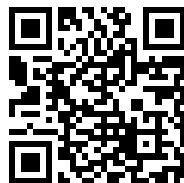


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*H. G. 260*

THE

PENNSYLVANIA SYSTEM

OF

SEPARATE CONFINEMENT

EXPLAINED AND DEFENDED.

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*PHILADELPHIA:*

J. B. CHANDLER, PRINTER, 306 & 308 CHESTNUT STREET, [GIRARD BUILDING.]

1867.

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PENNSYLVANIA SYSTEM

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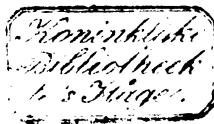
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## INTRODUCTORY REMARKS.

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THE Philadelphia Society for Ameliorating the Miseries of Public Prisons, has from its foundation (more than eighty years ago) labored towards the object set forth in its title. Its members have reason to felicitate themselves in the belief that their labors have been beneficial, directly, in their immediate vicinity and in many parts of this Commonwealth, and reflectively and as imitable examples in other parts of the United States and even in Great Britain, and on the Continent of Europe.

In attempting to ameliorate the condition of prisoners, consideration has been given not merely to the punishment which is ordered by the Court, but to the construction of the building used as a prison, and to the character of the discipline to which the convict is submitted.

To the last branch, namely, the discipline for prisoners especial attention has been given by the Society, and that has led to a consideration of the mode of construction best adapted to the form of discipline approved.

The separate system of confinement is that which in the opinion of the Society is best adapted to the purposes of punishment and improvement, as indeed being the only system which secures the convict from the evil

association with others of his class, leaves him to the ministration and moral suasion of those who take an interest in his present condition and his capabilities, and allows him at the completion of his term of imprisonment to go forth into the world, without having his plans of good imperilled by the accidental or premeditated contact with those who had been his contemporaries in prison.

This system of separate confinement has been fully and satisfactorily tested in the Eastern Penitentiary of Pennsylvania, where the construction of the building and the character of the discipline were adapted to the system, and serve to give it efficacy and ensure its success.

Attempts to adopt the system of separate confinement without adapting the building and the discipline to the requirements of the system, have failed in some places; and a want of satisfaction has been expressed in others, because the labor of the convicts did not meet the cost of their maintenance.

For this "Separate Confinement" (not solitary imprisonment) this Society has earnestly labored, and it has in various ways sought to ensure, in the alterations of existing jails and in the erection of new prisons and penitentiaries, the proper means of securing health, employment, and correction to the convict, and in these prison houses the Society has endeavored to place its volunteer agents to instruct the prisoner and lead him to resolves of amendment.

But the want of a general system has retarded the progress of all efforts to make the prisons and peniten-

tiaries places of moral reform ; and the Society in the progress of its labors has sought to procure from the Legislature of this State enactments that will systematize the administration and discipline of the penal and pauper institutions of the Commonwealth, and secure to each the benefit which may flow from improvements in the other.

In order to show the views of the Society in regard to a general system for the administration of the pauper and penal institutions of this Commonwealth, reference is here made to a letter addressed in December, 1864, by the Society to His Excellency A. G. Curtin, then Governor of this State. The letter is reprinted and constitutes a part of this pamphlet.

That letter was the result of deep conviction as to the necessity of an organization of the general system proposed, and that conviction resulted from continued observation and the reports of members of the Society sent forth to examine the situation of our prisons and almshouses, and to see what was the result of a want of system, and what would likely be the consequence in this State, of such provisions for Commissioners or Agents as are made in some other States and in Europe.

We leave this part of the subject to the statement and arguments set forth in the letter to Governor Curtin, and especially to the report of the Joint Committee of the Legislature to whom that letter was referred, having been transmitted to the Legislature with his Annual Message by the Governor, adding only that if any illustration of the advantage of such a commission or agency or controllership should be desired it is only to look at

the benefits which have resulted to the school system of this State from the employment of a State Superintendent of the Public Schools, to whom the reports of the various school divisions of the State are directed, and by whom the administration of the laws is secured and the people made acquainted with the progress and extent of the Public School system.

The report of the Joint Committee of the Legislature to which reference is made, accompanies in this pamphlet the letter to Governor Curtin.

But it is necessary to have appropriately constructed prisons if we would desire all the advantage which is proposed by moral persuasion. We will not here anticipate the statement and argument presented in a valuable paper prepared by the late W. Parker Foulke, Esq., as we have felt it a duty to present also, in this pamphlet, that *Essay* as most happily illustrative of the views of the friends of improved prison discipline.

We have already stated that certain motives and certain want of motives, have lead to serious and most injurious misrepresentations of the "Separate System" of imprisonment, and it seems a duty at the present time to remove if possible, some wrong impressions resulting from these misstatements, and to defeat if possible, the attempts now being made to lessen general confidence in a system which is the *only* one yet put in practice to ensure to the convict reflection, instruction, and a valuable use of the term of imprisonment, and save him from the danger of continuing abroad the evil companionship of convicted felons, established in penitentiaries and jails conducted on the "Associate System."

We know of no better Essay on that subject than the one prepared at the request of the Society, by its valued member the late W. Parker Foulke, Esq., and to that Essay, forming a part of this pamphlet, attention is earnestly requested.

At the present time public attention is, in almost every part of the Union, directed to the condition of the County and State Prisons, and practical men and philanthropists are engaged in discussing the various theories of discipline, while in some States a system is established and administered with a spirit which has procured an approval that is far less due to the system than to the administration.

Our county prisons and our penitentiaries are now crowded. How shall the number of convicts be diminished? That is a very important question, but one not likely to be satisfactorily answered for some time.

How may these prisons be made places as much for improvement as for incarceration? The answer to this interrogatory may be difficult also, but the accomplishment of such a work may be much more easily approached than the immediate lessening of crime and its punishment. Nay, until that approach is made, we cannot hope for any permanent diminution in the number of convicts.

It is not enough to have one Penitentiary or one or two County Prisons well conducted. If a system of treatment proves highly beneficial in one prison, that system, with its means of administration, ought to be adopted in all that are less favored.

But what is needed now, besides the protection of the

great system of “ Separate Confinement,” is the adoption of a system by which all the prisons in the State can be made accountable to the State for their administration, and such a central officer secured as will not only *enable* all, but *compel* all prison authorities to make known to him, and, through him, to the people of the Commonwealth, the character and condition of the prisons, and the results of the administration of all the Penal and Pauper Institutions in the Commonwealth, with all the statistics of the institutions.

Let there be a thorough centralization of all the proceedings of our criminal courts, and all the statistics of public charities. Officers of courts and of prisons have a concern in this, and it should be made their duty, by Act of Assembly, to assist in the work in which they have an interest as citizens, and an obligation as officers.

We add, also, a bill reported to the Legislature of the State, but which, for various causes, did not become a law. And we respectfully invite all those in whose hands this pamphlet may be placed, to give its contents careful perusal, and to give to the object which it proposes a hearty support.

JAMES J. BARCLAY, *Pres't.*

JOS. R. CHANDLER, *V. Pres't.*

JOHN J. LYTTLE,  
EDWARD TOWNSEND, } *Secretaries.*

SOME  
NOTICE OF THE COUNTY PRISONS  
AND  
ALMSHOUSES IN PENNSYLVANIA,  
RESPECTFULLY ADDRESSED TO  
HIS EXCELLENCY A. G. CURTIN,

Governor of the Commonwealth,

*By the Philadelphia Society for Alleviating the Miseries  
of Public Prisons.*

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TO HIS EXCELLENCY A. G. CURTIN,  
Governor of Pennsylvania.

SIR :—The Members of the Philadelphia Society for Alleviating the Miseries of Public Prisons, have, for nearly seventy years, labored with earnestness to procure for the execution of the penal laws of the State all the characteristics of mercy of which the discipline of a prison is capable; and they have reason to believe that they have not only entitled themselves to the credit of some success at home, but they have been so fortunate as to excite abroad a greater consideration of the subject of Prison Discipline as a means of amending the life and improving the character of those who have incurred public censure by their crimes or their vices. And it is a proof of the benefits of such labors in one

direction, that in the Kingdom of Great Britain and Ireland the experience of the governors, directors and managers of public prisons leads almost entirely to the adoption of the plan of separate confinement of the prisoners, as far as the construction of their prisons will permit.

Separate confinement, however, is not all that is desirable in the system of prison management: order, propriety, cleanliness and moral and religious instruction are demanded, and these to be an essential, a necessary part of the administration of every prison.

In the city of Philadelphia there are two prisons—one the Eastern Penitentiary, famed for its system of separate confinement, an example in that respect, and perhaps it may be added, in all the other points which we have mentioned above as essential to a sound prison policy, in which punishment for crime and the improvement of the criminal are to go hand in hand.

The other is the Philadelphia County Prison. This, it is believed, is a well administered institution, considering the variety of causes for which imprisonment is assigned. With these two prisons the Philadelphia Society for Alleviating the Miseries of Public Prisons have been most connected. They have, without interfering with the prescribed duties of the chief officers and of the Board of Inspectors, sought by frequent visitations to improve the character and condition of the prisoners; and they have not been unsuccessful. Many have, under the kind instructions of the Society, gone forth into the world and put into execution the good resolves which they had been prevailed on to make in

their cells, and thus the ends of the Society and the good of the community have been directly promoted.

In order to alleviate the miseries of prisons, however, the Society has found that something more is needed than a direct and friendly appeal to the prisoner. That is a good work in itself, and its goodness has been manifested by the direct permanent benefit that it has wrought in the prisoner. But the great work of alleviating the miseries of prisons must also be promoted by improving the plans of prison structure, by placing the affairs of each prison in competent hands, and under rules and regulations that will insure the improvement as well as the imprisonment of the offender, and make his prison-house the place of moral and religious instruction.

It has been known for a long time that the prisons in some of the counties of this State did not, in any considerable degree, in either structure or administration, conform to requirements such as have been stated above. The usual propriety of conduct in the rural districts precluded the idea of large or crowded jails. And the rarity of crime, and especially its direct and general bearing upon the interests and convenience of a considerable portion of the inhabitants, each of whom seemed to share in the injury done to his neighbor, cut off the offender from the sympathies of the people around him, and he came to be regarded as one whose hand was against every man, and consequently every man's hand was lifted against him. And so the jail was built without much regard to the comfort or improvement of the prisoner,—built to suit either the economical tastes of

the county, or the architectural want of taste of the inhabitants of the shire town ; and often comfort, properties, and even safety, were sacrificed to the former in order to propitiate the latter—with as much show for the towns-folks as was compatible with the smallest amount of cost to the rural inhabitants.

Of course, houses thus constructed must possess very few means to meet the intentions of the laws with regard to criminals; and the economy in construction, which is thus made to accommodate two small passions at the expense of a great principle, will be scarcely less manifested in the maintenance of the building and the support of its inmates; but rather the false taste that leads to the sacrifice of the great object of a prison, by the cheapness and inappropriateness of the building, will certainly be exercised in the administration of its affairs, physically, fiscally, morally and religiously.

Frequent attempts have been made, and one or two by the Legislature of the Commonwealth, to procure annual statements of the affairs of each prison in the State; but these efforts, even though seconded by the obedience of some of the prison officers, have not procured the kind of information that is necessary to form a just opinion of the situation of all the prisons, and to suggest a remedy for any of the evils which are consequent upon the existing system of general prison discipline, or which may result from the neglect of the Superintendent.

The Society, in the discharge of the duties which it has assumed, felt that any bare statement of the routine of business, and the ordinary statistics of the prisons,

would be quite inadequate to the object in view. They desired the results of personal inspection. They wanted the reports of men who were not concerned in the direction of any one prison, but who knew what are the requisites of prison administration and prison discipline. It was therefore resolved that an agency of three persons, active members of the Society, should be formed, and these members should visit the prisons of the State. The agency was to be so divided that the labors of one should not interfere with those of the others.

As a guide to their inquiries, each of the agents was furnished with a series of questions, as follows :

*Interrogatories to be propounded to the Inspectors, Sheriffs, and others interested with the management of the Prisons of the State of Pennsylvania.*

When was the prison of your County erected?

Is the building adapted to the congregate or separate system?

Under what officers is the prison conducted, and how are they compensated?

How many prisoners will it accommodate?

Are the sexes completely separated?

Are the prisoners allowed to associate at night?

How are the convicts employed?

Is any employment given to untried prisoners?

Are the prisoners who can read furnished with books?

Are those who are ignorant taught to read and write?

Are they taught trades?

Are they afforded religious instruction?

What is the dietary of the prison; breakfast, dinner and supper?

Are any of the officers of the prison interested in any contract for supplying the prisoners with food, raiment, or any other necessaries?

What clothing and bedding are furnished to the prisoners?

What are the hygienic arrangements of this prison?

What is the number of prisoners in this jail. State their sex, color, age, &c., and crimes for which they have been convicted, and the average term of imprisonment in this prison?

What has been the average number for 1860, '61, '62, and '63?

What is the number of insane persons now in jail. State the sex, color, age, and whether they are recent cases?

Are any special arrangements made for treating insane prisoners?

What has been the average number of insane in this prison for 1860, '61, '62, and '63, and what the whole annual expense of supporting this prison for the years above mentioned?

What are the punishments inflicted on the prisoners to prevent their escaping, or to preserve the discipline of the prison?

It is to be regretted that the statements of the special agents of the Society cannot be published in extenso, as no effort at an abstract which would suit the small space at the disposal of the Society, can give a correct

idea of the state of these institutions, each differing from the other in construction or in some parts of administration.

In some places the prison is old and dilapidated, and of course unsafe. Where that is the case, the convict must be kept in chains to secure the fulfillment of his sentence, and sometimes save a little extra trouble to the keeper; while instances of the kind were found and noted, it is due to the cause of truth and the credit of our fellow-citizens to say that they are not general, and seem to be the remains of a bad custom transmitted down, and to be abolished with the erection of a new prison.

Food is abundant in Pennsylvania, but wherever it is needed it costs something. When therefore the keeper of a prison is allowed a certain sum a day for finding each prisoner, it follows as a matter of course that there is, at least, a temptation to reduce the character, the quantity and quality of the food, so as to make the merchandise thereof profitable to the keepers of the prison. Such a trade seems abhorrent to the best feelings of humanity, and while the keeper ought to pray to be kept out of the temptation to do such a wrong to those who receive from him "day by day their daily bread," these latter must often ask to be delivered from the evil which the cupidity of others imposes upon them. It is right to say that in many instances the provisions supplied to the prisoners by this species of commissariat are wholesome and abundant.

In some cases where the keeper is to find food and bedding, he is not called upon to furnish wearing apparel, and to one arrested and sentenced in the summer, the

changes of weather in autumn and winter produce much suffering, and great complaints were made on that ground. A case is mentioned in which a judge refused to try a prisoner till he was provided with such clothes at least as decency made necessary.

The location and construction of the prisons are in many cases wholly exceptionable. Situated often on the chief thoroughfares of the town, with windows that admit of constant communication between persons in the streets and those in the prison; and as those outside who would thus hold conversation with those within, could scarcely be edifying, it follows that the imprisonment often by that means becomes a means of injury to both the prisoner and his outside friend.

Another great evil in the construction of prisons, is the neglect to provide for a complete separation of the sexes. In some cases there was found to be no attempt to separate them during the day; and, in one or two cases, the means of communication were so available, that without the aid of public functionaries or the courts, additions had been supplied to the number of inmates, and thus the very crime for which the prisoner may have been suffering was repeated in the house of penalty. Of this several instances are noted by one of the agents. In one case certainly not under the knowledge of the keeper.

On the subject our Agent says:—"In regard to the association of male and female prisoners there is no rule, and the practice varies. Whether they shall be separated or together, which is, I presume, the least troublesome arrangement, depends on the will of the Sheriff

and his sense of propriety. It is a usually recognized principle that the sexes shall not associate at night. Still, even this principle, as appears from the case already cited, can be, and is, infringed occasionally. But however strictly it may be observed, the grossest immorality may exist *without* the sexes being permitted to spend the night together. The time at which the prisoners are separated for the night varies; sometimes it is not till after dark in the winter time, and in one prison not till 9 P. M., winter and summer. As the business of the Sheriff frequently calls him away from home, it is not likely that any strict regulation can be preserved as to the time of separating the prisoners. And even with the utmost regularity upon this point, it is doubtful when male and female prisoners spend the day together, whether much evil is prevented by their separation for the night only.

Another important matter is noticeable in the construction of the prisons, to which decency and common humanity should at once apply a correction, viz. the construction of cells without the convenience of water closets. It is not necessary to say more on this subject, than to remark that more than one prison in the State were found destitute of what the most common sense of propriety would suggest.

In other prisons a common yard to the building held the only water closet of the whole establishment.

In others, the female prisoners were compelled to pass through the common room of the males to gain access to the more common water closets, serving for them, for

the male prisoners, and the family of the keeper. It is painful to state that the evil here noticed is very general.

It may be proper here to state that some of the prisons recently erected, while they have all the appearance of massive masonry and assume the fronts of mediæval castles, that would defy the assault of a considerable force from violence, are so constructed internally as to invite attempts to escape. In such case the grand object of penal buildings is sacrificed to show, as, in the country at least, few ever desire to force their way *into* prison.

Nor is the consideration of the subject of prison architecture foreign from the dictates of mercy and humanity by which the Society is influenced. The convict who is always encouraged with the hope that he can violate the law of the State by breaking out of prison, is not likely to give much attention to the lessons of religion and morality that teach obedience to the laws. An unsafe prison is a temptation to crime.

On this subject one of the Agents reports with regard to a prison in this State:—"The prison has four apartments for the Sheriff and family. The external appearance is neat, being of brick, ornamentally designed. The cells are two stories high, built with blocks of sand-stone twenty inches square, which give the appearance of great strength. The cells back to each other, having strong iron doors and locks, and one arched *with a four-inch arch*, through which a woman could easily work her way with a tenpenny nail. Several of the cells have yet open the man-holes which the prisoners broke, and through which they escaped, and these afford the principal ventilation."

In some of the country prisons the insecurity of the house is so great, that much cruelty is practised to prevent the escape of a prisoner charged with felony. And it may be remarked that rules or laws to exempt the Sheriff from liabilities consequent upon the escape of prisoners, show the admitted insecurity of the jail, while it shows also the criminal parsimony of the county that takes no proper method to prevent the offender from visiting other locations to practise the felonies which were detected but not punished by the proper authorities at home.

The inquiries of the agents naturally included the moral provisions of the prisoners. What has been done to supply the deficiency in the school education of the offender, and what attempted with regard to the moral and religious condition of those who are undergoing the penalty of the law? It is painful to say that in many of the prisons nothing has been attempted in that way. The ignorance of books, and their developed faculties, are sharpened to wrong by their constant intercourse with their more advanced fellow prisoners. In some of the prisons there are a few books—not enough to serve the purpose for which they were provided, but ample to show that there is a duty felt somewhere of doing something for the prisoner. In other prisons it is reported that some self-devoting man gives all of his Sundays to the instruction, literary and moral, of the inmates; and this shows, if not how much good can be done, at least what kind of good ought to be attempted. What is the duty of the philanthropic in the way of labor? and, let it be added, what is the duty of the Commonwealth in

the way of encouragement? It is not too much to say that the moral and religious instruction of prisoners throughout the Commonwealth has been shamefully neglected in most of the county prisons, and the few exceptions which are noted, resulting generally from individual efforts, and maintained by individual sacrifice, are only sufficiently numerous to denote the possibility of producing the good required, and illustrates the great neglect on the part of the public.

Social confinement of the guilty without moral instruction, without proper books, without steady employment, must be productive of more evils to society at large than would flow from the entire neglect of justice toward the criminal. Prisons badly constructed and badly conducted must, in the nature of things, be schools of vice, weaning the young offender from the taste and use of the little good that is left in him, and making the bad worse.

It is the opinion of the agents, that many of the evils of the county prisons spring from the fact that the sheriff of the county is, *ex officio*, the keeper of the prison. It is not believed that men are selected for that important office who are not humane and just. But men do not seek the office of sheriff for the sake of being the jailor; and if there is any business for the sheriff to do beyond the wall of the prison, so much of the time of that functionary is taken from the discharge of a duty which he assumes, but which has no affinity with the other more desirable parts of his official labors. Besides, the office of sheriff is not a permanency, while that of a prison-keeper ought to be. The duties of his place as sheriff

must, if discharged, prevent the personal supervision of the prison and the prisoners which a jailor ought to give. And he must be often tempted to enlarge his small income by such efforts at economy as must tell hard upon the prisoners, often hard upon the county. Instances of the kind are given, but it is enough to state that the system, or rather want of system, is liable to such abuses.

In presenting a short abstract of the reports of the visiting agent, details have been omitted, and care taken not to connect any location with errors which, though conspicuous *there*, are nevertheless the results of a want of a system regulated by humanity and enforced by legislative requirements.

It is believed that what is called the "SEPARATE SYSTEM" for prisons is that alone by which permanent improvement in the incarcerated can be expected. Such is the opinion in Great Britain and Ireland, as set forth in the reports of investigating committees, extracts from which are only withheld from the statement, that the size may not hinder a perusal. But the "Separate System" is emphatically the Pennsylvania System. To extend the benefit of this system then to the other branches of penal discipline, seems to be a logical deduction from the success that has thus far attended it—success in the penitentiaries and the few county prisons in which it has been adopted. Such measure would insure improvement earlier in the career of crime and vice, and thousands who now pass from the well-occupied rooms of a county prison to the separate cell of the penitentiary, might be spared the latter grade of pun-

ishment, and be made to commence the work of reformation before they had become so far advanced in crime as to preclude strong hope of their amendment.

But admitting that arrangements were made for separate confinement of prisoners in all or most of the prisons of the State, still errors in the administration might creep in, and abuses grow up into mortifying enormities.

Formal stated reports from the superintendents of the several prisons might be expected to give such information as would secure, if not reformation, at least correction; but experience shows that such reports do not produce the end desired. The simple statistics of the number admitted, the number dead, and the number discharged, would, of course be correct; but that would call for no interference, and would excite no remarks; what is needed is, a statement of the administration of the affairs. This might be ordered by the Legislature. But it is to be feared, or rather it is to be expected, that such a report would in a few years become a matter of form, and have little claim upon the attention of the attention of the Legislature. And it may be added, that the superintendent, who from bad motives, or from neglect, or want of abilities, suffered abuses in his prison, could scarcely be expected to make such a report of his trust as would expose his official conduct to investigation, and himself perhaps to censure and dismissal. Nor is that all. The superintendent, looking only to his own charge, would not obtain knowledge of the operation of the system in other counties, and he would, without intention, and perhaps without deserving censure, allow his administration to proceed in the old routine, and his

report to be the stereotyped statements of former years, which, conforming to the requirements of the law, would be obnoxious to no censure for its omission of statements of misdoings, and to no criticism for neglect.

