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COMMUNICATIONS ORIGINAL AND SELECTED

For the Belfast Monthly Magazine.

WE THE REFORMED MODE OF PRISON MANAGEMENT IN NEW YORK.

FROM a desire to procure information on this subject, the following queries were sent about the close of last year to a person in New York, with a request that he might make further inquiries, and inform the result, to be conveyed to the public through this magazine, that if favourable, it might stimulate to exertions in the cause of philanthropy in these countries:-

Do the public prisons at New York, Philadelphia, &c. continue to be well conducted?-Are they found to produce reformation, and do they answer in practice the favourable representations given of them in theory, by Turnbull, the Duke de Liancourt, and others?-Have any new ones been established at Baltimore, or elsewhere, and are they well conducted ?--- What alterations in the system have been made their establishment?-Do crimes diminish or increase in the states which have adopted the mild. system?-Do those who have been released after the expiration of their sentence, often relapse, and what is their general conduct afterwards? -What is the opinion of those who Hnow the state of Ireland, the moral habits of the lower classes, as well as of those in the higher ranks, who might be looked to as superinten-BELFAST MAG. NO. XXXVIL

dants of such institutions, as to the practicability of introducing such a plan among us with a probability of permanent good effect ?-How do the accounts of the State Prison in New York stand as to expense?-Do the earnings of the convicts defray the cost to the state, the compensations to those who have been robbed, &c. and have the prisoners sometimes a balance to receive on their liberation?-All these expectations were held out in the original plan: are they realized?

In answer to these queries, the following information has been re-

ceived:

New York, 3d mo. 27th, 1811. "I have been attentive to thy queries respecting the State Prison government, but am not as yet able fully to reply to them, as to do this in a satisfactory manner, will take some time and investigation. I have been with Counselior Sampson, and he received me very friendly, and showed a willingness to take the matter in hand, both on thy account. and that of the cause; but he says it will require some time properly to answer thy queries.

" As far as I can learn, the profits arising from the labour of the prisoners are seldom found in any year to be equal to their expense, for which there are many reasons; one of which is, a considerable part of their manufactures is the work of beginners; in such cases, even where

the will fully accompanies, the work is for the most part attended with loss, and I believe there is no such thing as that persons that have been robbed have any recompence for their losses, any farther than getting what they find and prove to.

"I think it is hardly likely the plan is in all its particulars scrupulously attended to, still I think it is even in practice both for punishing as well as lessening crimes, the best plan that has yet been adopted in

anv country."

A letter of a subsequent date has also been received, conveying the following additional information.

"In my last letter on the subject of the State Prison, I was not then able to say much by way of information, nor am I yet so fully as I could wish. I told thee I had been with Counsellor Sampson, and that he seemed very willing to assist me in my inquiry, but was not then able to do it in such a manner as he would wish. I procured him a copy of a work some time ago published, by one of the inspectors of the prison; which he thinks is very full and satisfactory on the subjects of thy inquiries, and I am of the same opinion, as it contains a particular answer to all or most of all thy queries, by an intelligent man, who has written from his own experience. I have therefore procured one of the books, which I now send; I much regret that I had no opportunity of sending it sooner. There are, I understand, some little alterations in the prison regulations, since this work was printed, which I have not yet been able to learn, but I understand they are trifling, and there are some alterations in the Jaws respecting the prisoners: none are sent to it now for perit larceny, nor I believe for assault and battery, consequently the number of prisoners is not as great as heretofore.

" I questioned the writer of this book on the different particulars of thy queries, and his answers in general correspond with what he had already committed to print on these He thinks that reformasubjects. tion will never succeed among the prisoners, until there is a plan adopted so that each individual shall have a separate apartment at night, which is the time they have the opportunity of corrupting each other. At his suggestion on this subject, one state, he told me, had lately adopted his plan."

Our correpondent likewise transmitted a letter from Counsellor Sampson, from which the following extracts are made:

ing extracts are made:
"I ask your pardon for not sooner
answering your last note. I have
been absorbed in business, and the
responsible care of other men's affairs.

