opinions we have expressed respecting the superiority of the system of joint labor over that of absolute solitary confinement, they may nevertheless be disposed to give the latter system a fair trial, so far as the buildings already completed admit of the attempt; and this, perhaps, may be considered as due to that portion of our fellow citizens with whom the plan originated, in this state. In the remaining part of the enclosure near Philadelphia, ample space exists for the erection of a prison on the plan of those at Sing Sing and Wethersfield, in which may be contained the sleeping rooms of eight hundred convicts, should so many be necessary, and such other apartments as may be required; and for the erection of covered workshops for the performance of their joint labor. The cost of these buildings, it is believed, will not equal the amount required for the remaining four blocks of cells on the original plan. When it is remembered that these four blocks will contain only 152 prisoners, and the whole prison on the original plan only 266 prisoners, and that the average number of convicts in the old prison, for the last three years, has been about 500, (*exclusive* of those from the counties which now send their convicts to Pittsburg,) it will be seen that provision must be made, somewhere else, for at least 230 convicts; unless we are disposed to place so much faith in the system, as to believe, that it will reduce the average number of convicts to 266, and keep it at that point, notwithstanding the increasing population of the state. The arrangement we have suggested, therefore, has the advantage of providing for the whole body of convicts, at an expense, in respect of buildings, probably less than would be required on the other system for a very limited number; and this advantage becomes more apparent

when it is considered that the Walnut street prison may, at an early period after the completion of the necessary dormitories, be sold for the benefit of those to whom it belongs; whereas, if the proposed system of solitude be adopted throughout, the Walnut street prison must probably be maintained in its present condition, until another series of solitary cells shall be constructed for all the convicts whom the penitentiary on Francis' lane is unable to accommodate.

Influenced by these sentiments, the legislature will perceive that in the draft of the bill for consolidating and amending the penal laws, which we now respectfully submit, we have made provision for the punishment of certain crimes by solitary confinement, both by night and day. It is believed that the number of persons likely to be convicted of these crimes in future will not be greater than the solitary cells now completed at the eastern penitentiary. We have endeavoured to select such crimes for this punishment, as it seemed to us were the result of passions or vices, which, if ever, solitude would be effectual to extirpate or tame. For the remaining crimes and offences, we have provided the punishment of hard labor in common workshops by day, and solitary imprisonment by night; a mode of punishment which, under proper discipline, we firmly believe to be the best calculated to effect the great objects which all wise and human governments have in view in the formation of a penal code.

In conformity with the second of the resolutions, under which we were commissioned, which directs us "to prepare and submit for the consideration of the legislature a body of rules, for the internal police, and government of, and treatment of prisoners in the penitentiaries within this commonwealth," we have prepared, and herewith submit the draft of a bill (No. 3,) "concerning the eastern and western penitentiaries within this commonwealth," in which provision has been made for the government and treatment of convicts on both of the systems which will be presented to the legislature. It will be perceived that the inspectors of each penitentiary are directed to cause the convicts confined in solitude to be employed at such labor as may be practicable, consistently with the preservation of such solitude. We do not mean to say, that we consider such labor compatible with strict solitude, and with the preservation of health; but we think that it is better to try the experiment than to place convicts in idle solitude. It will rest however, with the wisdom of the legislature to enact the bill submitted to them, or such parts as may be consistent with their determination upon the main question before them.

Certain tables and documents illustrative of points contained in this report, or in other branches of our labors, have been prepared or collected, and are herewith laid before the legislature.

All which is respectfully submitted by

CHARLES SHALER,  
EDWARD KING,  
T. I. WHARTON, } Commissioners..

Philadelphia, December 20th, 1827.