It is believed that the prisons of the State require more supervision than they now have; that they ought to be placed under a regular system, which shall include steadiness of discipline, mercy in its administration, and a strict accountability, with such a general supervisory care as shall enable the public to know that all is done in the way of justice which the law requires, all in the way of mercy which religion suggests, and all in the way of improvement which is due to humanity and the high philanthropic character of the State. And this requires one or two general agents, who have a proper sense of what is due to the prison, as well from justice as from mercy,—who, having a knowledge of the true principle of constructing and conducting prisons, shall, by frequent visitations, assist the superintendent to carry out, to its fullest extent, the intention of the penal laws of the Commonwealth, compare the workings of the system in one county with those in another, and leave to all the benefit of the improvement which each may adopt, to see that every part of the intention of the just laws of our State are carried out, and all the capabilities of a prison for the moral improvement of its involuntary inmates be put into use; and then a strictly impartial report of all the ordinary occurrences be made to the Legislature annually, with such statements of the success of attempts at meliorating the condition of the prisons as may correct the errors of some and encourage

the exertions of others—*what has been done and how it has been.*

This supervision can, of course, be rendered effectual only by those who have their hearts in the work ; who feel, not only for the cause of justice, but for the good even of the guilty ; who, while they admit of no morbid sensibility for the situation of the convict, will allow no indifference to his capabilities as a man to prevent them from using all efforts to restore to society an amended, if not a useful member ; who will have a pride in endeavors to make, even the prisons in the State, mental hospitals, in which those who have no hope of departure into this world, may be in some measure prepared for a departure into the world that is to come ; and from which the discharged shall go forth, with determination and qualification to become useful elements in the social system.

It is hoped that the statements made above will show the necessity of some further legislation to promote the usefulness of prisons beyond the negative condition of preventing crime by withholding the culprit from society —furthering that usefulness by giving to those houses the positive character of schools of sound morals.

At this point it is deemed desirable to say something of what seems a *desideratum* in the reformatory plans of the State ; an institution which shall occupy in point of usefulness a position between the prison and the alms-house ; a House of Correction, of Industry or Reform ; in which the sturdy offenders against the proprieties of society shall be made to compensate by labor for the cost of their board and clothing, and learn to live and

work without the use of stimulants that produce intoxication; or those uses of tobacco which stimulate an appetite for strong drinks.

The subject will naturally command the attention of the Legislature and the people, when the construction and management of public prisons shall have been properly systematized.

Intimately connected with the subject of alleviating the miseries of public prisons, is that of improving the administration of the almshouses of the State; or rather, of making most subservient to the cause of humanity the administration of funds raised for the support of the poor. The guilty must be incarcerated as a punishment for crime committed, and to secure the safety of the good for the time, and as a means of moral improvement of the offender. It is the right of society thus to deal with those who violate its wholesome laws.

The poor must be provided with the means of comfortable living, with the decencies of life, and that which is necessary to declining health and accumulated years or deranged intellect. It is the duty of society thus to act,—a duty imposed by the very terms of the social compact,—a duty also imposed by the taxes to which those very poor were in better days liable, in order to sustain the miserable of their own community. The right of the virtuous poor to the comforts and proprieties of life, when they have ceased to be able to procure them for themselves, has a correlative duty in society, and it is therefore a perfect right, and may and ought to be enforced. To see how that right is enjoyed, and how that duty is performed, in various counties, was the

intention of the Society,—the movement being one of public good and humanity, and connecting itself almost naturally with that of the administration of prisons. The comfort of the virtuous poor, it is repeated, may be demanded as a *social right*; the improvement of guilty prisoners is one of humanity and *social benefit*.

Individual inquiries had led to the belief that all that might be done for the poor, with the amount actually expended, had not been secured, and that information of the administration of almshouses, and the care of the poor by other means, would lead to a knowledge, and thence to a correction, of evils; and therefore the same agents that went forth to make inquiries as to the mode in which the criminal and the vicious are punished, were charged to seek information as to the manner in which the poor are cared for; and the following questions were propounded, to elicit the information desired:

*Questions to be propounded to the Managers, Overseers, Stewards, and others charged with the management of the Poor Houses of the Commonwealth.*

When were the buildings erected?

How many persons will they accommodate?

How is the Institution managed; state particularly, and how the officers are chosen?

What salaries are paid?

Has the Steward or Superintendent any pecuniary interest in the labor of the inmates or in furnishing any supplies for the Establishment?

What is the Dietary of the inmates, breakfast, dinner and supper. State what clothing and bedding they are

allowed; what trades or employments are carried on in the Institution?

What number of Insane inmates are now in this Institution; what number of these are recent cases, and what number are chronic cases?

Are there any special arrangements adopted for the treatment of the Insane?

What was the average number in this Institution in 1860, 1861, 1862 and 1863? State their sex, color, age.

What are the prominent causes of Pauperism in your county?

What are the Hygienic arrangements of this Establishment?

What has been the cost of this Establishment for 1860, 1861, 1862 and 1863?

Those who have looked into the condition of the poor dependent upon public charity as it is dispensed in our own State, will have observed that the pauper is regarded with little favor; as it is perhaps true in his case as in the situation of those whose disappointments in life have only turned them from the superfluities to the bare comforts of existence, that they owe their condition to their own mistakes.

“Look into those you call unfortunate,  
And, closer viewed, you'll find they are unwise.”

But no lack of sagacity, no want of prudence, no indulgence of immoral appetites, can deprive the poor man or poor woman of the right to a decent mainten-

ance; and when a township or a county seeks to avoid a small expense by making the expenditure smaller, in cheapening the support of the poor, it violates an article in the great compact of society.

They who are, and who are by a law of social life always to be, with us, must be provided for; and by contributing to the support of the existing poor, not only is the present tax payer ministering a fund to which probably the pauper has contributed, but he is perhaps adding to the fund and fixing its administration for his own benefit or that of his children. The sudden changes which occur in this country are felt as much by the rich as by the poor; when one part of the wheel is uppermost, another portion of its periphery must be down. It is, nevertheless, a wheel, and its integrity is dependent upon each portion. What is needed in townships and counties where there are poor, and where almshouses do not exist, are almshouses. And what is needed in almshouses, is such a construction and arrangement as will admit of an administration that will respect the remaining delicate sentiments of its inmates,—that will permit the old husband and wife, who are unable to contend longer with adverse circumstances, to spend together the remainder of their time in a union which perhaps may be the last ray of sunshine in a stormy day,—that will secure to those who may not remain thus united, all the comforts which a propriety of administration may supply, and all the enjoyment which a diseased frame and protracted years may permit.

It is known that the almshouses are not all thus administered; but it is the hope of the Society that im-

provement in conducting their affairs may multiply the comforts of which such institutions are capable. But erroneous as may be the general plans of these places, faulty as may be their construction, and deficient as some of them may be in the means to secure the objects for which they are established, it is believed that at worst the system is better than that which puts up the support of the poor to public bidding, at the same time that the horse and kine are struck off, with this difference in favor of the latter, that the bidding for brutes is upward, while that for human beings is downward. "The worst almshouse," says one of the agents, "is better than the contract of individuals, to maintain cheap and work hard the pauper of the township."

A great evil is found in the manner of selecting the administrators of the funds provided for the poor. In many counties the whole matter is thrown into the general concern of party considerations, and men who cannot get the distinction and benefit of some office of profit as a compensation for party service, are rewarded for their services by a nomination and election as overseer of the poor, with the duties of which position they have no knowledge, and with the character and wants of those in whose behalf they ought to act they have no sympathies. What good such men could do to others in such places it is difficult to imagine. What injury to others they produce is patent to all who look to their official labors.

While it is desirable that the evils in the plans of our public institutions, and the malpractice in their administration be made known, in order to secure the correc-

tion of what is now wrong, and to prevent a perpetuation of similar evils in other places, the Society is happy to say that the agents have not failed to report some of the persons and almshouses which they have visited as creditable to the counties which reared and have sustained them—because they promoted the very objects for which they were instituted. For example, one of the agents says:

“The poor house was erected in —, and is the best sample of a poor house I have seen in any county. It has separate stairs at each end, with enclosed yards. It will accommodate two hundred persons, with comfort. The present number is fifty-two. Three directors are elected, one each year, who serves three years. They are allowed sixty dollars per annum each. They employ a steward at a salary of four hundred dollars a year, and a living off the farm. The inmates are supplied with good wholesome food without limit, and a suit of clothes extra to those who are able to attend a place of worship; and beds and appliance sufficient. They have no trades excepting those for the benefit of the institution, and these are increasing. There are thirteen insane, all chronic cases. Apartments are erected for them at a distance from the sick. The average number of paupers in three years was between sixty and seventy. Of these three were colored. Cause of pauperism intemperance mainly. A physician is employed to visit weekly. The whole cost about six thousand dollars a year.”

Where such an almshouse is found, thus administered, it is easy to see that men have been selected as

guardians of the poor who had a proper pride in the character of the county and a proper sense of what was due to the wants and circumstances of the poor. No refuse of party nomination have been used for the office ; no man is placed there to earn a more profitable position by starving the poor for the benefit of the tax-payer. It is proper to add that one or two other alms-houses are spoken of with similar approval. These cases, for brevity sake, are not particularized. The object is to procure the correction of prevailing *evils* by calling attention to their existence. In such matters, that which is well planned will be generally well executed.

Inquiries into the condition of the prisons and alms-houses of the State have forced upon the attention of the agents and the consideration of the Society, the treatment of the insane. The State of Pennsylvania stands almost foremost in her provisions for the mentally diseased ; and yet it cannot be denied that some of that class of persons suffer as much in this State as they would on the "border territories," where as yet no provision for the insane has ever been thought of.

The reports from which this short extract is made, give instances of most shameful neglect or maltreatment of the poor insane. And to such a degree has this cruelty extended, that in more than one instance it is noticed that "strong pens are made, in which the insane are kept. They strip themselves, and are left in cold and nakedness. The informant, a high public functionary, said he had not seen it in his county, but in several others he has seen them chained in pens, naked

and filthy, and they were visited by passers-by, and boatmen from the canal, as objects of curiosity."

Pennsylvania has now a State Insane Hospital, at Harrisburg, and another at Pittsburg, which are occupied by the class of patients for which it was intended ; but while there are many persons in the State who suffer such cruelty, more provisions should be made. The State is not true to its great mission if it neglects the cause of that class of sufferers.

Of course it is not pretended that the class to which allusion has just been made are found in a majority of the counties. But it may with truth be said that, with the exception of two or three counties, the provisions for the insane are miserably deficient, and in some counties the total neglect, or the improper kind of provisions, amounts to a disgraceful cruelty.

Nor should it be lost sight of, that where there is no regular system enforced by law, all the evils that are now found in a few places may find their way to most counties. The system, or rather the want of system, is so liable to produce misery to the sufferer, that it demands attention.

In the city of Philadelphia there is a splendid hospital for the insane, a part of the great institution of the Pennsylvania Hospital, and there is a large asylum under the direction of Friends, directed to the same humane uses; and in the Philadelphia Almshouse the care and treatment of the insane is made a specialty. The State Institutions at Harrisburg and at Pittsburg are admirably managed, but they are not sufficiently

inclusive. The incurable, the poor, the criminal, need provision in their behalf. They require humane attention. It is cruel to see these sufferers exposed as we have already stated. To know that they are sent from county to county to find a residence, and when that residence is found, perhaps their unwelcome presence excites no sympathy and suggests no gentleness of treatment.

It is believed that, curable or incurable, these sufferers have a right to a home in which they could be prescribed for by the skillful professors, and treated with gentleness and proper consideration by persons selected for their general humanity and their willingness to assist in directing an institution or house for the insane. Nor should it be lost sight of, that the location of the house for the poor insane should be at such a distance from the residence of the sane pauper, that the latter, when sick, should not be disturbed by the cries of the former, nor the former irritated by the presence of the latter.

There should be no insane kept in Almshouses.

If there should be no insane in the Almshouse, then by a stronger argument there should be no insane in a prison. On this subject it is not now a time to speak with the earnestness which the subject deserves, nor is there space here to show by argument, strengthened by strong instances, what a wrong to all is the mixture of the sane and insane in prison.

The Society for alleviating the miseries of prisons, in obtaining the information upon which they are now acting, were so fortunate as to find in various parts of

the Commonwealth citizens who had seen some of the evils in prison discipline and almshouse administration, but who had not been moved to any union of action towards improvement. A large number of these gentlemen have cheerfully connected themselves with the good works of the Society by becoming corresponding members, where it is not yet practical to form Auxiliary Societies. By the aid of these co-laborers the Society will be enabled to obtain much information upon the state of the convicted guilty, the imprisoned vicious, and the dependent poor; and it will also through their corresponding members and Auxiliary Societies be able to put into practice its concerted plans, to correct some of the existing evils, and to enlarge the means of general good. But the whole needs some Legislative support—something by which the efforts of the Society may be made successful—some Legislative action by which, what is asked for by the active philanthropist, may be conceded as a duty by the administration of the penal and pauper institutions. It is believed that a State Agent, acting with the Society and for the State and the poor and criminal, would present annually such an amount of information that would never otherwise go beyond the walls of the prison or almshouse, as would satisfy the Legislature of the State that the small expenditure would be ten times repaid by the amount of moral improvement in the criminal, and the increase of physical comfort provided for the poor.

The salary of the Agent should be enough to meet his expenses in traveling and at home, but it should not be so large as to provoke the cupidity of those who re-

gard the compensation rather than the benefit of appointment.

A man with his heart in the work would by his labors add abundantly to the efficiency of our prisons and the benefit of our almshouses. He would by his personal communication with the inspectors and keepers of the prison lend them a hearty co-operation in all the best modes of administration, while each would profit by the experience of the other, and the whole system of penal and pauper houses would become perfect in their adaptation to the particular wants of the inmates, and the representatives of the people in the Legislature of the State would feel that they were acting upon the highest requisition of republicans when they were providing for a humane administration of the almshouses and prisons of the Commonwealth.

The agency of a single individual, especially connected with the humane efforts of a Society that has no views of self-aggrandizement or political success, would be consistent with the quasi independence of the counties in which its prisons are maintained, and the work, while it insured the melioration of existing affairs, would partake of that character of sound and practical humanity by which Pennsylvania is distinguished.

In the belief that the subject referred to in the preceding pages commends itself in all its bearings to those who make and those who execute the laws of the Commonwealth, the Philadelphia Society for Alleviating the Miseries of Public Prisons, respectfully invite thereto the attention of your Excellency, with the hope that

through your recommendation the Legislature of the State may give it appropriate consideration.

By order of the Society.

JAMES J. BARCLAY, *President.*

JOHN J. LYTLE,  
EDWARD TOWNSEND, } *Secretaries.*

*Philadelphia, Dec. 3, 1864.*

## R E P O R T

*Upon the Condition of the Prisons and Almshouses of the Commonwealth of Pennsylvania, as made by a Joint Committee of the Legislature appointed for that purpose.*  
*Read March 13, 1865.*

Mr. Guernsey, from the committee to whom was referred that portion of the Governor's message which relates to the penitentiaries and prisons, and also to the almshouses in the State, made report, viz:

That they have given to the subject that careful consideration to which it is entitled, on account both of true policy and of sound philanthropy. And without referring directly to other facts than those set forth in the document which accompanied the Governor's message, they will offer some of the reasons why improvements should be made in the administration of both the penal and the pauper laws of the Commonwealth; reasons upon which are founded the bill which accompanies this report, and which it is hoped will induce legislation that shall correct existing evils, and ensure a constant improvement in all that concerns the construction and management of the prisons and the almshouses in the State.

Among the many branches of philanthropy which have distinguished Pennsylvania, is that which relates to prisons; and it is no exaggeration to say that our Commonwealth is proudly distinguished in the Union, and most highly esteemed throughout Christendom, in consequence of the construction of her two penitentiaries, and by the discipline and general administration, and the peculiar system of dealing with the convicts that occupy the cells of those institutions. These things work benefit in the right direction, and they attract attention, and almost invariably excite applause from abroad. Within the walls of these two prison houses was tried the great experiment of separate imprisonment; and the question whether the house of punishment could be made the school for cultivating the affections, and awakening the public offender to a sense of his own erroneous position as a man, and inducing in him the resolution to avoid in future the errors of his past life, has been settled in the affirmative, to the lasting benefit of the repentant criminal and the unfailing honor of the Commonwealth. It is not supposed that the administration of the two penitentiaries of the State has attained perfection. The very excellence of the plan upon which they are constructed, and the success that attends the execution of those plans, cannot fail to suggest improvement. Those who conduct them will find, from the excellence of their own work, a necessity for alteration to give the institutions the advantage of all the benefits which result from careful administration. Almost every institution that is permanently good, is progressive in its benefits and improvable in its administra-

tion. And it may be regarded as a cause of general congratulation, that excellent as is the administration of the Eastern and Western Penitentiaries of Pennsylvania, that excellence is progressive. The experience of inspectors will be in future, as it has hitherto been, used to improve what devotion and appropriate knowledge so well direct. But it is to be regretted that the fame for prison discipline, for reformatory imprisonment, which Pennsylvania has acquired by the erection of her penitentiaries, and the system upon which they are conducted, is not sustained by the county jails throughout the Commonwealth ; and a close inquiry, while justifying the high credit of the State for philanthropic penal legislation, in generous and successful execution of those laws in the penitentiaries, excites a blush for the failure of system and execution in most of the county prisons, where, if not the greatest criminals are to be found, by far the most numerous offenders are incarcerated.

The fame which Pennsylvania enjoys abroad for prison discipline, is not sustained by a close inspection at home. All christendom refers with respect to the system of "separate confinement," to the careful, wholesome discipline, to the means of moral and literary instruction, with the absence of all temptation to error, to the provision for acquiring the means of honest support, and the care for the out going prisoner, which distinguish the Pennsylvania penitentiaries. Great Britain and Ireland are adopting this system, and these meliorating and benevolent means of good in their public prisons, and trying to adapt the structure of their jails to the Pennsylvania plan ; doing homage thus to the earlier

efforts in the right direction, of our own Commonwealth. But while others are admiring and imitating in the administration of the common prisons, these admirable characteristics of our penitentiary system, Pennsylvania herself seems to pause in her work of improvement, and to be content with the claim of making the punishment of the excessively guilty, a means of their moral and physical improvement, while the new or smaller offender may be allowed to perfect himself in depravity and crime, and advance by degrees in culpability, through the county prisons, unentitled to moral discipline, or that instruction which would make virtue profitable as well as pleasant, till he shall have so often outraged the laws of the State, and exhausted the forbearance of the Courts, as to earn a sentence to the State penitentiary, as if the Commonwealth had regarded the county jails as seminaries to prepare offenders for the State prisons.

The letter from the Philadelphia Society for Alleviating the Miseries of Public Prisons, which accompanied the annual message of the Governor, sets forth the deficiencies of some of the county prisons in our State; not as drawing attention to the individual prison in which the deficiency or abuse existed, (a politic sense of delicacy would, of course, teach forbearance in that direction,) but presenting evils which rumor had mentioned, and which careful, personal inspection of all the prisons in the State, fully confirmed.

Inappropriate form, vicious construction, bad internal arrangements, total or partial deficiency in accommodations, which decency imperatively demands and good

morals suggest, want of cleanliness, deficiency in food, entire want of moral instruction, absence of useful employment and want of means to occupy time by practical education. No provision for making the prisoner better in confinement, none for assisting him to try to do well, when he shall leave the prison; in short, no recognition of the house of improvement, none of the dignity of human nature, or of the duty to redeem an offender from his vassalage to vice, and start him in a new career of hopeful amendment. As elsewhere these evils are avoided, and those benefits fully contemplated and largely secured, it cannot be doubted that, with equal means of doing good, the State of Pennsylvania can, at least, equal all that is done elsewhere. It would seem to be her mission to *give*, not to *follow*, example, and to secure to her county prisons the just credit which has been awarded to her penitentiaries. What are the means by which these ends are attained? In the first place, there is need of a system by which the affairs of the county prisons shall be administered. It is, of course, not expected that the system shall be adopted without any small exceptions (in the execution) suggested by the peculiar circumstances of locations; but it must be general, and be subject to one set of laws and the same class of officials. Where there is a prison, there ought to be a supervisory power, that shall not only hear reports of proceedings, but shall see, and, in some cases, direct proceedings. And it is believed that the system of inspectors appointed by the courts has worked so well, wherever it has been introduced, that entire reliance may be placed upon that mode of super-

vision, where the appointments are judiciously made and the terms of service properly arranged, and especially where the appointee is one distinguished for his just appreciation of the object of prison discipline, and his proper estimate of its value to society, as well as to individual reformation and punishment. It is represented as an error in the existing provisions for the administration of county prisons, that they are in the hands of the sheriff. There is certainly no reason why a citizen nominated for, and elected to, the office of high sheriff of a county, should not be competent to the duties of a jailor; but so, also, there is certainly nothing in the duties proper to the sheriff of a county, which may not be performed without the qualifications proper for a prison-keeper. And it seems almost certain, that the discharge of the true duties of the sheriff may require time, at least, that ought to be devoted to the care of the prison, and the interest of the county in the expenses of the prison, and the interests of humanity in the character and condition of the prisoner. It is probable that some of the evils of our county prison are due to mal-administration of the sheriff as a jailor, while the other interests of the county have been greatly benefitted by his knowledge and efficient service in the duties proper to his office. Another class of qualifications is often required from the jailor, than those which ought to distinguish a sheriff, and, it may be added, very different claims for office are usually put forth by the candidates for the sheriffalty of a county, from those that are deemed desirable in the man who is to be a jail-keeper. It may, undoubtedly, be said, that the

higher degree of talents and education of the sheriff are not incompatible with the discharge of the humbler duties of the jailor. That is true; but, unfortunately those high talents and that education are not willingly devoted to the lower duties of the prison; and so the sheriff may overshadow the prison-keeper in his own person, and the duties of the latter be made to give place to the former, till nothing but detention comes from imprisonment, and discipline and care for the improvement and comfort of the convicts be made to yield to the dignity of the elected sheriff. Nor is this all. Nothing more promotes the benefit of the prisoner, and the object of imprisonment, than the care and attention of the experienced superintendent and the maintenance of regular, well established discipline. All suffer, when frequent changes in the administration of the prison are made; and unfortunately for the affairs of the prison, the law which places them in the hands of the sheriff forbids him to administer them for more than three years in any six. Should the affairs of the prison be retained in the hands of the sheriff, it will be seen that some constantly supervisory power is necessary to the maintenance of a system. There may not be an interregnum, but it is not probable that the incoming sheriff will have the qualifications which his predecessor has acquired by experience; so that some experience seems necessary to sustain the interests and maintain the order of the prison, till the new jailor shall have acquired some knowledge of his official duties.