" I breakfasted at the State Prison, and saw what every body can seeprisoners at work, some weaving, some shoemaking, nailmaking, &c. I conversed with the inspectors one by one. As we were agreed before, that reformation of those who go there is hardly to be expected, so that opinion is confirmed, although there are a good many exceptions. There is a variety of opinions about the sufficiency of the establishment to pay its own expences. Colonel Tew, and some others, are of opinion, that if it were not for faults in the internal administration, it would amply suffice. Upon the whole, the institution may, I think, be safely and largely commended, and our friends and benevolent countrymen need not abate any thing of their virtuous zeal for its promotion in Ireland. There is no criminal so likely to commit an offence from momentary impulse, or impetuous feeling, from thoughtlessness or extravagance, as an Irish

one, and such may be reformed. Wherever the crime is the result of accident, temptation, or circumstance, and is not the consequence of rooted baseness, there may be reform. But it is certain, that the laws and their administration in some countries, are calculated to make any people bad. The result of many opinions seems to be, that though the State Prison does not in many instances reform, yet it cannot be said to injure society, and it saves the morals of the public from the example of cold and deliberate bloodshed, and promotes gentleness of heart, and tenderness of feel-

"In looking to persons for the conduct and support of such an institution, care should be taken that it may not become a job for electioneering, or other unworthy patronage. Temperance and suavity of manners in the conductors, best conduce to bestow that character of mild authority, that soothes the unruly passions, and insinuates itself into the heart insensibly. But a strict discipline, and hard coercion, would be requisite towards such numbers of desperate and refractory spirits as would become inmates."

With these preliminary hints from our much respected countryman, Counsellor Sampson, the goodness of whose heart, and the enlargement of whose views are not forgotten by many in Ireland, we proceed to give extracts from "An Account of the State Prison or Penitentiary House in the City of New York; by one of the Juspectors of the Prison."

"A punishment to be just, should have only that degree of severity which is sufficient to deter others:—Perpetual labour will have this effect more than the punishment of death."

BECCARIA.

INTRODUCTION.
THAT branch of jurisprudence

which treats of crimes and their punishment, is of the most interesting and momentous in the whole code of laws. The peace, security and happiness of society depend on the wisdom and justice of the means devised for the prevention of crimes. In no nation have legislators bestowed that prolound attention on this subject which its importance demands.

While civilization and refinement were changing the condition and manners of social life, the criminal codes of the nations of Europe retained a vindictive and sanguinary spirit, the growth of a rude and barbarous age. Benevolent and virtuous men saw and deplored the evils produced and perpetuated by unequal and cruel punishments; but the mild voice of reason and humanity reached not the thrones of princes or the halls of legislators. While the State was aggrandized by conquest, enriched by commerce, or ornamented by the productions of art, they thought not of the unhappy beings who suffered under the numerous oppressions of tyrannical laws. While every object which encompassed them wore the aspect of splendour and felicity, their dazzled eyes were not turned to those gloomy abodes were the victims of injustice languished in misery and despair.

The art of printing, by which one man, however private and obscure, is enabled to make himself heard by a whole people, prepared the way for reformation. Montesquieu exposed the errors of legislators, and unfolded sounder principles of jurisprudence. The eloquent Beccaria roused the attention of civilized Europe, and, by his unanswerable appeal to reason and humanity, produced those successive efforts to meliorate the system of penal laws, which constitute the

greatest glory of the present age. Howard, the active and indefatigable friend of man, by exploring the prisons and dungeons of Europe, and, from their dark and unvisited recesses, bringing to light the enormous abuses and dreadful miseries produced by cruel laws and their corrupt administration, more powerfully awakened the feelings of humanity and justice, by which the legislator is enabled to complete the great work of correction.

But while the names of Montesquieu, Beccaria and Howard, are repeated with gratitude and admiration, the legislators and philanthropists of our own country deserve not to be forgotten. The history of Pennsylvania presents to our view a man who claims the praise of being the first to frame and propose a criminal code from which the punishment of death was excluded, except in the single case of premeditated murder, and by which each crime received a punishment equitably proportioned to the degree of its enormity.

In England, where secret accusations, secret and mock trials, torture, and all the cruel contrivances of superstition and despotism to confound and destroy alike the innocent and the guilty, were unknown; where the excellent institution of a trial by jury, and humane and wise forms of legal proceedings were established for the protection of the accused; where liberty was defended by law, and cherished by the spirit and manners of the people; even in that enlightened country there existed a scale of punishments as sangumary and unjust as any in Europe. The criminal delivered to imprisonment was often forgotten by the laws, and suffered an aggravation of his chastisement in the loathsome horrors of his prison, and the extortions and oppression of his keepers. No adequate distinction was made, in the distribution of punishments, between a poacher and a parricide, between him who filched a loaf to satisfy the cravings of hunger, and him who first robbed and then murdered his benefactor.* The colonies of England adopted in general the civil and criminal laws of the pre-In some, the spirit of sent state freedom which animated the first adventurers, fugitives from civil and religious tyranny, produced changes, and the gradual formation of a milder and more equitable system of penal laws.

WILLIAM PENN, + actuated by the pure principles of a christian and a philosopher, listening to the simple suggestions of humanity and justice, constructed the equitable code just mentioned, which he boldly enacted and transmitted to England to receive the royal assent, although the charter for the establishment of his colony expressly enjoined the introduction of the English laws. Assent to the new system was refused by the king, yet it was continued in force by the colonial legislature for thirty-five years. Disputes took place between the crown and the governor of Pennsylvania, concerning the ordinance requiring the officers of the government to take an oath instead of an affirmation. This contest, which kept the colony in a ferment for many years, was at length terminated by the legislature, who

^{*} Blackstone's Commentaries, Vol. IV. passim, and page 18. "It is a melancholy truth, that among the variety of actions which men are daily liable to commit, no less than one hundred and inty have been declared, by act of parliament, to be felony without benefit of clergy; or, in other words, to be worthy of instant death." The number of capital punishments has been considerably augmented since the publication of the Commentaries.

[†] See Proud's History of Pennsylvania, Bradford's Enquiry, &c.

consented to exchange their favourite plan of penal laws for that of the mother country. In return for this concession, the crown yielded the right of affirmation to such as conscientiously refused to take an oath.

Though restrained for a time, the spirit of reform revived with the revolution; and, strengthened by the discussions of the general principles of freedom, and the writings of Beccaria and others, at length produced that system of punishment for crimes, which reflect so much honour on that State. The new penal laws of Pennsylvania, its prisons and penitentiary house, their progress, internal economy, and management, have been already made known by several publications.

When New-York became an English colony, the laws and institutions of England were introduced and continued in their full extent and rigour. This favourite child of the crown reflected more strongly than any other the image of its parent. Even after the revolution, when the spirit of liberty led to inquiries favourable to principles of moderation and justice, the criminal code of this State was distinguished for its severity. It was not to be expected, that a people enamoured of freedom and a republic, should long acquiesce in a system of laws, many of them the product of barbarous usages, corrupt society, and monarchical principles, and imperfectly adapted to a new country, simple manners, and a popular form of govern-

Before giving an account of the changes that have been made in that system, it will be proper to exhibit, briefly the several punishments as they existed antecedent to the year 1796. By a law, which bears date February 1788, the following crimes are declared punishable with death:

1. Treason; 2. Misprision of treason;

3. Murder; 4. Rape; 5. Sodomy; 6. Burglary; 7. Feloniously taking goods and chattles out of any church or place of public worship; 8. Feloniously breaking any house, by day or by night, any person being in the house, and thereby put in fear; 9. Robbing any person in the dwelling-house or place of such person, the owner, dweller, his wife, children, or servants being in the same, or within the precincts thereof, sleeping or waking; 10. Robbing any person; 11. Felouiously taking away goods or chattles from a dwelling house, the owner or any other person being therein, and put in fear; 12 Robbing any dwelling-house in the day-time, any person being therein; 13. Robbing any person or persons in or about the highway; 14. Arson, or the wilful burning any house or barn; 15. Malicious maiming and wounding another; 16. Forgery, or counterleiting any record, charter, deed, writing, sealed will, testament, bond, bill of exchange, promissory note for the payment of money, indorsement or assignment thereof, acquittance or receipt for money or goods, any bill of credit or public securities issued by Congress or any of the United States, or any gold or silver coin current in the State.—The conviction of all which felonies was accompanied with a forfeiture of the goods and chattles, lands, tenaments, and hereditaments of the felon. All other felonies were for the first offence punishable by fine, imprisonment, or corporal punishment, or all or either of them at the discretion of the court. For the second offence the offender was to suffer death. These felonies consisted of various thefts not of the preceding description, amounting to Grand Larceny, that is, above the sum of five pounds. Stealing any record, process, &c. out of the office of the secretary of state, or of any

of the courts of record; levying a fine, suffering a recovery, or acknowledging any deed, recognizance, bail or judgment, in the name of another not privy or consenting thereto; embezzlement of his master's goods by a servant or apprentice bove eighteen years old to the amount of twenty shillings; Forcible abduction, marrying or defiling a woman; carnal-knowledge or abuse of any child under ten years of age, &c.