The system of inspectors seems, on all accounts, to be desirable; and among the arrangements, in the interior

of the State, for their terms, should be that the term of one-third of the board should expire each year. In the small counties, three inspectors might be sufficient; in the larger, six would be required, and in some it might be better to have the board composed of nine. A board of inspectors, composed of men who are qualified by some experience, but especially with a deep, heartfelt interest in the cause of humanity—men who can distinguish between the unrelenting severity of the law, and the mild but steady administration of its penalties—between the mawkish sensibilities of a false philanthropy, and the true exercise of humanity—men who admit that the violator of the law must suffer the penalties which that law, properly administered, allows, but who, at the same time, seek to make the prescribed punishment subservient to the moral advantage of the prisoner.

The time seems to have passed when punishment alone is regarded as the object of imprisonment. Much was done when the sufferings of the convict were alleviated by the mitigation of a portion of the penalties awarded, and the arrangements of the cells and the character of the treatment were changed. But a new step in the progress of prison discipline has been successfully taken. The spirit of true humanity has followed up the work of improvement; and while sound legislation has deprived the prison cell of the means and attributes of cruelty, true philanthropy has found the means to convert the prison into a school of reform, and to convert the execution of the penal laws of the State into the means of elevating the prisoner into the condition of good citizenship, by gentle suasion and constant kind-

ness; so that, without a diminution of any portion of the prescribed penalty, he shall feel that such a chastisement has been necessary to the change which sound morality required, and shall learn the deep lesson of repentance, in the hope that it will be available to the restoration of his lost condition. It is not the object of this report to set forth, by citation of instances, the great benefit which has resulted from an improvement in some of the prisons of the State. Those instances are numerous and most gratifying, and they are most numerous and striking where the system has been most improved by the adoption of appropriate plans of discipline, the employment of appropriate officers, and especially by the services of devoted agents and the voluntary labors of good men and women, who find in the physical order of the prisons, a means and opportunity to insure moral instruction, and thus promote the benefit of the convicts, and through their improvement to ensure good to society. It is the improvement in the administration of these few prisons, the establishment of order therein, and strict accountability, and generally the success which has attended the attempt to improve the prisons and their prisoners, that are now cited as furnishing motives to extend the system, to include all the county prisons in the State, taking advantage of what, in some instances, has been the result of individual or social effort, and eminently augmenting their benefit, by applying the system to all.

The system, or rather the want of system, that prevails in this State, in the construction of prisons, and in the administration of their affairs, leaves each so much

isolated that little or no benefit is derived to one for any improvement in another. Accident sometimes causes the adoption of some change, but little is heard of its success; and when, for three-quarters of a century, in one part of the Commonwealth, philanthropic citizens have been illustrating the improvable character of prison discipline, and especially of the sentenced prisoner, a large part of our State remains unaffected by the local movement, because there is no established mode of making one county acquainted with the movement of another, so that it may profit by successful experiment. We see that there is a deficiency.

The appointment of inspectors, able and willing to perform all that the law may require and humanity suggest, will not produce the effect that is desirable, will not insure to the whole the benefits which may accrue to a particular prison. One may become a nursery of virtue, where the convicted felon may slowly and steadily become a good man, while another may remain the receptacle of the criminal and vicious, where new felonies may be planned, new schemes of vice concocted, and the young offender be hardened in criminal intentions, and the whole company become confederates for some future aggression on society.

The Legislature may, as it has done already, require from the officer of each prison an annual statement of the affairs of the place, with ordinary statistics, of numbers received and discharged, with the cost of maintaining the institution; and this requisition may be even more fully complied with than it has hitherto been. But these naked statements of numbers, give no idea of the

benefits that have accrued to society by the detention of a certain number of persons, beyond the mere fact that so many, for such a period, have been kept away from actual mischief to others, though they may have been concocting schemes of future crime, which shall exceed other felonies in character and extent, because more will be concerned in their execution, and time and opportunity and experience have been afforded to digest the plans, so that success and impunity may be secured.

These statements, also, may omit the important items of efforts made to improve the moral condition of the prison, or still worse, may omit the important fact, that that no such efforts have been made, that human beings, reared for citizens among freemen, and qualified by mental and physical abilities to be useful to themselves and others, have been allowed to be neglected in the cells of a prison, with no word of sympathy to awaken human feeling, and no gentle remonstrance to arouse resolution, and no evidence of aid to awaken hope. This is not an imaginary case. The report of gentlemen who visited, last year, nearly every prison in Pennsylvania, shows that there are jails into which no missionary of morals ever enters, where the convict is left to himself and his ignorance, or even worse, to his own misdirected education, sinking in his own estimation, and shrinking more and more from contact with the good; whose only calculation, indeed, is to live, and to live by fraud, and whose only hope is to escape a punishment which he does not mean shall come without deservings. The very crimes which send some to the prison, are committed under the penal roof; and if the committees are guilty, as of course

they are, in thus violating a divine and humane law, scarcely less culpable are those who, by arrangement or neglect of arrangement, afforded the temptation and supply the means for the offence.

The reports of the officer of a prison, however correct in what is set forth, are nevertheless the statements which an officer makes of his own doings; whether they are full or not, it is impossible for the Legislature, without other means of information, to judge. But even if complete, they are only complete with regard to the primary object of his appointment, the detention of offenders for punishment. They give no just account of the moral state of the prison, of the character of the treatment, and of the errors which the keeper may have committed, in the discharge of his duties. And, while the miserable convict may tell the keeper, and his own friends, of his gratitude for any favors conferred upon him, in the forbearance of extreme justice, no one will hear the complaints of the injured, or be invoked to redress the wrongs. If the unfortunate have few friends, the guilty can scarcely be supposed to be better furnished with those who will advocate their cause. And even the guilty have their rights, and the community has rights in the guilty. It is the interest of society that the guilty should be reclaimed, as much as it is the interest of society that the guilty should be imprisoned. And it is in the interest of social life, as well as in that of humanity, that the imprisonment should be so conducted as to lead the prisoners to repentance, and that this repentance be to encourage and to insure thorough reformation.

If these benefits are desirable, and all will admit that they are, then the question is, are they attainable?

The experience of those who are intimate with prison discipline, and with the moral dealing with prisoners, in certain prisons in this State, and in some other States of the Union, shows that an immense amount of positive good has been done by a concurrence of action between prison authorities and the friends of humanity, who voluntarily visit the prisoners in their cells. Evils, such as it has already been stated, are known to exist in various county jails in Pennsylvania, have been almost entirely removed, in those to which we refer, and without a single relaxation of sentence awarded by the court, and allowed by the law, there has been such an alleviation of the miseries of prisoners, both physically and morally, as justified the belief that these meliorating means may be introduced into every prison in the Commonwealth, and that every new application of them will tend to strengthen the effort, and promote the success of those who labor in that direction.

Uniformity in the plan and execution is needed, and it has already been stated, that the appointment of inspectors for each prison, important as that step will be, to effect improvement in the prison over which they are to preside, will have little effect upon a general system. What is needed, in the opinion of the committee, is an officer of the Commonwealth, whose business it shall be to visit once, at least, in each year, every county prison in the State, and the two penitentiaries, to mark their working, to confer with their respective superintendents, and the board of inspectors, to make himself acquainted

with the workings of each, to note the deficiencies, and from time to time to report upon the condition of all, especially once a year, to confer with the superintendent and inspectors upon any deficiencies, and to recommend the adoption of any improvement which may be made in any other prison; and thus to give to each the benefit of the experience of all, and to ensure harmony of exertion in the great work of personal restraint and moral improvement. On this point, the committee feel it a duty to be explicit.

It seems scarcely possible to establish such a system of prison arrangement, of prison discipline, and prison instruction, in a State so extensive as Pennsylvania, and maintain a full operation without concert of action, and that concert and harmony is not to be expected, without that direct personal supervision which alone can be performed by an individual, that has at heart the improvement of prisons for the sake of the prisoners, and the improvement of prisoners for the sake of humanity.

With this view, a bill herewith reported, provided for the appointment of a State Commissioner of Prisons, whose time shall be devoted to the personal examination of every prison in the State, not merely with a view to report upon what he has seen, but, in an especial manner, to confer with the inspectors and superintendents of the prisons, so that he may make general the benefits which each has received, and correct, without public exposure or complaint, the errors which, in the administration of the affairs of any prison, may hinder its usefulness.

The system of public schools seems to demand, everywhere, a supervision by one person capable of judging of the wants and the progress of every school. And prisons, eminently useful in another direction from schools, require that supervision which augments and perpetuates their usefulness. The commissioners of the public schools shall be charged with duties, if not analogous, at least equal in importance to those of the inspector-general of the army. The legislation now asked in favor of the prisons, provides means to call for and justify future legislation, as the commissioner, for whose appointment authority is asked, will soon make known what are the errors of administration in any prison, and how those errors may be corrected. The faults of structure, arrangement and discipline, which, in another part of this report, are mentioned as existing in many counties of this State, absolutely preclude all hope of moral improvement of the prisoner, wherever such errors are found; and it is known that they greatly abound in a very large portion of the Commonwealth. And yet Pennsylvania stands conspicuous for her humane legislation. Her credit, then, must be regarded as factitious, because it is no evidence of humanity to alleviate some of the physical inconveniences of imprisonment, and yet leave the prisoner neither a chance of, or an invitation to, moral improvement. If the convict excuses his fault, at least to himself, by saying, that under existing circumstances he could do no better, how is his case mended by being allowed to improve his taste and his appetite, from good treatment, without receiving instruction to make him judge of the evil of gratifying that

taste and appetite at the expense of other persons' means?

Careful inquiries into the mode of supporting the poor, in almost every county in the State, an inquiry made by the same persons that investigated the condition of the county prisons, and at the same time show a shameful deficiency in many counties, and suggest such legislation as will secure, to the poor, the care and attention in sickness, age and want, which they have a right to demand by the common law of humanity, a right which is perfect, as it has a correlative duty. The culprit must be punished, and the jail is provided for his reception and detention, and he may expect, because he is a human being and capable of improvement, that he will be treated with humanity; and he may hope that he will, also, be so cared for as to make him better. These are duties, but he has no right to enforce their discharge, or to censure any one for the non fulfillment of them. But the citizen struck down by reverses, by sickness, by age, and left too poor to sustain himself, has a right to demand support, and it is the duty of the community to see that his rights are respected. As a tax-payer, as a man, as a member of the Commonwealth, he has earned, or he has inherited, the right to live and to demand, from the community in which he lives, the means to make that living comfortable. And it seems to be the duty of those who make the laws of the State, so to make them that those the least able to help themselves, or appeal from oppression or neglect, shall be protected in their remaining right, and secured from the personal evils against which the social compact was formed and is maintained.

That all these rights have not been respected for the dependent poor of our State, the inquiries to which we refer abundantly prove. That the neglect or refusal, on the part of local authorities, is attributable to improper motives, is not to be asserted. The knowledge that poverty is too often the consequence of error and vice, prevents in the many a growth of sympathy for paupers. And when some provision is made for the maintenance of that class, there is manifested much neglect of improvement in the administration of the pauper laws, so that the discomfort of the almshouse, or the greater discomfort of the poor whose maintenance is provided for by public competition, among those who would make money by under-feeding the poor, has become proverbial.

But in connection with the maintenance of the poor, it is of consequence to consider the effect of the lax administration of the laws upon the *poor insane*; nay, it may be profitable, also, to examine whether this is not a deficiency in the laws themselves, and, if so, a fault in the legislation. There are parts of the State in which provision is made for the proper treatment of the mentally deranged. The almshouse is made a hospital for such; and skill, directed by kindness, is doing much in behalf of the mental sufferer. But in other portions, the insane sufferer is treated by those among whom he has lived, as a moral leper, whose presence is not to be tolerated, whose infirmities and aberration deprive him of right and sympathy. Indeed, the insane, of some parts of our State, fare worse than did the leper among the Israelites. With them, though he was removed

from his own home, the laws of the land, which were the laws of God, provided for him a place of retreat, where he could recover from his malady, or dying, would at least have the care to which afflicted humanity is entitled.

But it is declared, that in certain parts of this Commonwealth, the claims of the pauper insane, as human beings, are so neglected, that the sufferers are thrust forth even from the common abode of the pauper, and confined in a position where the inconveniences of the place, and the jeers and insults of the curious and unfeeling, irritate the miserable object into incurable madness. These things are unbecoming the fame of Pennsylvania, and while the cause of those who are compelled to suffer without intelligible complaint, appeals to the Legislature for redress, legislation to meet all the evils of which complaint is made, must, to be effectual, be exceedingly minute. It is sometimes easier to correct a local fault of administration, by presenting its contrast with a different course elsewhere, than to force correction by law of penalties. It is not believed that intentional wrong is at the bottom of the evils noted; neglect, a want of knowledge of what is right, and of what may, and ought to be done, must be regarded as the cause of the wrong. Thence the committee conclude, that the officer charged with the inspection of the public prisons, might also be instructed to investigate into the administration of almshouses, and the care of the paupers of all classes, in the counties or townships that make provision for the maintenance of their poor, and report upon the means and success of their undertaking.

While one great object is contemplated in the proposed appointment of a Commissioner of Prisons and Almshouses for the State, viz : that of affording information, upon which future legislation may be based, as well also as a proper manifestation of solicitude for the welfare of every class of people, the amendment, as well as punishment of the guilty, and the comfort of the destitute poor, and the helpless afflicted, it is believed that the discharge of duties, prescribed for such an office, will tend directly to such legislation as will correct existing faults.

It is not supposable that men appointed to the care of prisons, or the direction of almshouses, intend to do wrong ; they do not know what improvements have been made in other similar institutions. They need only the hint, which a well-informed commissioner can give ; only a suggestion that they are behind the age in the care of the criminal and unfortunate, and that what others do so well, they may undertake with confidence of success.

In this connection it may be proper to state, that among the services which this State Commissioner for Prisons and Almshouses could render, would be to assist in the selection of sites for the buildings, where a plentiful supply of water could be readily had, and where drainage would be easy and efficient. These are most important considerations in the great subject of hygiene, which ought to be regarded in all selections of localities and plans for buildings for the poor and the prisoner. And, it may be added, that the selecting of a site for an almshouse ought to include ample extent of ground, so as to admit of extending the building.

On the subject of the insane department, whether poor or criminal (if an insane man can be criminal), it will probably be found expedient for the State to provide some home for both of those classes. The particular measure which the committee herewith proposes, is one that commends itself to those who legislate for a people distinguished by the spirit of philanthropy, and zealous of good works. It is a complement of the good laws by which the penitentiary system of this State has been made the example of prison discipline abroad. And as applied to the administration of the almshouse, it is the care of those whom the highest consideration of humanity commend to society for the free exercise of that charity, which "droppeth as the gentle rain from Heaven, it blesseth him that gives, and him that takes."

All of which is respectfully submitted.

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WM. M'SHERRY,

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## REMARKS

ON THE

# Penal System of Pennsylvania,

PARTICULARLY WITH REFERENCE TO

## COUNTY PRISONS.

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From the Penna. Journal of Prison Discipline and Philanthropy, Vol. X. No. 2.

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IN presenting to our readers a plan and description of the new prison of the county of York, Pennsylvania, we avail ourselves of the opportunity to renew the serious appeal which it has been our duty, from time to time, to make in relation to the local jails of this State. If experience in other examples of progress in public affairs had not taught us both patience and courage, we might well be disheartened by the slow rate of advancement in the development of our penal institutions, and by the apathy which is manifested in quarters where, most of all, the sources of permanent improvement are to be opened. More than sixty years have passed since the government of Pennsylvania, admonished by the Society under whose auspices this Journal is now issued, undertook, in free and candid and patriotic counsel with that

Society, the commencement of a reform in the construction and discipline of our prisons. The advantage of the changes then made was speedily recognized, and the jail at Philadelphia, at that time the chief prison of the State, assumed the character of a model, and attracted visitors from all parts of the country. Imperfect as it was in comparison with later institutions of its kind, the principles which it represented, and the tone and particular objects of the administration maintained in it, could not fail to secure the approbation and hearty interest of all judicious persons who sought the public good. The pressure of its population upon the means of custody and good government, caused, as might have been expected in a rapidly growing State, increasing inconveniences, which finally neutralized its original peculiar benefits. The Legislature declared, by the Act of 1790,\* that its policy and design were to secure UNIFORMITY in all our prisons; but no effectual steps were taken by the counties to realize the intentions of the government; and when the leading jail at Philadelphia, which had been made the receptacle of convicts from all the counties, fell into disorder, there arose an urgent need for further legislative interposition. The Prison Society had carefully observed the growing evil, and they made seasonable and repeated appeals to the community at large, as well as the public authorities, which resulted in an order, in 1803, for the erection of the Arch street prison. This, however, was not completed until 1817; and the public wants having, during the in-

\* Preamble to Sect. 28th, Act of April 5th, 1790.

terval, necessarily increased, the Society used active efforts to procure the construction of penitentiaries in different parts of the State, so that the convenience of the interior and western counties might be promoted, and the discipline be protected against the constraints by which it had suffered in previous years. In the year 1818, the Legislature, convinced by the force of the representations addressed to it, passed the act authorizing the erection of the Western Penitentiary. In the earliest administration of that institution, there were some excesses in the use of those general maxims of discipline which the Society had recommended. The idea of total seclusion without labor was erroneously supposed to have been the original design; but a short experience on the part of the officers, and the influence of those whose share in the introduction of convict separation entitled their conclusions to respectful consideration, secured a return to the legitimate principles of administration. In the eastern part of the State the need of a large penitentiary was brought so clearly to the notice of the Legislature that, by the act of 1821, the proper authority was granted; and the foundation of the Eastern Penitentiary was laid. Six years were employed in preparing this building for occupancy; and as the discipline to be enforced within its walls, offered a subject of great public interest, a board of commissioners were appointed, in 1826, to consider it on the part of the Legislature, and, with this view, to investigate the various systems of which they could obtain information, here and elsewhere. In the following year (1827) the Senate adopted a resolution requiring from

the commissioners appointed to superintend the new building, an expression of their opinion upon the discipline most proper to be established in it. Thus there were two boards of commissioners, composed of intelligent citizens, having large experience in relation to the subject, and whose inquiries were stimulated not only by an ordinary sense of duty to the Legislature, but also by the fact that an active controversy was then pending between parties, one of whom contended for the association of prisoners together, the other urged the opinion which had been so long and consistently maintained by the Prison Society, that **SEPARATION, as well as labor**, was necessary for the ends of public justice. The reports of both boards having been made at about the same time, (January, 1828), they underwent a searching discussion, in which the views of the Society were duly represented, as well as those to which they were opposed. Nothing remained to be said of importance on either side, when the Legislature deliberately re-affirmed the policy of **SEPARATION AND LABOR**; and under the new and peculiarly strong sanction thus obtained, the Eastern Penitentiary went into operation in 1829.

Fortunately, the commissioners to whom was entrusted the superintendence of the construction, had employed the services of a gentleman,\* who recognized the special character of his work; and whose mind, free from that professional self-sufficiency which so often mars important public edifices, gave itself anxiously to instruction in the details for which he was to supply

\*The late John Haviland, Esq., Architect.

the means of execution. After a careful consideration of the history and wants of our plan of imprisonment, particularly those portions of it for which adequate provision had not been previously contrived by his professional brethren, he produced the design which now constitutes his most enduring monument.

Scarcely had this penitentiary become known to the world, when it became an object of extraordinary attention. Special commissioners were sent across the Atlantic ocean to examine its structure and management. The Governments of Great Britain, France, Russia and Belgium, followed each other in quick succession in these missions; and the printed official reports which were subsequently issued, accompanied as they were by illustrative drawings, spread throughout Europe the fame of what was then generally regarded as a remarkable example of reform. In the legislation which speedily followed those reports, and which was almost wholly guided by them, we see a most careful adherence, not only to the principles which had become the settled basis of policy in Pennsylvania, but even to the mode in which we were endeavoring to give effect to them. To any person who has compared the plans of prisons which existed in Europe before the completion of the Eastern Penitentiary, with those which have since been designed, it will appear no exaggeration to say that a revolution was occasioned by that institution in the chief elements of prison architecture.

A Pennsylvanian may justly feel pride in the leadership which his State has taken in a department so important to a humane and successful administration of

public justice. For any practical good, however, it is necessary to know WHAT it was which, during half a century, engaged the zeal and gratuitous efforts of the Prison Society, obtained the repeated interposition of our Legislature, and attracted the inquiry and secured the imitation of governments at a distance of thousands of miles. What were the peculiarities or novelties which were regarded as of so much consequence to the public as to require this long series of discussions and experiments, and for the introduction of which, millions of dollars have been freely expended in different countries ? The character of the whole may be read in the brief, simple, and earnest memorial of the Society, which was addressed to the Legislature of our State in the year 1788 ; in which it was urged that the plan of **SEPARATION AND LABOR** would “ more successfully tend to reclaim the unhappy objects, as **IT MIGHT BE CONDUCTED MORE STEADILY, AND UNIFORMLY—THE KIND AND PROPORTION OF LABOR BE BETTER ADAPTED TO THE DIFFERENT ABILITIES OF THE CRIMINALS—AND THE EVILS OF FAMILIARIZING YOUNG MINDS WITH VICIOUS CHARACTERS WOULD BE REMOVED.**” It was not mere confinement that was attempted, nor confinement with labor ; for these could be seen all over the world ; but it was such an imprisonment as would prevent the inmates of our jails from associating together ; and such as would compel them to work for the benefit of that community which they had wronged, and for the improvement of their own habits. It is important to bear in mind these objects of our legislation ; otherwise we shall fail to judge

rightly either what has been done, or what remains to be accomplished.

Let us glance at a few of the things which were essential to a good plan of construction, designed for such a discipline as has just been indicated. It will be seen that some of them must be regarded as necessary to any prison, which a civilized people could sanction without liability to reproach for negligence, unskilfulness, or inhumanity. In the first place, due securities for custody of the inmates will strike every mind; 2d. Not only must our prisoners be kept, but they must be kept *separately*; and their cells must be arranged in the most economical manner in relation both to the ground occupied, and the cost of building. 3d. As experience had on several occasions shown the great inconvenience of too small a structure, the alternative must be met of providing for ready and cheap extension of each jail, unless we would continue the prodigal mode of constructing anew from the foundation, whenever the growth of population should outrun our accommodations. 4th. Due provision must be made for easy supervision of all the cells, and for the readiest access to every part, as the safety of the discipline, or the wants of the occupants might require. 5th. Ample precautions must be taken for health, such as a full supply of warmth and fresh air; and for the cleanliness of the establishment, a system of drainage must be introduced; and all of these objects must be attained in such a manner as to avoid giving to the prisoners opportunity for improper inter-communication, whether with one another or with persons outside of the walls, by which the cus-

tody might be endangered, or the wholesome restraints intended by the law be evaded. 6th. The family of the keeper must be decently and comfortably lodged; and rooms and apparatus must be furnished to them for supplying the food and clothing of the prisoners without exposure to violence, or attempts to escape; and the business of the keeper himself further required that he should have one or more convenient apartments for his separate use. Now, to combine these many requisites in such a manner as that present success should be attained, and that the provision made could be extended without disturbing the main body of the work, was a problem which had never before been solved; and this was one of the reasons which made the Eastern Penitentiary a subject of so much interest at home and abroad. Such a combination demanded not only knowledge and practical skill in ordinary building, but also a previous careful study of the experience of prison-keepers, and an acquaintance with the policy of that criminal code the discipline of which was to be represented;\* and not the least of the claims of the architect, to our grateful remembrance, was, that he cast away all presumption, and patiently submitted to that preliminary instruction in prison history, which his sagacity showed to him to be indispensable to the right performance of his duty.

\* The writer has seen, within the last few years, a house carpenter, with no special training except such as he could gain from a neighboring old jail of wretched construction, undertaking the planning and building of the prison of a county of large resources. Upon being asked to show his drawings, this adventurous citizen exhibited a sheet of writing paper, on which the outline was rudely sketched. At that moment the building was under roof.

Great as was the undertaking thus accomplished ; and liberal as were the drafts authorized upon the public treasury for such buildings as the Eastern and Western Penitentiaries, that portion of the community who gave any serious reflection to the subject, regarded the duty of the government as very partially executed. It was true that provision had been made for prisoners convicted of high crimes and misdemeanors ; but these formed a small minority of the persons who came annually under penal restraint. In every county there was a jail through which passed a considerable number of men and women, young and old ; and the total of these was beyond comparison greater than the number confined in both of the State Prisons, so called. If the government owed it as a duty to the citizens at large, and to the unfortunate or guilty subjects of its penal law, to guard against corrupting companionships and idleness, and to establish salutary methods of instruction and labor, this obligation could not have been cancelled as to the majority of prisoners, by any attempt to satisfy its urgency in the case of a minority. The principles of legislative action so righteously adopted in 1790, and to which some practical effect had been given in the penitentiaries, still continued to be the basis of public duty ; and, therefore, it was only the commencement of the reform which had been realized. Much more remained to be done before the government could be acquitted of its share of the whole work ; and in order that this truth may be clearly set before the reader, a brief notice will be taken of the real character of that work.

Let it be recollected that the object of our extensive system of police, grand juries, prosecuting attorneys, petit juries, courts and jails, is to prevent the commission of acts which are contrary to the peaceful living of our citizens, in the enjoyment of their personal and domestic and social rights; and that every infringement of these of which the law takes notice, and the jurisdiction over which is not given to the civil tribunals, must fall within the department of criminal justice; and few of our citizens can be so little informed as not to perceive that there are annually committed a very large number of acts of such a kind as to bring the perpetrators within the jurisdiction of our criminal courts. These acts imply various degrees of moral wrong; they are committed under very various degrees of temptation; and by individuals who resemble one another in perhaps few circumstances which could justify their being included in one class. The mere locality of crime, or the condition of the neighboring community, or the previous training and opportunities of the offender, or the associations to which he had been accustomed, or the provocation which he had received, or the grade of the offence itself, or the number of times it or another had been committed by the same person, and a thousand other things may very materially effect our private judgments upon the people who occupy the jails; and any citizen possessed of half the good sense which characterizes the members of an American community, might be justly offended if he were supposed incapable of seeing any difference amongst our prisoners. Their mere sex or age would soon become, in his eyes, a very /

important reason for distinction ; and it would require only a very short tour to convince him that the population inside, is almost as various as that outside of the jails. He would certainly be more impressed by the differences observable inside, because of their being brought into comparison within so small a space ; and at last he would recognize the fidelity of the description which we shall quote from a former number of this Journal :

“ We shall understand by the term *county prison*, a building in which are kept persons of every age, and of each sex and color ; of every rank, fortune, education and character ; some of whom are charged with no offence, but are held to secure their appearance as witnesses—others of whom are charged with offences of various grades, but some of these are innocent and will so appear on trial ; some are guilty and will be punished —others of whom are already convicted of trivial offences, and are subjected to only a few weeks or months of detention. In this diversity of classes some will be found whose habits are orderly and industrious, others who are idle and vagrant ; some whose education has been moral and whose tastes are refined ; others who are rude, coarse, filthy and ignorant ; some whose language and deportment are chaste and decorous, others whose utterance and gesture are profane and obscene ; some whose commitment, though legal and upon a true charge, implies only a momentary excess of anger, or, perhaps, a too zealous defence of a friend ; others who are old residents of prisons and have led only a criminal life ; some who are young, and have

been unexpectedly pressed by a temptation against which their very arrest may be a sufficient security for the future; others who are practiced corruptors of youth, and seek every advantage of the inexperienced; some who are willing to be taught the mysteries of robber-craft, others who are expert and anxious to communicate the vicious devices of roguery."

That a government which had, during so long a period, maintained the expediency of SEPARATION, INSTRUCTION AND LABOR, and which had given such practical evidence of its sincerity and earnestness as was afforded in the large penitentiaries, should suddenly end its career of improvement, and leave to the chances of promiscuous intercourse, in idleness, the great bulk of its prisoners, in jails whose inmates were of characters so various, could not be credited.

The young alone would present motives to effort too strong to be resisted; and accordingly, before the completion of the Eastern Penitentiary, a committee of the Society was charged to report suitable measures for the protection of this class. This enterprise being found to involve an amount of labor and responsibility too great in addition to those already assumed, a meeting of citizens was called, and the subject entrusted to their zeal and public spirit. The result was the establishment of that noble institution, the House of Refuge at Philadelphia, where hundreds of children and youth of both sexes are rescued from what would have been the fate of most of them—imprisonment in one or more of our jails. At this moment many a respectable apprentice, and many an adult wife and husband, bless God for the

interposition which stayed the headlong current of their early life, and turned it into channels of private worth and social usefulness and respectability. Amongst the annual appropriations made by the Legislature, none is more fruitful of good, than that which is devoted to this timely intervention; and of none is the fruit more evident.

But the very young constituted only a small portion of the inhabitants of the county jails; and soon that became experimentally certain, which might have been anticipated by even a superficial observer, viz., that the discipline and general efficiency of the large penitentiaries themselves, were to a serious extent neutralized by the influences operating upon the prisoners during their preliminary confinement in the county jails. The intelligent Inspectors who gratuitously gave their services to the study and management of the Eastern Penitentiary, made to the Legislature early and repeated forcible representations upon this subject. They boldly declared that unless the county prisons should be reformed, their institution could not produce its proper advantages; and they suggested a formal inquiry into the condition of those prisons. The county of Philadelphia, whose population and resources enabled it to act promptly in such a case, was guided by considerations of so grave a character, and the Legislature cheerfully giving the requisite sanction, a prison was erected of a capacity sufficient for 408 male inmates. Partly from the novelty of the mode of construction demanded for our system upon a large scale, and partly from a want of adherence to the known conditions of our discipline, this prison has

never afforded to its officers, adequate means for a thorough execution of the policy of the government.

It could not be reasonably expected that all of the jails in the State would be forthwith demolished, and new ones constructed according to the plan of the penitentiaries. The citizens of the interior were engaged in various private pursuits, contributing, in their respective spheres of industry, to the wealth and character of the State ; and the information needed to attract their special interest, or to elicit any decisive expression of their will, made its way slowly among them. The Commissioners, to whose discretion the county funds were entrusted, naturally hesitated to pledge these to any expenditure for which their immediate constituents were not prepared ; and thus the reform begun by the Legislature made slow progress when it became dependent upon the county authorities. Still it might have been expected that when new jails should be actually erected, some regard should be exhibited to the already clear indications of the legislative policy of the State. That after these had become generally known, any public officers should usurp the supreme authority, and follow their own prejudices, or be guided by their fear of temporary misapprehension, rather than by the published will of the government, is surely not consistent with American notions of the duty of citizens. That there were difficulties such as to deter any but a firm as well as intelligent body of Commissioners, appears in the case of the Dauphin county prison, the erection of which followed, within a few years, that of Philadelphia. The resistance offered to the plan which was finally adopted and

executed, might have discouraged officers less wise and persevering than those who, fortunately, at that juncture managed the affairs of Dauphin. The architect who had planned the two State penitentiaries was employed to design and direct the new work ; and upon its completion that county could boast of possessing the best county jail in Pennsylvania—it would probably not be going too far to say the best, at that time, in the United States. The existence of such a prison at the capital, where it might be easily inspected by the members of the Legislature and other visitors, was a most advantageous and seasonable fact ; and the reports of its experience were such as to silence all opposition, and to cause a very favorable reaction of public opinion. It cannot be doubted that to its agency we are greatly indebted for the movements made in other counties in the right direction. It must always occupy an important page in the history of our penal institutions ; and the names of the Commissioners, now inscribed upon its walls, will find a respectful record long after the building which they erected shall have ceased to be visible.

The prison of Chester county and that just mentioned had been in operation several years when the Commissioners of Berks, sustained by a number of enlightened citizens, undertook the construction of a new jail which was much needed. Following the example of Dauphin, and desirous to adhere as closely as practicable to the penal system of the State, they invited the services of the same architect. In the interval the Governments of Great Britain and France, by the publication of the results of experiments which, at heavy expense, they

had caused to be made for the improvement of the details of construction, enabled the director of the building in Berks to employ with confidence suggestions which, without such warrant, might have been regarded as premature in a county jail. The arrangements were consequently more complete than any before seen in Pennsylvania; and Berks took, for the time, the position of model county. There, as elsewhere, there was opposition at the outset, but the sober citizens who dreaded any novelties soon saw their error, and at length did what the sterling sense of the country never fails to do in the long run—they applauded the work.

With such an example the Commissioners of Lancaster, of Montgomery, of Schuylkill, of Cumberland and of York counties, in quick succession, manifested their readiness to extend, within their respective districts, the administration of our system. In these counties may be seen a fine illustration of the bearing which a special study of the subject, combined with a liberal spirit and a zealous regard for public duty, has upon the degree of success attained in the end. The architect who undertook the construction of the Montgomery prison had enjoyed the benefit of a very various exercise of his profession. Many buildings, public and private, have been planned and erected under his direction. By the city of Philadelphia, and by other municipal, as well as private corporation, he has been engaged many times upon important structures; and if a general knowledge of his profession had been sufficient to qualify him for the construction of prisons he must have been entirely competent for this branch of build-

ing. His own opinion upon this subject may be readily obtained by a visit to the jails of Montgomery and Schuylkill, both of which were designed by him. In the superiority of the latter we perceive the clearest evidence both of the value which he attached to continued special study and experience, and of his conscientious regard to his duty as an agent for the expression of our legislative policy. No architect, however complete his training in other respects, could approach the degree of perfection in details which is exhibited in jails now standing in Pennsylvania, unless he should first make those or similar ones his particular study. They are the results of many years of various experience and reflection, and could not have been produced by any one mind through a single effort. An honest builder, before he expends the funds entrusted to him, will, to the extent to which he is permitted by his employers, conform to the improvements already established; and no false pride will induce him to abstain from a rejection of his own work when further observation shows it to be unequal to the proper demand upon his skill. Nor will he be reluctant to apply resources which may have come from the genius or industry of others; and when his own study can add to those resources he will cheerfully give it. Thus in Schuylkill county, the model of Berks, in which were embodied the products of unusual scientific and mechanical skill, developed not only in this country, but in Europe, was followed, except in the particulars in which it appeared open to improvement. In York county, Mr. Edward Haviland, a son of the gentleman whose reputation was

so closely connected with the State penitentiaries and with the jail of Berks, and who might be supposed jealous of any diversion of the public mind from his father's designs, unhesitatingly adopts an improvement made by Mr. Le Brun in Schuylkill; and gives to the latter gentleman a generous public acknowledgment of his merit.

It would be a great mistake to believe that a practised mechanic, because he can easily understand and repeat in his own work all that he sees in one of these prisons, could produce the same details by his own unaided invention. If he were deficient in nothing else, his want of that knowledge of the management of prisons, and of the character and habits of prisoners, which has suggested all of the details, would render his invention a very unsafe dependence. Each may be simple enough, and now obvious enough; but it is only the old story of Columbus and the egg. The misplacement of the cell doors, as has happened by accident in one of our jails, may defeat one of the most important disciplinary regulations. The bad location of one of the rooms necessary for the domestic employments of the keeper's family in relation to the prisoners, may greatly multiply the cares and fatigues of each day. A badly constructed lock, or a disproportioned flue, may jeopard the life of the keeper himself. It may seem superfluous to dwell upon what every man in the community may be presumed to know, viz: that each branch of business requires special training; but the citizen who acts upon this truth in his judgment both of himself and neighbors, as well as of the persons whom

he employs, looks on quietly, while a man who has never built anything but a dwelling-house, or a barn, or a country bridge, undertakes, without training, to construct a prison, which is sure to be deficient in the particulars which alone could justify the expenditure of funds obtained by taxation of his fellow-citizens. The proof of this inconsistency is open to common observation, in every county in Pennsylvania in which a jail has been erected without the precautions upon which we are insisting. It does not admit of reasonable question, that in such instances, the custody of the prisoners—the security of the keepers—the morals of the inmates, are all exposed to hazards which are highly reprehensible in any circumstances in which they could have been avoided. This assertion is made after actual personal inspection of the best of them.

To enable the reader who may not have had the same opportunity for gathering evidence, to appreciate more readily the evil results in question, we state a few of the mischiefs which may be witnessed while we are preparing this sketch; and not only in jails of ancient construction, but in some which have been erected within the last dozen years. At this moment, then, a visitor may see prisons so carelessly placed and enclosed, that the prisoners talk freely with any person who may be passing near the wall; and this wall being broken through, there is nothing to prevent an escape. In fact, numerous escapes in this way are known to have occurred. 2d. Jails so badly placed and built that during a considerable portion of the year dampness so prevails that the moisture trickles down the walls of

the lower cells, and prevents their being used except in disregard of the health of the inmates. 3d. Jails so poorly provided with the means of cleanliness as to make the whole population dependent upon night buckets, or the personal attendance of the keeper, for answering the imperious calls of nature; and this too in situations where drainage is easy. 4th. Jails so limited in accommodations that during every term numbers of their inmates, sometimes as many as a dozen, are forced into companionship by night and by day. Consequently we have—5thly, jails in which licentious conversation, ribaldry, obscenity are frequent; in which the hardened offender associates, without restraint, with the youth who is in confinement for the first time, and upon some petty charge, such as noisy conduct, malicious mischief, or the like. Is this the **UNIFORMITY** which sixty years ago was announced as the reasonable object of the government? Is this the **SEPARATION**, is this the wholesome **DISCIPLINE** intended? Are these the proper preparatory schools in which individuals are to be trained for their favorable reception of the correctional influences of our penitentiaries? Are these places to which public officers can, with consciences clear towards God and man, consign the susceptible and wayward natures of the young? These jails, it must be added, are not the temporary and merely provisional resorts of newly settled regions, remote from the great roads, and restricted by poverty from a liberal expenditure; but such are to be found within sight of the thoroughfares of our commerce, and in counties which boast of their agriculture and their manufactures, and

the inhabitants of which would resent, as an offensive disparagement, the suggestion that they are behind their fellow-citizens in the general indications of good sense and patriotism. Near some of these jails stand court-houses, the cost of the useless exterior ornaments of which would, upon a judicious architectural plan, have more than paid for arrangements by which the prisoners could have been kept not only safely, but separately, decently, and according to our disciplinary policy.

But if every prison in the State were a fit framework in which to administer that policy, the administration itself would demand a much greater amount of experience and discretion than is commonly supposed. It is true, that if the number of our prisoners were ten times as great as it is, and if their characters were tenfold worse than they are, wheat would still grow, and coal and iron be dug out of the earth, and the whistle of the locomotive be heard, and our manufactories continue to pour forth their elements of public wealth and prosperity. The business of Europe goes on although a hundred thousand lives and many million of dollars have been squandered in unjustifiable strife. So the county of Berks grew rich, and flourished, before her citizens had any jail better than the miserable predecessor of her model. So too in those counties in which stand the jails above described, we see manifestations of successful private industry and of prosperous public management. The evils to which we advert are not exposed to daily notice. The sheriff produces his prisoners when their names are called at the court-house; and, as he is generally a reputable citizen, there is no reason to suppose

that he treats his people harshly, or that he keeps inequitable accounts with the treasury ; therefore the conviction is that all is " well enough." The sheriff himself feeds his prisoners well, often upon the same kind of food which his own family consumes. He lets them out of their rooms, and into the yard, reasonably often ; and they can frequently sun themselves, or take a game of ball or pitch-penny together. They are " welcome to any of his books ;" and perhaps he sometimes tells them what fools they are to get into prison when they can stay out if they choose, and behave like decent people. Besides, it is not his fault that the prisoners are together ; he has only four or five rooms, and yet often there are twenty or thirty persons under commitment at one time —white and black, male and female, old and young. He does his best, and he thinks it unreasonable to find fault with him for what he cannot help : and *the sheriff is so far right.* The fault, if any, is with the Commissioners who built the prison, and with those citizens who, knowing or having the means of knowing or doing better, have carelessly permitted such a fountain of mischief to be opened among them. If such as these think the jail " well enough," because it does not blight the crops, or stop the mills, or disturb the general order and thrift of the county, it argues so narrow a view of their duty to the State of which they are members, or so wilful a disregard of the often re-iterated penal policy of that State, that the most charitable course which we can take is to presume that they are not yet fully acquainted with the history of the subject ; and therefore, that their opinions are not yet sufficiently ripened

to justify their taking any decisive steps against what has been, for so many years, the clearly expressed will of the government. We must therefore turn to other quarters for the materials which are to guide our judgment; and these are not wanting. A scrutiny of prison management in the principal penitentiaries and county jails in the United States and in Europe, has not only furnished us with valuable instruction upon the best means of daily discipline, but also disclosed evils and possibilities of evil, of such kinds as must deeply impress every sober-minded man who reckons the number of commitments. Besides these considerations, the investigation of penal systems has shown in our own country as well as abroad, that the machinery of public justice, independently of our jails, is often perverted from its legitimate operation; that, from the arrest to the final trial of offenders, there are abuses which effect both the public treasury and private rights.

The Prison Society, finding that, simultaneously with the erection of good jails, bad ones were rising; and that the course of justice and the public interest were continually exposed to fresh sources of mischief, addressed a memorial to the government in the year 1847, asking for the enactment of a law requiring such annual returns from the persons charged with the execution of our penal code, as would make manifest the real state of facts, and afford some indications towards such measures as might be still necessary on the part of the government. In favor of such a law it was urged that the means by which a criminal code is administered are parts of the very system of government—that they ought to

be steadily and consistently controlled, as well as prudently selected—that the complexity of the instruments in use in our fifty or sixty counties would, of itself, suggest the expediency of bringing to the seat of legislative and of chief executive authority, some information respecting the condition and mode of operation of those instruments—that as a subject of interest to the treasury department, the annual expenditure ought to attract attention; and yet that it was not in the power of any citizen, in or out of office, to obtain at the seat of government an account either of the amount of cost, or the mode of its application—that in relation to the personal rights of our citizens, no general inquiry was authorized, nor any thing officially known; that while foreign governments kept strict record, in a central bureau, of every subject whose liberty was restrained, in our republic, thousands of citizens were thrown into jail, without any evidence reaching either the Legislature or the chief magistrate, by which could be known their number, the reasons alleged for their incarceration, the manner of their treatment, the length of their confinement or the mode of their discharge; whether their arrest was for light or grave causes, to what extent the charges against them were investigated, or any other of those particulars so essential to a right judgment upon the efficacy of our code, or the degree of its interference with the rights of individuals. It was further urged that the plainest dictates of justice required equality in the apportionment of penalties to offenders; and that this was impracticable unless tables should be framed so as to show at least the average in the different counties. It was also

said that the Legislature was responsible not only for the establishment, but for the continuance, of any laws or institutions inconsistent with the general welfare; and yet that it had no standards by which to judge of our penal system, unless such partial and necessarily imperfect ones as might accompany a local petition or be hastily gathered by a special committee. As to those comprehensive inquiries which occupy statesmen and jurisprudents of other countries, into the causes of crime, and the circumstances which most affect their grades and the frequency of their commission, we had not, in our executive or legislative collections, the indispensable materials. These and similar topics had their proper weight; and his excellency Governor Shunk having in his annual message commended to the favorable notice of the Legislature the application of the Society, the bill prepared by it was carefully considered by the Judiciary Committee of the Senate; was unanimously reported to and passed by that body; was approved by the other house; and, having promptly received the Governor's signature, became a law.\*

After so signal an expression on the part of the government, of an opinion upon the merits of the proposed system of returns; and especially after that opinion had taken the form of a public law, it was not unreasonable to expect that there would be, at least, some show of compliance with its requisitions. It could not have been fairly anticipated that any of the sworn officers of the government would, even through oversight, much

\* Act of February 27th, 1847.

less through deliberate and contemptuous disregard of their duty, wholly abstain from compliance. Yet when, at the close of the year, the Secretary of State proceeded to perform the duty imposed upon him by the fifth section of the act, by laying abstracts of the returns before each branch of the Legislature, he found that so general was the deficiency of reports of any kind, the idea of "abstracts" was ludicrous. He rolled together the few sheets of paper which had reached his office, and sent them to the Legislature. This violation of law, be it observed, was committed by officers whose very business it was to enforce under penalty the observance of law by other citizens. If the terms of the act had been such as to involve inconsistencies irreconcilable in practice; or if its phraseology had been so obscure as to make it impossible for the officers charged with its execution to ascertain the nature of the obligations intended to be imposed by it; or if it exacted so many and multifarious particulars as to transcend the ability of those officers; or, in short, if any reason existed other than their determination not to obey, there might be room for extenuating explanations. In fact, supposing the books of each officer to be properly kept upon any plan consistent with the idea of his public responsibility, any one of the returns could have been prepared for the Secretary's office in a few hours, in most, if not all, of the counties. Again, if the labor had been greater, and had burthened any of the officers beyond the measure of his compensation, the way was open to ask for the enlargement of this. It is a melancholy truth, however, and one which illustrates, in a manner anything but

creditable to our State, the need of a more careful supervision of her executive officers, that a law such as is easily enforced in European countries, and in American States such as Massachusetts and New York; and is deemed by all enlightened statesmen important to judicious legislation; one which has been favorably recommended by our own chief magistrate, and enacted by our legislature—has been nullified by a general resistance on the part of the very citizens who were charged with its execution.