In 1794, one of our citizens who was well acquainted with the plan and economy of the new penitentiary house in Philadelphia, convinced of the beneficient effect of a system which, fixing a just proportion between crimes and punishments, afforded room for the exercise of benevolence in the work of reformation became solicitous to extend the benefits of such a scheme. cured a number of copies of a report on the criminal code of Pennsylvania,* with an account of the penitentiary there, and transmitted them to two of the members of the legislature of New-York, then sitting in Albany, with a request that they might be distributed among the members, who, on their return home to their respective counties, might communicate them to the people, whose attention would thus be called to a similar reformation in their own laws. The same citizen, in 1795, made several visits to the prisons in Philadelphia, for the purpose of obtaining complete and satisfac. tory information of the operation and effects of the new system of punishment established, in which he received ample assistance from his worthy and intelligent friend Caleb Lownes.

The result of these inquiries was

communicated by him to General Schuyler, a distinguished member of the Senate of this State. This public-spirited senator, perceiving the great importance of the subject, and the wisdom of an experiment so loudly demanded by humanity, visited, in company with the same person, the Rhiladelphia penitentiary, and witnessed, with surprise and satisfaction, the spirit of wisdom and benevolence which presided in that institution; the cleanliness, decency, order, and tranquil industry which prevailed in every part. With minds deeply impressed with what they had seen and heard, they returned to the city of New-York, where the legis. lature were then convened. A few citizens, actuated by the same sentiments were consulted, and a plan of reform, in a bill "for making alterations in the criminal laws of the State, and the erecting of state priwas prepared by General sons," Schuyler, and in four days after his return, was presented to the senate. The bill was introduced by an able and animated speech of the mover; and after having being powerfully supported by several members,* was carried, with only one dissenting voice; and in the house of assembly with about nine opposing votes. This bill, after passing the usual forms, became a law on the -26th March, 1796.+

By this law, which has received

* Among these Ambrose Spencer, esq. particularly distinguished himself as a most zealous friend to the proposed reform.

^{*} By William Bradford, esq. one of the Judges of the supreme court of Pennsylvania.

[†] By this law, two state-prisons were directed to be built; one at New-York, and the other at Albany. The plan of a prison at Albany was afterwards relinquished, and the whole of the money appropriated for both prisons was directed to be applied to the one in the city of New-York. John Watts, Matthew Clarkson, Thomas Eddy, John Murray, jun. and Isaac Stoutenburgh, were appointed commissioners for building the prison,

several amendments since it was enacted, all those crimes, (excepting treason and murder, which continue capital) that were before punished with death, are now punishable with imprisonment for life in the state-prison; and, if the court think fit, the criminal may be sentenced also to hard labour or solitary confinement, or both. All offences above the degree of petit larceny, and not included in the above description, or otherwise punished, and stealing from a church, (before a capital offence) are made punishable for the first offence with imprisonment in the state prison to hard labour or solitude, all or either of them, at the discretion of the court, for a term not exceeding fourteen years. For the second offence the punishment is increased to imprisonment for life, hard labour or solitude, or both. Petit larcenies, buying and receiving stolen goods, &c. obtaining money, goods, &c. by fraud under false pretences, for the first offence are subjected to imprisonment, hard labour, or solitude. or both, or imprisonment only, as the court may direct, for a term not exceeding one year; persons guilty of a second offence have their punishment augmented for a time not exceeding three years.

Persons sentenced to imprisonment for any time less than twelve months, are confined in the county gaols, and cannot be sent to the state-

prison.

Corporal punishment is wholly abolished; and no conviction or attainder for any crime, except treason, can work any forfeiture of goods, chattles, lands, tenaments, or hereditaments, or any right therein; and all forfeitures in nature of deodands, and in cases of suicide, or flight from justice, are done away.