Finding that this attempt to lay a foundation for consistent general measures had become itself a source of difficulty, the Society prudently forbore to press its views until time and the good sense of our citizens should have softened prejudices, and opened the door of friendly explanation. As county jails continued to be erected, however, in direct antagonism to the welfare of our system, it appeared proper to invite the attention of the government to this particular evil. It was hoped that by bringing the county Commissioners into communication with the Secretary of the Commonwealth, **UNIFORMITY** would be promoted; and that the explanations which would thus seasonably become practicable, would tend to keep alive the necessary precautions; furnish information where needed; encourage a general interest in the success of our system; and give an opportunity for such friendly admonitions as might counteract too parsimonious or timid a temper. For the convenience of all parties, it was obviously proper that suitable illustrations should be at hand for exemplifying the details to be discussed. There were many reasons in favor of

connecting this duty with the department of State; and these were corroborated by the usage of governments in this country and in Europe which had attempted to systematize this branch of public affairs. There was known to exist in many, perhaps all, of our counties, an opinion that the jail of each was a "local matter," over which the inhabitants and tax payers of that county alone had any right of control. This opinion probably had for its chief source, that admirable distribution of internal affairs by which the prosperity of the American States has been so rapidly advanced; a distribution which, by subdividing the objects of official agency, and by confining their management to the persons most nearly interested in their cost and in the use of them, ordinarily secures the most economical and productive results. Hence the parcelling of territory into districts, whether counties, townships, or wards; and the superintendence of these by special officers, have become fundamental to an American's notion of good government. But however useful may be this practice, or satisfactory the reasons upon which it is maintained, it cannot be questioned that the number and boundaries of the district; the number of the officers, and the sphere of their duty, and the extent of their authority to raise funds by taxation, and generally the power which they may exercise over their fellow-citizens, are subjects which must be regulated by laws enacted by the supreme power of the State; and that this regulation may be variously exercised from time to time, whether in restraint, or enlargement, or substitution, or total privation, with no other check

than such as is presented by the constitution. Accordingly the officers of such districts are frequently the subjects of special as well as general enactments; and each county performs for the State a multitude of duties, from the collection of taxes for the State treasury, to the administration of civil and criminal jurisdiction within its own territorial limits. No citizen acquainted with even the first principles of the government under which he lives, can doubt that it is the business of the State Legislature to pass criminal laws, to prescribe the mode of their execution, and to regulate the sphere of duty of each officer in connection therewith. If there could be found a Pennsylvanian uninformed to this extent, a reference to the statute-book would enable him to see that the practice has always been in conformity with these views. When the Legislature has declared, or assumed, any act or omission to be a crime, and has provided imprisonment as the penalty, it has the right also to prescribe the term, the place, and the mode, of imprisonment. Whether all prisoners shall be kept in one large building, or shall be distributed amongst a number of smaller ones—whether they shall be kept separately or be allowed to associate together—what accommodations they shall have of food or clothing—what provision shall be made for their health—what instruction they shall receive—what labor they shall perform—are all subjects wholly within legislative control. If for good reasons, or bad ones, the government choose to adopt a general policy in relation to offences and their punishments, it may require a conformity with that policy on the part

of all its agents. If after all this it should entrust to the Commissioners of each county the preparation of the place of imprisonment for crimes committed in that county, it would be a very extravagant inference from such a trust, that it made the commissions so far independent, that they could act not only in neglect, but in defiance of the general policy; and that they were therefore not bound to consult the government or pay any attention to its known preference in the case. Upon the whole, therefore, whatever momentary jealousies had been encountered, the Society found its way quite clear for presenting to the Legislature (1851) a memorial, in which, after referring to the well settled maxims of our public discipline, it asked for a further expression of the design of the government, so as to preclude, if possible, such liberties as had been taken with it. A draft of a bill was at the same time prepared and submitted with the memorial. In this case, as in the preceding one of 1847, there was fortunately no room left for the suggestion of haste or inconsiderateness. The object of the memorial being so clearly within the scope of previous legislation for more than half a century, and the most important of the facts being presumably within the knowledge of at least a majority of the members, it was, at first, thought sufficient to procure the reference of the memorial and draft to the Judiciary Committee of the House of Representatives. Partly from pressure of other business, and partly from the unusual fact of there appearing no person to explain the history of the proceeding, that Committee declined to assume the responsibility of it at the outset, and made therefore a

negative report to the House. The Society thereupon sent to the capitol a deputation, at whose instance a full discussion of the subject was had before the Judiciary Committee, both of the Senate and of the House. The bill was unanimously reported by both committees—passed both houses—and was signed by the Governor. That the reader may better appreciate this act, in its relations to the past as well as to the future, a copy of it is subjoined.\*

This phraseology is too clear to leave any doubt upon the mind even of a perverse constructionist, that not only did the government recognize as its long settled policy, the SEPARATION OF CONVICTS, but it gave fresh sanction to its previous declaration, (of 1790,) that its purpose was to obtain UNIFORMITY IN THE ADMINISTRATION OF THE COUNTY PRISONS; and as general announce-

\* “Whereas it has long been the policy of this government to combine the separation of convicts one from another, with instruction and suitable manual labor as the best means of discipline and reformation:

“And whereas it is necessary, to the equality of penal justice, that the administration of the county prisons shall be uniform, as has been heretofore declared; therefore

“Be it enacted, &c. That every county prison which shall be hereafter erected within this commonwealth, shall be so constructed that every person committed thereto, whether upon conviction or otherwise, may be confined separate and apart from every other person committed thereto, due regard being had in the plan of construction to the health of the persons to be so confined; and that before any county prison shall be erected within this commonwealth, the plan of construction of such prison, drawn sufficiently in detail for the clear comprehension thereof, shall be submitted by the commissioners of the county in which the same is to be built, to the Secretary of the Commonwealth, and shall be inspected and approved by him, and so certified by him upon the plan, a copy of which shall be furnished by the commissioners aforesaid at the time of their submitting the original as aforesaid, and shall be signed by the said Secretary, and be filed and remain in his office.”—  
(Act of April 8, 1851, Pamphlet Laws, page 358.)

ments and the example of the State prisons had proved insufficient to secure its objects it, therefore, peremptorily enjoined uniformity, specified the basis of it, and forbade the construction of any county prison until, by the inspection and certificate of the highest officer of State next the Chief Magistrate, it should have been made apparent that the plan had been drawn in compliance with the prescribed conditions. The passage of this law has served at least the good purpose of showing where we are to look for the causes of that heterogeneous condition of our jails which so retards the completion of our system. Has it served any other? Will the sober citizen who respects the laws of his country be prepared to believe that even this enactment, so plain, so peremptory, has shared the fate of its predecessor of 1847? Will he believe that in this case also the very ministers of the law, to whose care as well as fidelity its enforcement was entrusted, have again deliberately set at nought the clearly expressed will of the government; and this not only in the withholding of plans, but in actual construction? It was no longer a question of ignorance, but of open insubordination. For this there could be no excuse; and the nature of the case was such as not to afford ground even for the pretence set up in extenuation in other cases, viz: "that the counties could not afford to build *penitentiaries*—that when their wealth increased they might have such prisons as Berks;" or that "there were not more than half a dozen prisoners at each term, and when they began to be crowded they could have a larger building." Every county jail must have lodgings for the sheriff or

his deputy or other keeper. This part of the structure is therefore a permanent requisite, whatever the extent or plan of the other portions ; once built it may outlast many alterations of the cells. The only radical difference dependent upon the act of 1851, is that the cells ought to be constructed for the occupancy of one inmate each. For this arrangement a few partitions are needed ; and if a county treasury is too poor to pay the additional cost, there is in this fact good proof that the district has been prematurely entrusted with one of the most important responsibilities of a county. In the location of the cells, and in their connection with the keeper's department, provision may be made for any subsequent extension up to fifty or more cells, without changing the plan of the whole in any essential feature. It is a reproach to us that the English Government long since published, for the use of county officers, carefully drawn plans of prisons of various sizes, one of which is suited to so small a number as six prisoners ; and up to this day, in Pennsylvania, from which the elements of the English plans were obtained, there has not been issued by the government a single drawing with the same object. But this fact cannot relieve any Commissioners from responsibility where they knowingly act contrary to legal prescription.\*

\*The examples already furnished by the liberal public spirit of some of the counties, might be easily followed by any builder to whom the planning and constructing of so important a work as a prison could be intelligently and conscientiously entrusted by the Commissioners, (who in Pennsylvania constitute the chief council) of any county. To see this the reader has only to look at the plan of the York prison accompanying these pages—then to suppose that all of the cell portion is cut off except the three cells on each side, next the keeper's department. There will be left six cells ; or, if the two stories be

Let us look at our subject from another point of view. We have our territory subdivided into more than half a hundred districts, called counties, each of which has its distinct system of public administration respecting

taken, twelve cells. Then let him suppose that, instead of the imposing front portion which a wealthy county may afford to obtain for the ornament of its principal town, there be erected a substantial, comfortable and neat but plain dwelling-house for the keeper and his family. Let the connection between the front and the rear be made in the manner taught by experience to be the best—and let the whole, with its yard space, be enclosed by the common jail wall of the country, and there will be provided a prison which will answer for twelve prisoners, all the leading requisites of our general policy, or of any particular legislative expression of it heretofore made. We will specify a few of these for the sake of comparison with any jail near which the reader may happen to reside.

1. A degree of safe custody impossible in any jail upon the old plan. The mode of framing and placing the windows alone would at once prevent both communications and escapes.
2. Facility of supervision, as all the cells could be seen at a glance from the door-way of the keeper's portion—the corridor (or middle space between the two rows of cells) being open to the roof.
3. Facility of access to all the cells in a given space of time.
4. Separation of the prisoners from one another, and thereby the preventing of evil associations, as well as of noise, insubordination and escapes.
5. Opportunity to compel the labor of such as may be legally made to work; and to allow suitable employment to others who may desire it—which most of the inmates would do in such circumstances.
6. The best arrangement for instruction and counsel, and for the periodical influences of religious worship.
7. The best protection of the keeper's family; and 8. Their greatest convenience in attending to the wants of the prisoners. The last two items are particularly important in those counties in which the sheriff resides at the jail, and during his absence even his wife is occasionally required to assume his duties.
9. The prevention of influences injurious to the discipline of the State Penitentiaries.
10. A conformity with the general principles of the penal policy of the State.
11. The uniformity of structure which is essential to public justice whenever citizens are condemned for similar offences to different places of punishment.
12. A faithful application of the funds raised by taxation.

Yet simple as are the means by which these numerous great objects may be secured, and insignificant as would be the cost additional to what is unavoidable if a prison is to be built at all; and clear beyond doubt as have been the expressions of the legislative will, jails have been built in some of our counties within the last ten years, in which all of the dozen particulars above mentioned have been at least partially disregarded and lost.

affairs arising within its limits. Each has its own Commissioners, or chief board of civil administration ; its own sheriffs and constables ; its own courts, prosecuting officers, juries and prison ; and its own treasury and system of accounts for the receipt of taxes, and for their disbursement for the maintenance of its administrative machinery. The numerous officers charged in each county with the public business have not a permanent tenure. Their term of office is short. There is no continuing official system by which, as in the great offices at Washington or Harrisburg, both the principles and the routine settled by the wisdom of experience for ordinary affairs, may be preserved during the changes which are made amongst the official heads. There is no continually ripening knowledge or judgment by which citizens suddenly called from their private pursuits may profit so as to avoid interference with a well settled policy, or with economical rules which have grown up during years of trial. Whatever advantage can be reasonably expected by the community is to be derived from the inspection of local files and records, or from the occasional instruction of persons who have held office during a short period, or from the degree of knowledge and sagacity which each incumbent may bring with him.\* Supposing, then, that we have no personal acquaintance with the citizens chosen to fill the various

\*It can scarcely amount to a restriction of the general force of the remarks in the text, to say that some of the clerks of the commissioners are retained in office during several successive years, because of a knowledge of details, or a general intelligence ; or, perhaps, because of a local influence. It is not the customary duty of the clerks to study the subject of prison architecture, and consequently they have no advantage over the Commissioners in this respect.

offices above designated, but giving to their constituents the credit of selecting candidates of at least the average intelligence of the community for which they are to act, what may we reasonably expect, or not expect, taking the common experience of the State for our guide? In the first place we cannot expect the *combined* wisdom of all the public officers of the county; for its business having been subdivided, and the portions distributed by law and usage, each functionary minds his own peculiar affairs, leaving the others to do the same. Occasional conferences are brought about by the interlocking of particular branches of duty, but the main body of each subdivision is managed by the officer specially commissioned with reference to it. In important cases the most influential tax payers are sounded, and much general conversation ensues. Citizens eager for whatever profit may be made through a public "job," are ready with propositions. A chance remark is now and then given to the Commissioners by some old and well informed resident, in which, it being reasonable, they acquiesce. The volunteer advisers multiply, and at length, the whole subject being in a sufficiently ripe condition, the initial steps are announced, and the work is begun. If this happens to be of a kind immediately connected with the ordinary business of the county, it is likely to be, in the main, well done. Most of the Commissioners are respectable and thrifty citizens; and where they are in doubt they have the good sense to ask prudent counsel, and to follow it. But what is to happen if the undertaking proposed to them be of a kind upon which they and their usual counsellors are

without any experience? If the question were upon a railroad, an engineer would doubtless be employed instead of a supervisor or a common field surveyor. If an expensive stone bridge were to be built, it is not likely that a journeyman house-mason would be called to the direction of the work. But if it were a PRISON—a public institution in which the justice and humanity of our criminal code are to be vindicated, and upon the proper details of which it has been found requisite to exercise the best thought and mechanical skill of the world; and in which, when completed, the means are to be provided for administering a settled policy of discipline—then would any man who can copy the old jail, with a few touches of his own in harmony with the rest, be thought capable; or would the Commissioners look about the country for a *prison builder* upon the same principle that would send them in search of a railroad or bridge builder? Would they ascertain that the man of their choice had been trained to work of the best kind, or would the carpenter or mason be appointed also the *designer* of the work? There are enough new county jails built upon the old plan to answer this question; and in some of these, even supposing their plan were good, there will be found proofs enough of the inability of the contractor to execute it without violating some of the elementary rules of experienced prison-keepers.\* It may be supposed that the judges of the

\* A curious example is furnished in the jail of a county, the name of which is familiar enough throughout the State. It is built upon the old plan, and the exterior is very creditable to the neatness and general skill of the mechanic who constructed it. But not long after its "completion," and while it

courts, and the prosecuting officers, and the citizens who have at different times served as sheriff, would give to the Commissioners good counsel upon both the law and its disciplinary administration ; but it is sufficient answer to this conjecture, that as bad jails are erected, either the counsel is not given ; or, if given, it is not in accordance with our penal system ; or if in accordance therewith, it has not been followed—and the effect is the same.\*

Let us go further, and suppose that all the county commissioners are of equal general intelligence, and equally desirous to do their duty ; we may in this way rid our case of any inequality or want of "uniformity" from these sources. Still, whence are they to derive

contained more than a dozen prisoners, it was thought advisable to *fasten some iron bars to the wall outside of the windows so as to prevent escapes!* This beautiful specimen of skill in *prison-building* was expected to receive inmates from a continually changing population, which must often contain very disorderly persons—many of them strangers in the county.

\* In one of our counties, an Act of Assembly, passed within the last fifteen years, directed a prison to be erected ; and expressly provided that the building should be " *suitable*" to its objects, and " *upon the most approved plan* ;" and it also required that the court of the county should be satisfied that these provisions had been complied with, before the prisoners could be removed from the old to the new jail. Here was a case in which the interposition of the court was not left to chance, but was demanded by a Legislature holding its sessions in the very town in which the Dauphin County prison was finished and in use at the time of the passage of the law ; a case which, therefore, excludes all idea of want of knowledge in that quarter. Yet the Commissioners actually permitted the erection of a jail with some of the worst features of the old plan, and the *court gave a certificate of approbation*, and the prisoners were removed ! The building now stands, a discredit to our penal system.

In another county, a practitioner of law who had, or fancied that he had a talent for such things, drew at least the main features of the plan of a prison, which was built accordingly. Its principal model appears to have been the jail of an adjoining county. Both are upon the old plan. In both, the leading objects of our prison discipline are constantly violated.

the special information needed for the designing of such prisons as will afford the best return for the expenditure of a given amount of funds? There is manifestly only one mode; and that is to study both the latest modern examples in actual structure, and the reasons which have suggested their details.\* But are the officers of every county to be sent out in pursuit of this information? Would it not be more economical in every way for the Legislature to cause to be prepared a few plans adapted respectively to the well known various situations and resources of the counties, at each principal stage of their growth; and to distribute these from time to time as required?

But more than this would be necessary. Even the Legislature has shown, in its own acts, the risks attendant upon resolves adopted under the pressure of special cases; and it has been made the instrument for rendering uncertain some of the particulars of its own policy. For example, whenever a large county prison has been erected upon the plan of separation, an enactment has authorized the retaining of some or all of such *convicts* as had before been sent to a State penitentiary.

\* The importance of continually recurring to experience even in cases in which, at the outset, the best available means were thought to have been employed, is strikingly illustrated by the following example.

The authorities of a county prison, after some years of trial, published a description of it, in which it was said to be "one of the best prisons in the world;" and a particular account was given of the method adopted for heating and ventilating the cells, as one worthy of favorable notice.

Within the last twelve months, the grand jury of that county have presented the plan of heating the prison; and their presentment states that some alteration in it is "highly necessary, as well for the comfort as the protection of the lives of the prisoners."

Of course suitable provision was to be made by law for the administration of the interior discipline. Now it has happened that in the State penitentiaries, and in some of the county prisons, the Inspectors were authorized to permit, at their discretion, in addition to official visitors, other persons to visit the prisoners. This liberty was thought important with reference to the health as well as the moral improvement of convicts. Yet in one case at least, (that of Montgomery county,) all other than the official visitors (few of whom were likely ever to see the interior except in the most casual manner) were strictly prohibited from having "any communication with convicts."\* Again, even with an attention on the part of the Legislature much greater than it is likely ever to give to the details of the subject, there will remain some of these which are of real importance to the uniformity of our penal restraints, and which are of such a nature as to require continued systematic observation. For example, in Berks county each cell has a yard attached to it; and the plan of the prison contemplates daily (or frequent) separate, but simultaneous, exercise in these yards, under the general supervision of the keeper. In Schuylkill and York, &c., there is no such provision. Such yards are in use at the Eastern, but not at the Western Penitentiary. In the English and French plans, on which great pains were bestowed by men of unusual

\* It is within the personal knowledge of the writer that this difference was brought to the notice of a citizen of Montgomery county, who at the time had in his possession, for revision before its passage, the draft of the law which to regulate the prison of that county. It is not known what views determined the retaining of the clause in question.—(*Act of April 8, 1851.*)

intelligence and experience, there is a scrupulous provision for exercise in this mode. Either this part of the design is unnecessary to a humane administration, in which case the public money and the time and vigilance of officers should not be expended upon it; or it is necessary, and should be, not only in some cases, but universally adopted.

Another consideration of too much value to be omitted, will be so plainly a consequence of the facts before stated, as not to be open to question. While there were only two prisons to which persons convicted of the graver classes of crimes, or sentenced to long terms of confinement, could be sent; and while the county jails were used chiefly for preliminary detention, the acts regulating the Eastern and Western Penitentiaries constituted, as far as the letter of the law could go, a sufficiently uniform rule. Now, however, the system has assumed a mongrel character. As each separate county prison becomes, by special legislation, a State penitentiary, while only the two largest prisons retain the name and reputation of such, it follows that great inequality must exist in the degree of attention respectively given to them on the part either of the government or of the people at large. If the discipline of the State is in this way to be subdivided, and the larger establishments are gradually to fall into disuse, not only ought so fundamental a change to be foreseen, but ample provision should be made for it by giving their proper rank to the minor establishments; and by the seasonable adoption of some system of oversight and regulation which shall

harmonize their now independent, and in some respects discordant, administration.\*

The erection of a bureau, or department, in the office of State at the seat of government, appears to be the only mode in which we are likely to secure either that accumulation or that use of experience and skill which

\* From the multitude of examples illustrative of the importance of a periodical inspection of all of our prisons under some experienced head, it is difficult to make a selection without impairing the impressions of the general phraseology of the text. But one will be ventured for the convenience of readers who may not have given attention to the details of administration, or their influence upon the justice or humanity of our judicial sentences as these are *in effect*.

In one of the counties of our State, a prison had been erected for separate confinement. The arrangements for heating and ventilation were made upon the plan now settled in the opinion of good judges to be, not only practicable but, the best. A casual visitor, whom a trial of the air in the cells had disposed to doubt the efficient operation of the apparatus, held a light filament near the mouth of the aperture through which the air should have made its escape from one of the cells. The thread was unmoved! In the cell was a prisoner working at a loom. He noticed the procedure, and said, "it is very bad sir, it tries me very much—it is hard for a man to do his day's work in such a place." The visitor's own senses were sufficient vouchers for the truth of the remark. Upon the facts being reported to the principal keeper, (a good citizen, kindly disposed in general intercourse, and no doubt as desirous as most men to do his duty *as understood by him*,) he strongly censured the visitor for his experiment, because "it would only encourage the prisoner to be dissatisfied." The attention of the presiding judge of the district was invited to the subject, and it was agreed that an effort should be made to set the air in motion, by the use of a fire in the extracting shaft, according to the original design. The keeper maintained that "the whole scheme of the thing was a folly," and persisted in this opinion, notwithstanding the mention of several public institutions in which the same kind of apparatus was at that time in most successful use.

Here, then, was a case in which a man, sentenced to imprisonment in the name of public justice, was made to endure suffering which was never contemplated by the law; and which unnecessarily put his health in jeopardy, without promoting the object of his incarceration. While he and his fellow-prisoners thus suffered, convicts in the State penitentiaries were breathing comparatively pure and wholesome air. Is this equality? Is it humane?

the public interest needs. In addition to the *centralization* of knowledge from all quarters, such a department would promote the *increase* of knowledge in all, by suggesting those inquiries which can have their origin only in large inductions of fact. The periodical publication of materials thus brought together, would give to the State the benefit of the reflection of experienced students of such subjects in every country. With such a bureau, and with a conscientious enforcement of the acts of 1847 and 1851, the time would not be remote when we should wonder at our delay of measures which would then seem to us indispensable conditions of any rational system of penal legislation and discipline. Without such aids, **UNIFORMITY**, and, therefore, an equitable administration, seem hopeless.\*

\* While these sheets are going to press, we open the last annual report of the Inspectors of the Eastern Penitentiary, just received; and it gives so clear and strong a sanction to many of the remarks in our own text, that we are glad to be able to repeat a portion of its phraseology, as representing the result of experience in that institution during a quarter of a century

"It is hoped the that time will come when the Legislature of Pennsylvania will take the important subject of the present penal code, as it relates to our admirable penitentiary punishment, into consideration. Sporadic reforms are worse than useless; labors of those who are required to learn while they attempt to teach, are vain. *The familiarity of long experience, careful and earnest devotion to the subject, and an interest in the questions involved, above and beyond an interest in self, are among the qualifications which a proper reform in penal jurisprudence will require at the hands of those who undertake the task.*"—(26th Report, 1855, pp. 7.)

REMARKS  
ON  
CELLULAR SEPARATION.

READ BY APPOINTMENT OF THE AMERICAN ASSOCIATION FOR THE IMPROVEMENT OF PENAL AND REFORMATORY INSTITUTIONS, AT THE ANNUAL MEETING IN NEW YORK, NOVEMBER 29, 1860,

BY  
WILLIAM PARKER FOULKE,

OF PHILADELPHIA.

December 26, 1860.

DEAR SIR,

We take great pleasure in communicating to you the enclosed resolution, adopted unanimously by the Acting Committee of the Philadelphia Society for Alleviating the Miseries of Public Prisons, on Thursday last.

We feel persuaded that the publication of your valuable essay will greatly promote the cause which our Society has so much at heart,—the extension of the Pennsylvania system of prison discipline.

We remain,

Very truly, yours,

JAMES J. BARCLAY, *Pres't.*

JOHN J. LYTLE, *Secr'y.*

WM. PARKER FOULKE, Esq.

At a stated meeting of the Acting Committee of the Philadelphia Society for Alleviating the Miseries of Public Prisons, held 12th month 20, 1860, the following resolution was adopted :

*Resolved*, That William Parker Foulke be requested to furnish a copy of the essay read at the late meeting of the American Association for the Improvement of Penal and Reformatory Institutions, held in New York, and that the same be stereotyped and published under the direction of the committee on the distribution of the Journal; and also that a copy be bound up and distributed with the January number of the Journal.

(Extracted from the minutes.)

JOHN J. LYTLE, *Secretary.*

December 28, 1860.

GENTLEMEN,

The American Association for the Improvement of Penal and Reformatory Institutions, at whose request my essay was prepared, has no permanent fund; and its purpose in relation to the essay was answered by the reading of it at the recent meeting in New York.

Since the executive board of the Philadelphia Society is of opinion that the essay may be of further use, I cheerfully consent to its publication, relying upon its readers for an indulgent consideration of the unfavorable circumstances in which, as they will learn, it was written.

I am,

Very truly, yours,

W M. PARKER FOULKE.

To Messrs. JAMES J. BARCLAY, *Pres't.*

JOHN J. LYTLE, *Secr'y.*

**MR. PRESIDENT:**

My appointment to deliver to the Association an address upon the SEPARATE SYSTEM OF PRISON DISCIPLINE, imposes an obligation; yet how to fulfil it, is for me a difficult question. The subject has become an old one among jurisprudents, and among administrators of penal law. Since the latter part of the last century, it has been discussed by a constantly increasing number of students. In Pennsylvania, the opinion of the promoters of convict-separation found some expression in prison construction and management almost seventy years ago, upon the recommendation of the Philadelphia Society for Alleviating the Miseries of Public Prisons; and their measures had been preceded by changes having a like object in a few British prisons. During the next twenty-five years, the subject continued to occupy the attention of many thoughtful men. The government of Pennsylvania enlarged the facilities for the administration of the separate method by the erection of two large penitentiaries, one, under the law of 1818, for the Western District, and

the other, under the law of 1821, for the Eastern District; and New York, adopting other conclusions respecting the means of penal discipline, established her great experimental prison at Auburn. Scarcely had these institutions been authorized, when there sprang up in Massachusetts, in the year 1825, the Boston Prison Discipline Society, having for one of its objects the investigation of the penitentiary question, but avowing its preference for the plan of convict-congregation. Thus, two associations, at Philadelphia and at Boston, with experiments assumed to be typical, came into controversy upon the evidence. The sincerity of each insured the maintenance of discussion. No sooner had the separate penitentiaries begun to make annual reports, than the interest of Europe was awakened in a remarkable manner. In 1831 the French Government, in 1832 the British, and in 1834 the Prussian, sent to the United States commissioners to examine the most important of our prisons. France repeated her inquiry among us. Belgium and Russia authorized a like inspection on their own behalf. From the commencement of these investigations, the public discussion of the question between Auburn and Philadelphia went on abroad with great vigor. In fact, the question may almost be said to have been transferred to Europe. The commissioners were men of eminent fitness for their special duty. Their reports underwent a searching scrutiny; they were debated in the executive councils and in the legislatures of their respective nations. A new lite-

rature seemed to be forming. Not only in the bureaux of government, but in the halls of science, prison discipline became a familiar theme. Volume followed volume from the press; so that in the year 1846, when a new era was opened, there had been accumulated a library of works, in the principal languages of Europe, upon this question so peculiar to modern times. The range of argument continually widened, until it embraced penology in its largest sense; and the philosophy of penitentiaries took its due place in jurisprudence. It was in the year last mentioned that there assembled in Germany, at Frankfort-on-the-Maine, a congress of men the most capable in Europe for the profound discussion of penal systems. That was not an assembly of a few persons, citizens of one State. From England, France, Sweden, Belgium, Holland, Denmark, Russia, Prussia, and various other parts of Germany, came those who had been the leaders of reform for their respective nationalities; commissioners to whom had been intrusted the duty of foreign visitation, legislators, councillors of state, judges, inspectors-general, architects, medical officers, chaplains of prisons, members of voluntary associations—such observers and writers as Julius, Mittermaier, Suringar, Ducpetiaux, Moreau-Christophe, David, Russell, Varrentrapp. At Brussels, in the following year, their truly learned and dispassionate discussions were resumed. Meantime there had been formed in New York a third American association, the members of which were pledged to

no system, and proposed to themselves a liberal scope. Annual reports from that association were added to our collections. The Boston Society continued its yearly contributions. The Philadelphia Society, since 1845, issued a quarterly journal. Official reports at home and abroad were still multiplied, and every phase of experiment and of opinion found public expression. It is after all this long series, Mr. President, that I am invited to address you, in one hour's discourse, upon the system of convict-separation. Were I able to review all the evidence which has been thus accumulated, to supply new facts which have not been included in previous essays, and to give to the whole a rigorous analysis, this would be to add a new volume to your library—and probably it would not satisfy you.

Not only these considerations, but the lateness of the date—little more than a month ago—at which I received notice of my appointment, assures me that no such task has been intended for me. Permit me to add, Mr. President, not for my own personal advantage, but to acquit me of any seeming defect of diligence, that your notice reached me in the country, that I had very imperfect means of reference, and that such time as I could bestow was snatched from necessary occupations, and was further restricted by the cares incident to the removal of my family to the city for the winter. In fact, more than half of this manuscript has been written during fractions of the last five days.

In the selection of topics, I have reflected that hitherto there has not been in the United States such an opportunity for interchange of explanations as you hope to procure by means of this Association. In the year 1847, the society of New York issued a circular inviting a meeting of officers of prisons and other persons interested in the subject of penal reform. I had the good fortune to attend the sessions of that convention; which was, perhaps, not without some fruits, but which, by reason of the small number of its members, failed to engage the public attention. A similar, and more decisive, fate awaited the convention which was summoned at Philadelphia in the following year. By manifestations at those meetings, as well as by visits to the penitentiaries of different States, and by the printed discussions which had come under my notice, I was convinced that, in many cases, serious difficulties had been occasioned by misapprehension of the nature of the method which has been so long supported by the Philadelphia Society, and of the means by which that method is to be enforced.

The history of the controversy between its friends and those of the congregate method abounds with examples of such misapprehension, even in quarters which one might have supposed to be protected from it by ample access to the proper sources of information.

The very official reports from some of our State penitentiaries bear witness, by their allegations, by their phraseology itself, that the plan of convict-

separation is not conceived as we view it; and that the details of evidence are arranged by processes differing from those which we regard as legitimate.

If this Association be in great part composed, as we have all desired that it shall be, of officers of prisons, it appears particularly important to prevent erroneous estimates of the problem which we offer for their solution. Many of them have been for the first time called to the contemplation of penal discipline by the fact of their appointment to places of trust in its administration. Confined by their official duties to the routine of prison government, during an uncertain tenure of their places, they have not had the motive to enter upon general penological inquiries. To many of them there can have been no opportunity for reference to any record of the discussions which have been maintained; and their opinions, even if provisionally held, must have been qualified by the associations in which they have been reared.

Unfortunately, it is not to these alone that the need of fresh explanation is restricted. Every year we find renewed statements which have been in vain contradicted as often as renewed, by which the public mind is misled, and by which a just solution of the leading question is postponed. In formal essays of practised writers, as well as in paragraphs in the daily newspapers, these errors are repeated. Shall I not then best meet the present exigence if I briefly state—

I. WHAT IS PROPERLY MEANT BY THE SEPARATE SYSTEM;

II. WHAT ARE BELIEVED TO BE ITS PECULIAR ADVANTAGES;

III. WHAT ARE THE PRINCIPAL OBJECTIONS MADE TO IT, and WHAT ANSWERS ITS FRIENDS MAKE TO THESE OBJECTIONS; and it may be a suitable conclusion to mention,

IV. SOME OF THE OBJECTS FOR WHICH, DURING THE PENDENCY OF THE QUESTION OF ITS MERITS, ITS FRIENDS MAY JOIN WITH ITS OPPONENTS IN BEHALF OF A GENERAL PENAL REFORM.

I. What is meant by the SEPARATE SYSTEM? Shall I begin by noticing some things which that system is not? It is not the "solitary" system—unbroken isolation without labor; nor is it solitude with labor. It is not Olmutz nor the Bastille, as General La Fayette was led to believe; nor is it, as the benevolent Mr. Roscoe was at one time persuaded, "a new invention, heard at first with horror, but gradually revealed to the public, till at length it has been unblushingly brought forward and recommended to the adoption of states and communities as an advisable and even philanthropic measure."

It is not any one of those "experiments" tried in New York, at Auburn, in Maine, in Virginia, in New Jersey; experiments which remained during many years prominent sources of argument and even vilification against the friends of separation,

and the influence of which is still evident in quarters where most of the facts have been forgotten.

It is not typified by that class of experiments, of which we have many examples, to which belongs the history of a warden of the Massachusetts State Prison, who, not many years ago, selected a dangerous fellow, shut him up in a large cell, which was furnished with a bed "and every thing to make him comfortable," and there employed him in shoe-making. At the end of several weeks "his humility and constant complaints of loneliness and misery" so worked upon the officer's feelings that the determination of this benevolent man was conquered, and he was obliged to restore the convict to the yard and workshop! Of course, the history of the thousands who had been subjected to the separate discipline in Pennsylvania went for nothing. Had not the warden seen with his own eyes, heard with his own ears? It is worth your inquiring how many of such TESTS are annually applied, and what influence they exercise upon the opinions of officers.

Again, the separate system is not, and cannot ever be, represented by such isolations as are mentioned in the report of the Massachusetts State Prison for the year ending September, 1858; where we are told that a greater or less number of convicts who are considered dangerous are always in close confinement without labor. Even with labor and instruction and visitation, such exceptional applications of our rule would be mischievous. This has been proved in Switzerland, in France, and

even at Pentonville in England, as well as elsewhere.

Again, the separate system is not that which has been maintained during a long time in the large penitentiary of New Jersey, where gradually the distinguishing characteristics of the separate method fell into such neglect that it became not easy to say what remained, except some apparently useless and troublesome formalities, which have been, naturally, fast yielding to the supposed economical advantages of common workshops and the contract-system of labor.

I must add that the separate system is not that maintained at the Moyamensing prison at Philadelphia,—a county jail constructed in defiance of the requisites of our discipline, and subsequently in part converted into a State penitentiary for convicts, as well as continued as a jail for persons under arrest merely. It is now an establishment where vagrants, drunkards, and persons detained for trial, as well as convicts, are confined in one building. As many as twenty thousand commitments have been made in a single year. An excellent board of inspectors have contrived to maintain a certain degree of advantage, notwithstanding the physical difficulties with which they have to contend; but the institution offers no proper exemplification of our idea of convict-separation.

Let me interpose another preliminary caution. The word SYSTEM has received various acceptations in connection with the reform of prisons. It has

been made to comprehend both a code of penal law and its administration in all details; it has been applied in a more limited sense to the general plan of prisons and their internal management; it has been used with reference to the plan alone; and it is in the last mentioned case that the restriction of it to the characteristic feature of a plan has originated. Now, without expecting to correct any of these various and inconsistent employments of the word SYSTEM, it may at least be required for our clear understanding of one another that the particular sense which we give to the word shall be defined and maintained on each occasion of its use. This will prevent confusion of the essentials of a plan with any one form of its administration. For example, if I were to speak of the congregate system, and were to cite constantly the penitentiary at Sing Sing as its type, our friends from Charlestown, Massachusetts, would doubtless very soon remind us that fair reasoning requires a more abstract method. We should be told that the proper subject of consideration is that which distinguishes the congregate discipline in general; and that the mode of administration is an accident, which may or may not have a permanent value in discussion.

You may think these cautions superfluous. The history of the controversy does not so teach us. I think it no disrespect to any one to say that some of the forms of misapprehension already adverted to, may exist even here in the midst of us. In

Europe, certainly, with all the advantages of public instruction which have been available to educated persons; in the face of legislative debates, reports of commissioners, ministerial circulars, and other aids to precise knowledge, not only the evidence, but the very conditions of the question of discipline are widely misunderstood. I shall therefore even go further to remove possible impediments from our way.

What is it, then, that you conceive as embraced by the term **SEPARATE SYSTEM** when you bring convict-separation into competition with the congregate method? Is it quite clear that the image of one selected prison is not always dominant on each side as the thing to be tested? When you compare the financial economy at one place with that at another, have you secured every due allowance for elements of proper cost in construction, in food, in instruction? If you array one bill of mortality or disease against another, have you carefully estimated the discrepancies of population, age, color, and degree of minute inspection; also the length of sentences, both absolutely, and in their special relations to the peculiar discipline? Have you, in short, put your prisons upon an equality in other respects—in the respects common to both methods—before you begin to estimate the evidence proper to the feature which distinguishes them, that which is alone the subject of dispute? A strong illustration is at hand. A gentleman holding one of the highest official positions in one of the United States

has said to me, "Sir, the penitentiary of my State is a disgrace to a civilized community. The labor of the prisoners is let out to contractors, who pay so many thousands of dollars to the public treasury; there are officers enough to keep the prisoners from running away—and that is all we know about it. The State makes some money, and this keeps everybody quiet." Would any of you who have visited the Eastern Penitentiary, think of settling the question of financial economy by a comparison of its earnings with those of the other prison just described ?

Let us suppose that we have accomplished all the conditions which naturally precede the development of our question; that the site and structure of the buildings are what each method requires; that we have provided a due supply of suitable food and sufficient intellectual and moral teaching; that our labor is in just relation not only to the cost of maintenance, but also to the exigencies of rational and humane discipline; that our sentences are duly proportioned; that our officers are selected and paid with a liberality which will secure, for the most part, the requisite grade of character; that the county jails, the places for detention before trial, are in harmony with our penitentiaries for convicts. Thus far we have common objects, and there has arisen properly no question between us.

At this stage we of Pennsylvania say that, in the midst of all these provisions, you are thwarting your own purposes; that by associating your con-

victs together you promote vice and crime, and hinder the salutary operations of penal discipline ; and that you inflict evil consequences not designed by the law, and to which your prisoners ought not to be forcibly and authoritatively exposed.

Thus, then, arises our question, which is simply whether or not it is necessary, or, what is here the same thing, proper, to compel prisoners to be associated WITH ONE ANOTHER.

Perhaps it will be objected that the mode of statement should be reversed ; that the inquiry is whether or not men should be forcibly separated from companionship, isolated, so to speak ; that the law of our nature impels us to society, and that, consequently, the necessity for separating convicts from one another should be proved by the friends of cellular imprisonment.

Mr. President, I have deliberately chosen my form of statement, first, in order to exhibit a monstrous fallacy, which has vitiated from the beginning of the controversy the reasoning of most of the friends of congregation ; secondly, in order to show to you that the burthen of exceptional proof in fact rests upon them, and not upon the supporters of convict-separation.

The fallacy consists in a confusion of the proposition that "men require SOCIETY," with the other proposition that "a SOCIETY OF CONVICTS is necessary." Concede that man is a "social being," how does the necessity of his association with CONVICTS follow? Are we to infer the expediency of a society

of rogues, from that of a society of men in general? to make the social nature of the race a proof that those individuals who have unfitted themselves for any society, shall, for their improvement, form a community by themselves in prison?

The burthen of proof results from the state of the case, from those facts which are conceded on all sides; viz., that the moral and intellectual condition of convicts is exceptional; that their vicious education and habits demand a treatment different from that which we give to the virtuous; that their mode of life has engendered purposes, and wants, and sympathies, which must be broken up and defeated; that the confederacy amongst them must be dissolved; and that they must be accustomed to the companionship, the sympathies, the habits, and the pursuits, of honest people. Thus the most natural inquiry is, not, why will you separate those men? but rather, why, having in view a moral reformation, will you compel them into association with one another? The very social law which you invoke teaches this statement; all your other methods of repression and of education are in harmony with this.

Nay more; the founders of the congregate system as it has been established in the United States announced at the outset that their object was the separation of convicts. Look back upon the reports of legislative committees, upon the long series of argumentative reports issued by the Prison Society of Boston, upon the controversial pamphlets published under the sanction of the Philadelphia

Society, upon all the literature which issued from the press during the period of the establishment of the New York and Philadelphia penitentiaries, and you will see that the parties were all aiming at the separation of prisoners. It was a great reliance of the advocates of the Auburn prison that it was, as they thought, absolutely effective as a means of separation. This will appear natural when it is remembered that from the days of Howard the mischiefs of association constituted the most urgent of the motives to reform in the internal régime of prisons.

It is true that we no longer hear of the possibility of preventing all intercommunication in the common workshops. The dogmatic assertions of former times, supported by the scourge and by an attempt at unwavering severity and supervision, have happily ceased; and amongst the intelligent keepers of the best congregate penitentiaries we no longer find champions of the "rule of silence" as it was once vaunted. Nevertheless, it remains also true that the discipline of those penitentiaries does not contemplate the association of prisoners as a means of reform. It enforces a penalty of confinement and labor; but it professedly submits to the aggregation of its subjects only because this is supposed to be the means of superior health and economy. I have not, then, misstated our question; and by this brief review it will be apparent that even with respect to the motive and primary effort of both parties there is still identity. We are all aiming to bring

about such an interception of evil communications as shall leave men who have been convicted of crime open to our reformatory influences, without exposure to the mischiefs of depraving companionship.

The method adopted in Pennsylvania goes to the root of this problem, and it does not trust the desired separation either to the caution or the good resolution of the convicts on the one hand, nor to an impossible vigilance of officers upon the other. **IT DEMANDS THAT THE PRISONERS SHALL NOT BE ASSOCIATED, BY DAY OR BY NIGHT, WITH ONE ANOTHER.** This said, you have all that properly distinguishes that method from any other which contemplates prison discipline as understood in our day.

Persons whose conceptions have been guided only by the antagonistic relations of the two leading modes of imprisonment; persons who think of the long controversy which has been waged, and the active partisan resistance which has been manifested on both sides, may be disposed to regard this definition as too restricted. It may be thought even by some members of this Association that the friends of convict-separation, becoming convinced of the extreme nature of their original plan, have desired to bring it into a more favorable condition, by accommodating its details as far as possible to those of the congregate system—in short, that we have practically conceded the alleged extravagance of our original views of prison life. If this thought were true, at least it must carry us back a great

many years to find the supposed modification. For my own part, it is certain that no representation has ever been authoritatively made to me other than that which has been given to you in the foregoing remarks. Fourteen years ago, having been honored by an invitation to attend an anniversary meeting of the New York Prison Association, I had no difficulty in writing as follows:—"We have one inflexible purpose, that of preventing any society of criminals. Beyond this, to whatever arrangement can be made for securing the health of prisoners, or their mental and moral improvement, we set no limit which falls short of the grandest, most christian view of duty from man to man. That the parsimony of governments, and the ignorance or indifference of private persons, will impede the entire fulfilment of that duty, may be reasonably expected; but it would be a sad reproach to the citizens of this republic if no other means could be devised for preserving the mental health of an offender in confinement, than is afforded by his association with other criminals."

At the same time the Philadelphia Prison Society made an official communication, which is signed by its president, vice-presidents, and secretaries, all of whom had long previous training in the traditional opinions of that society, and in the visitation of the prisons of Philadelphia. They then said, "The separation of prisoners from contaminating influences, and carefully training them by means of judicious instruction, form a portion of the disci-

pline of every prison where reformation is regarded. The Philadelphia Society for Alleviating the Miseries of Public Prisons, more than fifty years ago, were convinced that as evil association corrupts good morals, so such associations would be deleterious in an increased measure within the walls of a prison. They inferred that a career in sin might be retarded, and in many cases terminated, *by removing an offender from the society of the wicked, and associating him exclusively with the intellectual and virtuous.* They have never devised, much less attempted, the separation of prisoners from all society; nor has such a plan ever been sanctioned at any time by the Legislature of Pennsylvania."

At the very opening of the Eastern Penitentiary, more than thirty years ago, the same views were expressed by one of the officers who signed the communication just cited; Mr. George W. Smith, in his "Defence of the Separate System," republished in 1833 by order of the Philadelphia Society. In that valuable witness of the opinions and designs which were entertained and published at the period just mentioned, the period of most excited partisanship, the author said, "Religious and other instruction will be constantly and regularly administered; the visits of the virtuous and benevolent permitted and encouraged, under proper restrictions; unremitting solitude, or separation from *all* society, will not be, therefore, permitted." Again, "It was never intended by the friends of our system, even by those who were opposed to the introduction of labor, to

deprive the convicts of exercise, of books of instruction, and of suitable society."

There ought never to have been any misunderstanding on this head. Although the Philadelphia Society has always labored quietly and unobtrusively, paying due respect to the legally constituted officers in every department of administration, and never pushing itself in the way of ordinary functions for which others were responsible to the public, yet from the beginning of penal reform in Pennsylvania, down to the present time, the footprints of that society may be traced in advance of every important change in our penal system. In the modification of penalties, in the establishment of prisons, in the regulation of their construction, at every stage, you find a memorial and a committee of that society. The revision of our entire criminal code, which has been made within the last two years by a commission authorized by the legislature, was undertaken at that society's instance. For a serious inquirer, therefore, it is easy to ascertain what views of discipline have always prevailed in Pennsylvania.