To prevent escapes, by a law in alteration of the first law, persons seatenced for life, who break out and

escape from the prison, and commit any felony above the degree of petit larceny, are punishable with death. Convicts sentenced to imprisonment for a term of years, who break out of prison, and are afterwards retaken. are to undergo imprisonment for a period double the time specified in the original judgment, to commence from the time of the last conviction, though at the time of being retaken. the original term had been expired: and as often as any person, not adjudged to imprisonment for life, shall escape from prison, the period for which he was sentenced shall commence anew from the time of his escape.

The friends of reform were sensible that the new law was imperfect. The substituting of imprisonment for life for the punishment of death in certain cases, did not alter the relative proportion of punishment for crimes of different degrees of malignity; * and if guilty a second time of the same offence, though in degree inferior to the highest crime, the criminal is subjected to the highest penalty. Great changes, however, in matters so deeply interesting to the community, should not be too The wark of reforsuddenly made. mation is slow, and must encounter many and strong prejudices, and the force of long-established opinions. It was prudent to listen to the voice

^{*}In the criminal code of Joseph II. Emperor of Germany, signed January 1787, the punishment of death is not to be found. High treason is punished by thirty years imprisonment, confiscation of property, and branding. Murder and other offences against human life and bodily safety, are punished by imprisonment for thirty, twelve, eight, and five years, according to the different degrees of turpitude.

[&]quot;If an equal punishment be ordained for two crimes that injure society in different degree, there is nothing to deter men from committing the greater, as often as it is attended with greater advantage. (Ecccaria)

of those who advised a forbearance of further change till experience had fully ascertained the advantages and defect of the new system. These defect of the new system. will be gradually developed in the progress of the experiment; but many years are necessary to its completion. A slight acquaintance with the nature of man and the history of society is sufficient to convince the considerate and ci-passionate observer that the full effects of an institution of this kind cannot be felt, nor the trial of its wisdom and efficacy be fairly and satisfactorily made, until after a long and presevering attention to its management and operations.

It is to be lamented, that many good citizens, feeling a just abhorrence at crimes, consulting the suggestions of virtuous indignation, rather than the principles of justice, become impatient that the alteration of the penal code has not yet produced greater and more decided effects, and adminished the number of the guilty. They, sometimes, even express a regret at the change which has been wrought in our laws, and returning to a system of accumulated severity and terror, wish to see every offence against life and property punished with death; as if crimes would cease with the extermination of the criminal. But let such turn their eyes inward upon their own hearts, and analyze the source from whence such wishes arise. Let them consider the effects produced on society and manners by the rapid increase of wealth and luxury, natural population, and emigration, which consequently augment the number of crimes, whether the laws be mild or sanguinary. Let them consult reason, and the experience of the most enlightened nations, which prove beyond all contradiction, that crimes are most frequent where the laws are most rigorous; that pu-

nishments mild and certain more effectually prevent crimes than those which are sanguinary and severe. Let them at least examine, before they condemn, a system sanctioned by different legislatures, prudent and enlightened, and applauded by the wisest and best men in all civilized countries.

(To be continued.)

For the Belfast Monthly Magazine.

JOEL BARLOW'S ACCOUNT OF THOMAS PAINE.

A CORRESPONDENT requests the Proprietors of the Belfast Monthly Magazine may insert the following character of Thomas Paine. In ascertaining the character of an individual before the Grand Tribunal of Public Opinion, which although often erroneous in pronouncing hasty judgment on hearing only one side, is generally ultimately in the right, it is but fair to suffer evidence to be adduced both for and against the person at the bar.

An editor of a newspaper in New York, since deceased, shortly after the death of Thomas Paine, published an account of his life replete with many falsehoods and exaggerations to render him odious. The following letters to and from Joel Barlow, with the accompanying remarks are extracted from an American newspaper;

"While collecting materials for that work, Cheetham addressed a letter to Mr. Joel Bariow. This drew from the masterly pen of that writer, the subjoined sketch for the portrait of Paine. A more precise and elegant outline of character has not often been drawn. The strokes are few, but they are exact; faithful to truth; clear, strong, and impartial. How different from the daubing of Cheetham! that miserable man, now no