I insist the more upon these preliminary suggestions, because it is in vain to enter upon a discussion unless the subject of it is clearly known. We cannot be tried by the notions, not only vague but variant, which pervade the community; and it is not superfluous to add that the ideas which have been so consistently maintained in Pennsylvania are the same which have been received in Europe

as the proper characteristics of the separate system. From the visit of the first foreign commissioner, to the last published foreign discussion, the friends of convict-separation abroad as well as at home have avowed the same fundamental conceptions.

It is one of the evils of prejudice, and of a partisanship without due information, that they not only originate but continually propagate false notions of the questions which they undertake to solve. Hence it happens that even the precautions already briefly noticed are not sufficient to clear the field for pertinent controversy. It is not only by a consideration of the meaning of convict-separation by itself, as expressed by its friends in a positive sense, that we are to learn its value for discussion. It is one of several proposed means of discipline, one of which is necessary. The question is not between one example and an abstract perfect model; but BETWEEN THE SEPARATION AND THE CONGREGATION OF CONVICTS UNDER THE PRACTICAL RESTRICTIONS INEVITABLE FOR EACH. Hence, to conceive our definition correctly for practical uses, we must render our meaning more precise by a reference to those things for which we offer it as a substitute, and in relation to which it has been chosen. It is with the certain alternative of a community of criminals in prison, that you are to accept or reject the policy of separating those criminals from one another. What community of criminals? Have you decided what it is that you would compare with the principle which we offer to you? Not a discipline

imagined by assembling the particulars of good and rejecting the particulars of evil from all the known prisons—not by confounding or wholly omitting all circumstances which qualify localities, and only the resultant of which, after all requisite explanations, is available to you—not the fancied discipline which won the faith of the early friends of the Auburn plan in the United States—a discipline to which was attributed the power of absolutely isolating the members of a convict society even in the communities into which they were forced. This is exploded everywhere, not only as an advantage, but even as a possibility. Is it, then, a community of criminals amongst whom some communication is to be expected? Is it one in which labor is an instrument of public discipline, held and controlled and applied solely by the officers of the prison; or is it one in which the convicts are let out by the day upon contracts which introduce new agents into the field—agents not appointed for the functions proper to discipline, nor responsible for them in any way beyond a compliance with the rules having reference to safe custody? Do you contemplate the lash as a means of restraint and of correction? All of these topics have a vital connection with the moral and prudential relations of your inquiry, and you must choose amongst them before you can reduce your problem on both sides to the simplicity and completeness which characterize the side already placed before you. I make no comment at this stage upon schemes of classification—schemes through which the idea of

separation had its germination and growth—schemes everywhere tried and everywhere distrusted in Europe—schemes which, nevertheless, with a disregard of history not uncommon in this country, are again brought forward. Even as to these we should be compelled to require fresh discrimination; for it is manifest that they must in many cases clash with the contract-system of labor; and they have, in fact, recently been rejected on that account by the Inspectors of the Massachusetts Penitentiary.

II. With these bare hints at sources of the confusion which besets us at the threshold of our investigations, I proceed to a notice of THE ADVANTAGES OF CONVICT-SEPARATION; and, as an indispensable preliminary, I invite your attention to a topic which may be regarded as a touchstone of our preparation. It will not be disputed that a prison, whatever its construction or management, is not one of the ultimate objects of society. It is not for their own sake that penitentiaries are established. They are instruments—means to an end. Our definition, thus far, has been effectual only toward the ascertainment of the nature of the means—the identification of the instrument. It is too plain for argument that the true value of the instrument is to be determined by the relation which it bears to the end for which it is chosen.

If our object is to punish, we shall look for

severity. If our object is to deter by causes of fear, we shall look for agencies which excite public terror. If we hope for pecuniary gain, we shall favor every arrangement which promises to yield to us the largest product of the given human machinery for the given term of use. If we desire the intellectual and moral improvement of our prisoners; we shall select those agencies which are fitted for their education in knowledge and virtue. If we desire ALL of these things, then must we so proportion our adjustment of them as that neither shall interfere with the rightful claims of the others upon our efforts.

I have used the word **RIGHTFUL**, because, be it remembered, there is still another check upon our judgments. Not only must we determine the end with reference to which we construct prisons and regulate their discipline, but that end must be a justifiable one; our choice of it is in subordination to paramount general laws. We can conceive of a despotism so absolute as to be determined only by its own will in its choice whether of ends or means. We are restricted as to both. There will doubtless be no dissent when I say that it would not be right for our governments to adopt any one of the particular objects just mentioned, as the sole end of its discipline; nor for keepers of prisons to aim at the maintenance of the "rule of silence" by extreme penalties, as was done at Sing Sing; or at a large pecuniary return from prison

labor to the neglect of higher considerations, as has been done in many places.

It is necessary, therefore, that at the outset we satisfy ourselves, not only with respect to the nature of the discipline in question, but also with respect to the designs which it ought to subserve.

It is possible that some persons, accustomed only to the execution of a predetermined series of prison rules, persons who have confronted only the immediate practical duties resulting from such rules, may be disposed to regard this, as well as others of our preliminary considerations, as merely speculative. Let us not debate their impressions. If those considerations are to be kept outside of the range of your thoughts, as not constituting a portion of knowledge useful to the administration of prisons, then at least abstain from expressing any opinion upon them; keep them from the official reports of your prison officers; leave them to be discussed by men who make of them a special study, in the light of history and of social philosophy; confine the exhibits of your penitentiaries strictly to the details of management, and avoid all phraseology which may mislead others. If, on the other hand, any one will persist in giving utterance to conclusions which, notwithstanding their profound difficulty and the wide comprehensiveness of their consequences, he has ventured to base upon the narrow circle of experience in a single prison, at least let us require that he come within the range to which his conclusions belong, and that

he submit them to the appropriate tests. Dogmatism will not suffice. We must be prepared to reconcile to rightful ends of government whatever discipline we may ultimately prefer. Without such preparation, we can have no claim upon the attention of the legislative bodies whose high authority we invoke to sanction our resolutions by their enactments, no claim upon the confidence of that class of jurisprudents whose wisdom in every well-regulated State inspires the public councils.

In spite, however, of all pretensions to freedom from these speculations, everywhere we find that there are tacitly assumed principles of legislation and of administration which are very questionable—special ends of discipline, which are not in harmony with the conclusions of the best judges, under whatsoever system; and there is maintained an independence of management which is fatal to the idea of a community of counsel amongst experts. These tacit assumptions govern all the reasoning of those who adopt them; and, being covertly suggested, rather than openly presented, to the community, they influence public opinion to an extent that would be impossible were there a formal, precise discussion of their merits.

It will, of course, not be expected of me, on the present occasion, to enter upon the investigation of the nature, the objects, and the just limitations of punishment to be inflicted by civil government; but there are some truths which are recognized by the best thinkers as proper to every plan of penal

discipline ; and to these I shall confine the exposition which remains to be made.

With respect to the advantages of convict-separation, there are to be distinguished two classes of contestants ; the first of whom deny the importance of such separation as is proposed both by the supporters of the Auburn plan and by those of the Pennsylvanian. They assert that, under any régime which will maintain general order in the workshops without extraordinary risks to safe custody, there is no probability of such corrupting communications as would demand a further separation of the prisoners. To this class belonged a former warden of the Massachusetts State Prison, who officially stated that he believed "that the few words which a convict can steal the opportunity to say are full as likely to be good and encouraging as evil and debasing;" and the supervision was at that time less stringent than it now is. To the same class belonged a former warden of the New Jersey State Prison, who allowed to remain open the holes which the convicts worked between the cells, and justified himself by asserting that such communication as would take place through such apertures could do no harm. Opinions like these it would be idle to discuss at this day and before this Association.

The other class consists of the major part of the intelligent advocates of the congregation of prisoners by day. According to them, there should be total separation by night, as we too insist ; they fur-

ther require, however, that prisoners should perform their labor in common workshops, but under a rigid prohibition of intercommunication. To prevent this, rules to the breach of which penalties are affixed, are prescribed to the prisoners. The maintenance of these rules is intrusted in each shop to one or more officers, who have the sole custody of the inmates of it, and who are armed, and are known to the prisoners so to be, for the enforcement of obedience.

Under the separate system, each convict occupies an apartment from which other prisoners are excluded, during both day and night; and custody is secured by the walls and door of that apartment.

Before we reach debatable ground, let us observe some consequences which inevitably follow from the mere difference of the physical conditions which have just been stated; consequences the reality of which must be apparent, whatever we may think of their extent or value, and however they may seem to be overbalanced by other considerations, connected with health or with economy.

In the first place, then, assuming one of our objects to be to hinder intercommunication, the separate system adopts the most efficacious known means. It is to be noticed that this proposition has two aspects. There is an intercourse to be considered which takes place by consent of all parties to it, which is purely voluntary with all; and this would be sought to a certain extent in every prison by a portion of its inmates. For some purposes of in-

tercommunication it would be almost impossible to prevent occasional intelligence between the occupants of adjoining cells. A system of signals by means of blows upon a partition-wall could be established by rogues out of prison, to be practised in case of incarceration. This plan, however, requires that the parties to it shall occupy the same prison and adjoining cells in it; and it must constantly expose them to detection; as a series of knocks sufficiently loud and peculiar to serve the uses of conversation, could not fail to attract the ear of a keeper on one day or other. Besides, the opening of conversation in that way is optional. Every man is free to remain silent and unknown. Some persons have thought that any breaking of the abstract symmetry of the method of prevention is sufficient to reduce the separate prisons to an equality with the congregate ones; and it has been a very frequent answer to the allegations of advantage in this respect, to say that communication takes place in separate prisons; as though this general statement covered all features of security and adaptation, and all measures of success. It would be quite as fair to class all congregate prisons together, and to predicate of them equal appropriateness for discipline because in all of them there is intercommunication in the shops. Here we find another of the fallacies which have served to delay a clear appreciation of the terms of our question. Looking to the mere physical arrangements proposed, it may safely be left to a sober judgment to

decide which of them offers the greatest material guards against intercourse.

The separate system, moreover, offers fewer temptations, as well as fewer facilities. It does not bring men together and compel them to sit together, work together, walk together, month after month and year after year, and expect them to be silent. It does not aggregate in close proximity men of like habits, tastes, and sympathies, and then press them to labor under a prohibition of words and looks of recognition and companionship. It places a wall between them, and endeavors to protect each from a knowledge of his neighbors. It aims to concentrate the thoughts of each upon his situation, partly by removing unfavorable external stimulants of old associations, thus sheltering him against all provocations of false pride, and against the evil influences of that co-education in crime by which every natural feeling is interlocked with mischief and is subjected to the domination of every member of a wicked fraternity. In short, it follows the old maxims of education, by removing the accustomed external motives to vicious thought, while it introduces the manners, the ideas, the purposes, and the sympathies which are proper to honest, well-meaning men. There can be no risk in asserting that it employs for this end the most efficacious known means.

Not only does cellular separation guard prisoners against the interferences occasioned by their old associations; it also protects them against provoca-

tions which in other modes of confinement grow out of their relations with their keepers. The force which restrains is that of the law: the walls and door of each cell, and not an armed officer, keep the peace. There is nothing to suggest that idea of personal antagonism which is developed by the arrangements of the congregate rooms, and the fruits of which are shown in personal encounters. With us the officer is a visitor who supplies food and the means of employment, rather than a guard upon whose vigilance and courage and strength depends the subordination of the men committed to his oversight. Consequently we have no mutinies, no riots, no angry assaults upon keepers; and consequently we avoid inciting the minds of our prisoners to schemes of outbreak or revenge—schemes which occupy many of the heads and hearts in the congregate shops, and the very thought of which, promoted by bad companionship, feeds the passions even of men who would not dare to strike a blow for their realization.

Again, we avoid placing our prisoners in such circumstances as deprive the officers of an option in the application of special punishments. It is well known that many of the most earnest strugglers for escape from the ways of crime are men who, from peculiar sensitiveness or irritability of nature, are the most ready to yield to momentary impulses. The hardened villain submits to his fortune, endeavors to make his place easy, avoids conflicts with those who control his comforts, and gives comparatively

little trouble. It has become a trite saying in European as well as American penitentiaries, that the worst criminals make the best prisoners. It is obvious that, in the face of a large company of convicts, every violation of discipline, even angry or sulky acts or words, must be in some way noticed. The keeper cannot temporize, nor frame excuses for the offenders; whereas in the separate cell all the modifications which prudence and humane consideration may sanction are practicable in any case, because custody and discipline are not thereby put in jeopardy in other cases. This is a very important consideration.

It is too obvious to require comment, that in the congregate rooms are occasioned some of the incitements which lead to breaches of disciplinary rules; the convicts are stimulated to intercourse, and to devise modes of escaping the vigilance of the officers.

You will observe, too, that as the professed object of all parties to this controversy about systems is, both to remove impediments to moral improvement, and to encourage spontaneous efforts at self-reformation, we accomplish the latter purpose in a large measure by the success which our plan secures for the former. Whatever there is of susceptibility to good recollections, to those of early years, of home, of kindred, of the lessons of any former period, we do not benumb by hourly companionship with depraved men, who revive only evil thoughts, the reminiscences of a vicious life, and of the incitements and the enjoyments of its unbridled license. Every man may be

regarded as carrying in his bosom a duplex character. In every human mind are the elements of a moral, and those of an immoral, system of ideas. What determines the preponderance of either in free society? What encourages, augments, strengthens either? The recurrence of correspondent motives; the accumulation and repetition of conformable ideas and emotions; the presentment of stimuli of like kinds. If you desire anywhere—at your domestic hearth—in the community at large—in your solitary chamber—to free yourselves from any habitual current of thoughts or feelings, what is the course pursued by you? What is meant when human beings appeal to the common Father to be not led into temptation? It is not that they may be hourly tried by being hourly exposed to sources of the very temptation which they would escape; but rather that, in mercy to their feebleness, they may be withdrawn from these, lest old habits and the willingness of an indulged nature may prove too much for their good resolutions. It would be a mockery of such a prayer to persist in the companionship which keeps alive only evil reminiscences and evil wishes and purposes. Therefore the friends of convict-separation seek the removal of these, in order that the germs of self-reform may grow without hindrance, and that whatever there is of capability in this respect shall at least find no impediment in the administration of the prison itself.

Curiously enough, this very exemption from temptation has been used as an argument against the

separation of criminals from one another. It has been said, both here and in Europe, that inasmuch as prisoners are to re-enter free society after the expiration of their terms of sentence, they ought to be seasonably habituated to resist evil incitements; and that if we prevent their exposure to the risk of further contamination, and allow them to associate only with honest people in prison, we deprive them of a proper opportunity to fit themselves betimes for their career by suitable preparatory training. Foreign as well as American writers have fully answered this extraordinary argument. A constitution shattered by an unhealthy climate would as reasonably be confined to treatment under that climate—a lad depraved by dissolute comrades would as reasonably be forced to maintain hourly association with them in order to accustom him to resist their allurements—as prisoners could be authoritatively kept in contact with one another to prepare them for the habits of an honest life. Of all the claims in behalf of the congregate system, this one is the least in accordance with the common judgments of mankind upon the relation of means to ends in a corrective discipline. As with many physical diseases, so, as has been forcibly remarked, “in the perturbations and disorders of the intellectual and moral nature, a long period must be passed before we can hope to eradicate the evil habits of which these disorders are evidences and effects. There is one indispensable preliminary condition for the treatment of both these classes of morbid states,

—viz.: a removal of the primary and sustaining causes, as far as these depend on external and appreciable circumstances. We should not think much of the professional skill of a physician who contents himself with prescribing medicines to a person suffering from lead-poisoning, but who fails to recommend his patient to withdraw from the manufactory in which he is in continual contact with the poison. Is there more wisdom in those who pretend to reform a criminal while allowing him to associate in any fashion with other criminals, and to imbibe continually the moral poison with which he is already grievously affected?"

It has been said that cellular confinement is not favorable to intellectual and moral instruction. Time has overthrown this objection; but, in the present connection, it is worthy of notice that advantages result necessarily in this respect from the seclusion of convicts from one another. The instructor not only has a choice of time, which is impossible under any other arrangement, and which is of great importance to the individualization of his efforts; he has also in his favor the fact, that his teaching is rendered more acceptable by its coming in a better manner, as an alleviation of punishment.

It is true that it would be *possible*, in a congregate prison, to take the men successively from the shops into a well-lighted apartment of comfortable dimensions, and to allow each of them to receive the recreation or the moral benefit of a lesson; but

before this possibility can be converted into a regular practice, there must be alterations both of construction and of labor-contracts, which will change the face of our financial comparisons, as there will be opportunity to notice hereafter.

In a separate cell the intervals between the hours of instruction may be more freely, and probably will be more customarily, given to the reconsideration of what has been learned, than in an associate room where there are many and constant external distractions. With respect to moral reflections, it is well known how easily these are broken up by light words and looks. For many persons, the moving effect of a sermon lasts only as far as the outer door of the church—having decreased at every step toward it, among the recognitions of acquaintances. A grimace from a vicious comrade, or even the sight of his face, may defeat, in the mind of a convict, the influence of an hour of judicious exhortation from a chaplain. It ought not to be forgotten that to every mind there come special seasons of susceptibility and of impulse, when the moral nature is at the flood, and when, if not hindered by external restraints, it seeks the fullest expression away from observing eyes. It is in such epochs of sentiment that are formed, especially by persons who have not been systematically disciplined, those fresh resolutions which, if protected against intrusion and encouraged by appropriate suasives, lead ultimately to genuine repentance and amendment of life. They are fa-

miliar phenomena of our emotional nature. It needs no repetition of instances to show how little opportunity can be afforded to them in the congregate rooms.

That employment is more welcome, and labor more spontaneous, where they are the means of relief to the loneliness of a cell, than where exertion is coerced during a fixed number of hours in the midst of an assembly of convicts and with a never-ceasing exhibition of force in the back-ground, needs not to be proved here. If we are to reconcile to steady occupation, men most of whom owe their incarceration to a dislike of it, we must accustom them to find in labor a comfort which they have not known; to obtain voluntarily from it, by habitual application, protection from evil thoughts and from the natural results of idleness, for the first time clearly manifested to them.

There remains to be mentioned an advantage the value of which has been generally underrated by the supporters of the congregate method, and perhaps sometimes overrated by those of the plan of separation: it is the guaranty given to every inmate of a separate prison that he shall not be exposed to the formation of new acquaintanceships among criminals. If this topic could be freed from connection with the general controversy upon penitentiary systems, and if the question could be nakedly put whether any scheme of discipline of offenders against the laws should require absolutely that its subjects should be compelled to widen the

circle of their associations so that this should include every known class of criminals, there could be little difference of opinion. It would not be contended that any person, whatever the grade of his offence, should, under pretence of his amendment, be brought into larger contact with the dangerous classes. We should rather both counsel and assist him to cut short his communications with his old associates, and to avoid placing himself within reach of men who, upon his liberation, would put in peril his good resolves and multiply for him the sources of temptation. Knowing, too, how every reformed prisoner is exposed to the threats as well as the arts of persistent criminals, we should endeavor to shield each inmate of our penitentiaries against such knowledge of his person as would place him at the mercy of unprincipled men. The congregate system leaves no option to convicts. Whatever the previous character or social relations, whatever the grade of offence, whatever the age, and whether the confinement be upon the first or the tenth conviction, every man is thrust indiscriminately into the company of the common workshops, is generalized by one standard, and is forced to feel the equality of rogues.

You may laugh at the idea of a convict being too nice for association with other convicts; but you will not thereby destroy the fact which has been many times attested from congregate penitentiaries, that the compulsory exposure of prisoners in the workshops, and their daily contact with

criminals of all grades, inflict a moral wound which is often incurable by all the remedial influences of your discipline. I have myself heard such attestations, in such penitentiaries, from the lips of men whose self-respect had been cruelly invaded in this manner.

If there were no other reason to plead for the separation of convicted persons, I would hold, Mr. President, to the sufficiency of this. I would protest, in the name of humanity, in the interest of the righteousness of our laws, against this abuse of the power of the State.

We say that in this respect there is an exemption offered, rather the performance of a most solemn duty secured, by cellular separation. In this respect, at least, the majesty of public justice is not mocked by a process which confounds all ideas of consistent discipline, and which to the formal penalty prescribed by our code adds a wrong which no proper end of government can sanction. In vain have methods of classification been tried with the hope of overcoming this mischief. One by one, wherever tried, they have been abandoned, as deceptive and as tending at once to produce on the part of prisoners hypocrisy and a concentration of evil, and on the part of officers delusion and danger.

To persons accustomed to regard convicts simply as a CRIMINAL CLASS, who are to be controlled by force and punished according to the literal tenor of judicial sentence, the observations just made, and indeed all others looking to the individual treatment

of prisoners, have ordinarily appeared to be over-refinements of an unpractical, sentimental, theoretical philanthropy. Yet is it not clear that if each convict is to be punished and reformed, or deterred, it is AS AN INDIVIDUAL that he is to undergo our discipline ? You cannot educate men in masses: though they may be to the eye an aggregation, their susceptibility, their destiny, are single. Adopt what method you please, it can affect each man only with reference to his own peculiar qualities and condition and prospects. Every prisoner carries with him his own little world of associations. His past life, his future life, are his own. Any successful method of moral reproof or education must be conformed to his consciousness; and, as far as reformation is voluntary, it is to grow out of the actual state of the man. Whether you educate men in prisons, or children under your own roof, the reason is the same; the same laws govern the procedure. There is not time to elaborate this topic, nor to adduce all the well-settled principles upon which its proper treatment depends. Whatever estimate you may make of its value, the fact is incontestable that cellular separation protects discipline against serious interferences which result from compulsory aggregation.

I have frequently been met by the suggestion that public degradation to a common rank with convicts is one of the most efficacious of punishments, and one of the most operative means for deterring from crime; and that the susceptibility of

prisoners to such degradation gives to the congregate discipline a great advantage. This might be true, to some extent, if the sole object of penitentiary discipline were to punish; which it confessedly is not. With respect to prevention, it is obvious that the alleged advantage must exist, if at all, chiefly in those cases in which, from the education, character, and previous life of the offender, his susceptibility really receives its chief shock from the idea of public conviction and sentence, from the loss of position and estimation outside of the prison, and not from any thought of forms of association within its walls. At the first, compulsory indiscriminate association with every class of criminals is doubtless felt as an augmentation of punishment by prisoners of the better sort; but with respect to any other object the alleged "degradation" loses its aspect of advantage when we consider that it debases the minds of its subjects, diminishes the remnants of self-respect, creates a feeling of community with the depraved, obscures for the class otherwise the most hopeful the prospect of any retrieval of lost character, and consequently that, as an element of any plan of reformation, it is suicidal.

Let me recapitulate, that in the adoption of the most efficacious known means of separation,—in the avoidance of compulsory intercommunication, and of the multitude of temptations resulting from proximity and the awakening of old associations,—in the maintenance of better relations, in some respects, between officers and prisoners,—in the exclusion of

most of the inducements to mutiny and personal assaults,—in the application of special punishments or restraints for breaches of prison-rules,—in the option to abstain from such punishments, and to give free scope to spontaneous self-correction,—in the opportunities for the development of individual character,—in the protection given to the germs of good resolution,—in certain facilities for seasonable and appropriate instruction,—in the relation of labor to reformation,—in security against recognition, against enlargement of criminal acquaintanceships, and against the general moral degradation caused by a forced public community in prison,—and, generally, in the more complete individualization of the discipline in its relations to the peculiarities of its subjects, cellular separation has advantages which are necessary consequences of that mode of imprisonment.

Let us here also avoid a fallacy. To prove the existence of an advantage is not to determine its quantity. It may appear that we have overrated or underrated the value to be assigned to the advantages just mentioned; but error in this respect will not destroy the fact that to some extent they exist. The friends of convict-separation maintain that they cannot easily be overrated, because they are the very objects for which the discipline of the old jails has been reformed, and because they are essential to the conception of either a just or a humane discipline. If we go beyond the mere punishment of an offender, or the procurement of the largest pecu-

niary benefit from his coerced labor, we must comprehend, as primary objects of our plans, the very particulars which cellular separation by its nature insures to us in larger measure than any other mode of confinement.

III. I believe it is not generally asserted anywhere, by intelligent observers, that, if the question between the leading systems were dependent only upon the considerations to which I have adverted, the plan of congregation would be preferable to its competitor. Conceding that *prima facie* the favorable results claimed for separation are as already stated, it is ordinarily alleged that in practice they are neutralized or overbalanced by considerations of so peremptory a nature as to compel us to act upon other grounds and in subordination to other conditions than those presented by the mere separation of prisoners. Thus we are brought to the objections urged against the cellular method. They are—

1st. Its alleged influence upon bodily and mental health.

2d. Its alleged excess of pecuniary cost; and the inference thence that it is not “economical.”

These are, in form, grave objections. Have we the means of ascertaining their real value? Let us take whatever precautions are suggested by the subject, and by our experience of its treatment heretofore; and with these safeguards we may find

at least the conditions under which our inquiry is to be prosecuted.

In relation to HEALTH you will observe that there are two modes of investigation. First, we may assume certain universally conceded laws of hygiene, and then consider in connection with these the probable effects of any given prison regimen. This is a theoretical procedure much used, though not always with satisfactory results. It ordinarily proceeds very few steps before it brings about a begging of the question on one or both sides; an unconscious introduction of tests and requisites, and kinds of evidence which are in reality contested.

It demands, too, the adoption of a criterion for the health which is proper for prisoners; and this is rarely adjusted beforehand in so clear a manner as to prevent misunderstanding at subsequent stages of the controversy. It has the further disadvantage that it depends in too great a degree upon the application of conclusions which were formed independently of prison experience, and which, therefore, do not embrace it under any law common to all the things to be compared. It brings general medical opinions, made outside of the circle of penitentiary life, to decide unqualifiedly questions arising within that circle.

The other mode of investigation professedly rests upon a collection of facts which are presumed to be decisive, and from which are inductively derived the ultimate conclusions of the inquirer. This mode claims to be "statistical," and therefore reliable.

What is really the thing sought? what is it, precisely, that we are to ascertain by either of these two modes? Is it whether or not the inmates of prisons exhibit or ought to exhibit the ruddy signs of robust health which we observe in the comfortable working classes, who lead regular lives and enjoy the benefits of home, with its ties and sympathies and regulating influences? Who ever saw such a state of things in any prison? who expects to see it? Is it whether or not the inmates of prisons exhibit equal manifestations of health with any one in particular of the classes of society from which any portion of the criminal population is derived? Who proposes so partial a test? What is the standard or type of health by which we are to learn the influence of any prison? Its inmates may have been taken from all grades of society, from every variety of occupation, from every kind of exposure to the privations of poverty, or from the abundance of vicious gratification. They may be from a healthful or a sickly district. Upon some of them food and comfortable lodging and temporary exemption from the anxieties of a precarious life will act as restoratives, and they will gain in health and spirits. Others will grow pale and attenuated from confinement and coarse fare. To some, labor will give wholesome exercise; upon others it will impose painful restraints. In every case there will appear good reason for a subdivision of our inquiry until we shall have made it agree with the subdivision of society out of doors.

Has any one accomplished this analysis, so that we may set out with an indisputable guide in our comparisons? It is not pretended that a shoemaker in the Eastern or Western Penitentiary will present to a casual observer the same aspect of health which is shown by a stonemason working in the open air upon a public building at Columbus, or in a stonemason's yard at Sing Sing or other congregate prison, or in the quarries, or in other out-of-door active employment. No one suggests that it is a part of the design of any system to keep the physical condition of convicts up to examples such as these; nor is it anywhere recommended that the State shall supply without stint the means of enjoyment to the extent of preventing in every individual a diminution of his strength or cheerfulness by his disciplinary seclusion. I insist upon this question: **WHAT IS THE STANDARD?** It is not very long since I read an essay written by an estimable gentleman, an intelligent friend of penal reform, and an expert medical practitioner of good repute among his professional brethren; and in that essay I found that an attempt was seriously made to ascertain the relations of cellular confinement to the health of a particular class of convicts, when the writer was confessedly ignorant of the separate medical statistics of that class in free life; and he even drew a conclusion from a comparison of the percentage of death and disease in that class in prison, with the percentage of many classes in the returns of the general census.

Will you take into consideration the number whose health has been improved in prison or has remained without change, as well as that of the inmates whose health is reported to have declined? For example, in one prison which was made the subject of special examination, there had been one hundred and twenty deaths; but it was found that in sixty-seven of these cases the convicts came into the prison in bad health. Further inquiry showed that of two hundred and twelve convicts who had been received in bad health one hundred and forty-five were discharged in improved health at the end of their terms of sentence, which ranged from one to ten years, and that all of them belonged to a class peculiarly liable to the diseases which are most commonly fatal in all prisons.

Will you register the condition of every individual and make your conclusion from the sum of such cases thus scrutinized?

Again, as each prison at the outset needed experience, which when acquired has lessened the number of deaths, at what stage of that experience shall we begin?

Who shall give to us the facts upon which we are to rely? If the medical officer of each prison, then during what series of years? It cannot have been forgotten that at Auburn, within a comparatively short period of each other, there were officially reported, by two physicians, two states of facts so inconsistent with each other as to make it certain that one of them was erroneous. In one year we

were told that the bill of health compared so favorably with that of the separate penitentiaries as to confirm the judgment of the friends of associate labor; and soon afterwards it was asserted with great warmth of indignation by the second reporter that the health was bad, the insanity terrible, and that the truth had been concealed! In New Jersey we have had opposite conclusions officially reported by medical officers of the penitentiary of that State. Concede that it does not thence follow that our statistics are not to be derived from such officers, it nevertheless is evident that we cannot receive their statements without scrutiny.

Again, in what circumstances shall we require that the medical inspection shall be made, before agreeing to receive all reports upon the same footing of comparison? In the Eastern Penitentiary the change from a visiting to a resident physician immediately influenced the returns of disease. The more frequent and constant scrutiny, the concentration of attention, the better systematizing of observations, caused a minuteness and exactness of knowledge such as were impossible when the medical officer's tour of duty was confined to an interval taken from professional service in general practice.

Further, what allowance shall be made in relation to differences of professional opinion upon the necessary means of health?—for example, when one officer says, as in the Western Penitentiary, that the yards for stated exercise are not important,

and another says, as at the Eastern Penitentiary, that out-of-door exercise is indispensable?

With respect to mental health, by what standard shall we judge of each prisoner upon his entrance into confinement, as well as during its continuance? It is familiar to all of us that the ideas of even medical officers are at variance upon this subject, and that quite opposite conclusions have been formed by them upon inspection of the same convicts.

The general notions which serve to guide conclusions in the community at large are inapplicable to a special class, and a special life, such as are embraced by our inquiry. The hereditary and other antecedents of criminals show an enormous predisposition to mental disturbance; but it has never yet been proved that, taking into view all classes of convicts, the system of Pennsylvania has been productive of worse results than are true of the congregate plan. The question is one of fact, not of supposition, nor of mere inference from premises which do not embrace the subject of the conclusion; and it is a consideration of great importance that the detection and report of symptoms of incipient insanity are more easy and certain under the peculiar inspection of individuals which is maintainable in the separate cells, than amid the distractions of the associate régime; which, as has long been known, cover from observation many indications of a decisive character. I do not hesitate to say that the standard of the medical officer

thus becomes more exact and appropriate; and that it is more seasonably applied in separate than in congregate prisons. Consequently our manifestation of mental disturbance is more prompt and complete. Yet, even with this feature of comparison against us, no precise examination of facts has hitherto sustained the popular preconception.

The cautions which have been suggested to you under this head are not merely hypothetical: they grow out of the history of prisons in the United States. Perhaps with reference to no subject has there been a greater abuse of so-called "statistics" than has been practised in relation to prison health. Figures have been employed as though they were mere abstractions, instead of being representatives of actual facts. Every rule of investigation proper to the study of life and society has been violated in turn. To European inquirers we are indebted for the earliest satisfactory discussion of prison tables; and the result should serve for a perpetual warning against the distortions which characterized most of the earlier controversial papers issued from the press of our own country. There is not time now to cite illustrations in detail; but a glance at the tables arranged by Varrentrapp, or Julius, or Moreau Christophe, will furnish good specimens of the statistical difficulties with which the system adopted in Pennsylvania had formerly to contend. It is difficult to credit, yet it is true, that in one comparison of the insanity at Charlestown with that in Philadelphia, there is no mention of the fact that legal pro-

vision had been made for the removal of insane persons from the prison at the former place, and that no such provision existed at the latter; while in the account given for the latter all the prisoners who were insane at the time of their commitment, are recorded without notice of their condition. Of course, there is no reference to cases of persons with hereditary predisposition to insanity whose condition was improved during confinement.

Not to dwell too long on this part of our subject, let us ask, where precisely does the risk of ill health begin? By necessary supposition for any fair comparison of the proper influences of each kind of imprisonment, we must assume that the convicts under each have sufficient food, clothing, lodging, ventilation, work, and exercise for sanitary purposes. It is then at the point of separation from one another that we are to look for the mischief charged upon the cellular method. Now, with respect to this, we may obtain some aid to our reflections by taking into view that measure of the kind and extent of the alleged mischief which is furnished by the remedies employed to prevent it, and which, it is asserted, do prevent it in the congregate prisons. Want of society is the cause. What society is given? Not, indeed, such as implies free and open conversation, or any such interchange of thoughts and feelings as is understood elsewhere; not that which is maintained between companions who choose each other, and who have from that fact a bond of sympathy, and the ordinary sti-

mulants and solaces of companionship; but professedly a chance aggregation under a prohibition of words, signs, and looks, which is enforced by punishments. What kind of mischief can be thus remedied? Is it not plain that its character has been misapprehended and its quantity exaggerated? Was such a method ever heard of in any other connection?

If we were to grant, however, that the advantage asserted is as great as it is claimed to be, there would remain the fatal objection that it is not obtained by any plan of discipline, by any thing formally recognized as a part of the congregate system. On the contrary, it is a consequence of a violation of the rules of the system. You prohibit intercommunication; the convicts have it in spite of you; and then you boast of the salutary hygienic effects of your regimen!

What, then, becomes of the grave question which involves the duty of the State not only to select the most efficacious discipline, but to provide with it suitable moral as well as physical safeguards? You meet this by a confessedly illicit society of convicts; for society in an effective sense it must be, to sustain the pretensions of the system. We demand that the society shall be that of honest people alone. If there is any extraordinary peril threatened by this plan, we demand that the State shall meet it, not by counteracting the motives to all penitentiary discipline, but by appropriate and legitimate means.

We deny the peril. Sustained by the most careful scrutiny of reports from prisons of every kind; corroborated by the judgment of a great majority of the experts who have most profoundly studied the question in Europe; with their recorded votes at Frankfort and at Brussels, and with the entire history of the subject before us, we unhesitatingly offer the records of the penitentiaries of Pennsylvania to general criticism. With the just qualifications to which all such records must be submitted, we fearlessly contest now, as with more restricted means did our predecessors, the advantage, in either a moral or a sanitary relation, which is claimed for the method of convict-association. In the course of the investigations which it is to be hoped the meetings of this Association will promote, there will be ample opportunity to verify and to weigh the appropriate evidence. My task is to define a position, not to sift a mass of proofs by a process of my own; but it is a grateful part of this task to pronounce anew the unwavering judgment of the Philadelphia Society, of which I stand here as a representative, while I also perform a duty assigned by this body. Since the foundation of the existing penal system of Pennsylvania, the members of the executive board of that society have been, by the law of the State, official visitors of its penitentiaries. That board is composed of men from every profession, who have been induced by humane feelings to visit our prisons and to "alleviate their miseries." Some of them enter upon their mission

without previous knowledge of any part of our penal history. None of them come with a partisan spirit. All of them are keenly alive to the duty of promptly representing any real error in the administration of penal justice. They make many visits during each week to the cells in the Eastern Penitentiary, and to those in the Moyamensing prison. They find, as in all human institutions may be found, reasons to desire a more perfect representation of the divine wisdom and goodness; but from none of them, during these thirty years of visitation, has come a whisper of doubt that convicts should be separated one from another.

The officers appointed to administer the separate system in Pennsylvania, during these same thirty years, have been of a character to entitle them to every consideration due to general intelligence and to integrity of motive. Thus far, happily, the ideas of election by partisan votes, and of rotation in office, have not interfered with the steadiness of our administration. Whatever the imperfections of our method of discipline, it has never occurred to any of these gentlemen to question the soundness of our fundamental principle.

You are not asked to receive these testimonies as conclusive; but in the face of such facts, in view of the difficulties which have hitherto beset the general statistics of prisons, in view also of the very restricted nature of the alleviations proposed in the method of congregation, and of the fact that these are obtained in violation of its professed safeguards,

it is not going very far to say that this Association has strong inducements to distrust preconceptions which have not been tested, and to pursue cautiously the road to its final decision.

This intimation has a further warrant in the fact that the investigations which are proposed by this Association are new to a considerable proportion of its members, at least in any sense which could render their judgment properly influential upon public opinion. Whether well or ill founded, that judgment cannot fail, according as it is in a wrong or a right direction, to multiply or to diminish the embarrassments to judicious legislation. A majority of the penitentiaries of this country are upon the congregate plan : the predispositions of the citizens here convened may be reasonably presumed to be against separation by day and by night, until the inquiries now to be opened shall justify a different bias. Let us quietly await the result of these inquiries, carefully conducted as they no doubt will be. Those of us who favor cellular separation will be always ready to give a fair scrutiny to the statistics which may be collected by your auxiliaries, and to submit to the conclusions which shall be sustained by them. Meantime, we feel quite safe in asserting that up to this moment there is not in the official reports from any prison, nor in a combination of reports from all the prisons, in the United States, any thing which upon an equal comparison will prove the alleged peculiarly dangerous effects of convict-separation upon the bodily or

mental health of its subjects. After all that has been said upon the subject, it will probably surprise many of my fellow-members to learn that during the last ten years the mortality at the Eastern Penitentiary has been less than one per cent.

2. There remains to be noticed the argument upon the comparative "economy" of the two systems, with reference to which also there are some initial cautions which have been suggested partly by the natural elements of the question, and partly by experience during the controversy which has been maintained since the question first arose. What are we to understand by ECONOMY? Is it the pecuniary productiveness of a prison, without respect to the proper ends of imprisonment? Or are we still to regard that selection of ends, and the fitness of proposed means to them, which have already been stated as essential to any rational notion of public justice? In the latter case, we shall find that the tables of re-convictions, and the reports of moral and intellectual efficacy, must enter into our account. What views are entertained in this respect in Pennsylvania were fairly stated in the first report of the first warden of the Eastern Penitentiary: "I rejoice that it has never been the policy of the Legislature of this State to sacrifice the safety of the community and the welfare of the convict for apparent pecuniary gain: they have taken a higher, more dignified, and nobler ground; they have provided prisons where the reformation and improvement of the criminal and pro-

tention of society are grand objects; they have provided that labor shall be furnished the convict in his cell, and not for the sordid purpose of reimbursing to the Commonwealth the expense of his maintenance." It is in consequence of such views that up to this moment the visitors and teachers of our convicts have daily withdrawn them from their bodily labor for conversation and instruction, thus necessarily diminishing the pecuniary fruits of their occupations, for the sake of their intellectual and moral improvement. How far in another direction official recommendations have gone, may be seen in a late message of the Governor of Wisconsin to the Legislature. "The expenses of the State Prison," said his excellency, "have been large for several years past, and are necessarily increasing with the increasing number of convicts. I would suggest to the Legislature the propriety of leasing out, by a single contract, the services of all the convicts, providing that they shall be fed, clothed, and furnished with the usual necessaries of life by the contractors, who should also pay all expenses of guarding the prison, and allow the State a reasonable compensation for the services of the convicts. This system has been adopted by some of the States, and proved, in its results, mutually beneficial to both contracting parties. The compensation for such services might be applied toward the completion of the buildings of the prison, and to other improvements connected therewith"!

Again, where are we to begin our comparison of profits? When we visit the penitentiaries which stand as the best exponents in this country of the congregate system, we find in all of them great need of expenditure to put them on a just footing in relation to cost of construction. The size of the cells, the number of stories in the cell-blocks, the distribution of light and fresh air to the upper and the lower tiers of cells, the cleanliness, the freedom from all agencies within or without the cells deleterious to health or unfavorable to security, and other like topics, must, as has been before suggested, take precedence of any allegation of cheapness of maintenance. Above all, we have to dispose of the great question of the CONTRACT-SYSTEM OF LABOR, to which must be attributed a large percentage of the advantage claimed for associate workshops. What is the contract-system of labor? It is the hiring of the labor of convicts, at so much per day, to manufacturers, who send their own agents to instruct the workmen and to superintend the fabric. Of course, if the contract is worth having, it is worth competition. *Ceteris paribus*, he who bids highest will have the labor; and, by the ordinary consequence, he will expect to compensate himself, if possible, by the highest amount of productiveness of that labor. It is obvious that the first effect of this kind of management is to introduce between the prisoners and the officers who are intrusted with their discipline, a class of persons who, as has been remarked in another connection, are under no

other responsibility with respect to it than such as concerns the custody of the convicts. Those persons are in continual intercourse with the convicts throughout the day. Excepting in a few gross instances, the officers have no voice, nor can they have any, in the selection of them; because the motive to their appointment is their skill in the manufacture which they are to superintend, and in obtaining the largest quantity of labor from the prisoners. It is now rendered certain that these conditions weaken the moral influence of the discipline; that they lead indirectly to favoritism towards the best workers; that they create between the professed objects of the law and the minds of the prisoners an interval which prevents the contact necessary for the best, or even for the ordinary, fruits of a penitentiary life; that they expose the prisoners to unnecessary irritations, manifested even in homicidal assaults; that they lead to undue exactions of labor, prejudicial alike to the respect due to public law, and to the confidence of the prisoners in the justice of its aims in their regard; that they beget an indifference to the proper ends of incarceration, and encourage the establishment of a purely financial standard for the administration in general. I say that these things are certain, because they are plainly attested in the official reports of those prisons in which the contract-system prevails. I shall not repeat the strong phrases which have been used by keepers, chaplains, and others who have had practical experience of the system,

and who have denounced it with a force of language which, if employed here, might detract from your own confidence in the soberness of my remarks. I shall not for any present purpose cite the astounding fact disclosed by the investigation made by commissioners acting under the authority of the Legislature of New York,—commissioners before whom it was proved upon oath that agents were employed to attend the criminal courts, and to bribe convicts to say that they were accustomed to work at certain branches of manufacture, which in the Sing Sing prison had need of fresh recruits. It is sufficient to refer you to the annual reports from congregate prisons, and to those of the New York Prison Association, to furnish you with all the material requisite to sustain the assertions which have just been made to you.

Nor is this all of the difficulty which lies in your way. Will any one now venture the assertion, in the sense in which it will be understood in connection with my explanations, that any penitentiary in the United States is self-sustaining in a financial respect? The time has been when from many quarters we were officially told that prisons on the congregate system maintained themselves, or could be made to do so, and that on this account they deserved our preference. From no source did we receive more positive assertions on this head than from the penitentiaries of New York. Their annual reports never omitted the statement as a fact, that the public treasury was not burthened, or

an expression of the confident hope that it would not thereafter be burthened, by any expense for the maintenance of convicts. Need I tell you how we of Pennsylvania were censured because we questioned the completeness of those reports; how the wounded honor of the wardens and their assistants resented our implied imputations upon their sincerity, and candor, and entire truthfulness; how our reasonable hesitation was employed to excite distrust of our fitness for the consideration of such matters in a manner sufficiently free from an obstinate partisan bias? You know what followed. The revelation which in later time has been made of the stupendous fraud practised upon the government and citizens of New York, and upon honest inquirers everywhere, is a memento not soon to become useless. Until, in every prison which is brought into comparison, we find officers willing to state not only every item of actual expenditure properly chargeable upon each year, but also every item of expenditure which ought to have been made in each year, it will be idle to pretend to any accuracy of conclusion. The mere difference in the mode of keeping the accounts occasions often very serious embarrassment. Some of us have seen a process by which, through the aid of a sinking fund, or a floating debt, a liability might be incurred in one year, amounting to many thousands of dollars, only the interest upon which, and the annual amount necessary to liquidate the principal in a long term of years, would appear in any one year's report.

Items of this kind have been cloaked under inappropriate heads of expenditure, in such a manner as to escape any scrutiny which should not be carried to the extent of an inspection of all the vouchers. Of course, to ascertain the real amount of expenditure for the first year of the series, one must wait to sum up the principal and interest account of all the years, extending, it may be, to ten, fifteen, or twenty. The Boston Society has informed us of another plan, which is stated to have been practised more than once, viz. that "a very favorable report has been made at the opening of the session of the legislature, concerning the ability of a prison to support itself, and before the close of the session a bill or resolve has been brought forward proposing to make an appropriation of several thousand dollars to the State prison for current expenses." These examples show the importance of the element of TIME; and they are, of course, introduced without the possibility of imputation upon those prison officers who have made their reckonings upon other principles. The report of the commissioners upon Sing Sing will give further information upon financial devices.

Again, it is not enough to take the books of one prison alone. The conveniences of the market; the character of the population from which the convicts come; the cost of food, and of the transportation of materials and fabrics; the restrictions imposed by legislation, and other qualifications, must be estimated. An officer of one penitentiary

informed me that, assuming the number 10 as the highest standard of capacity for workmen out of doors, he regarded  $3\frac{1}{2}$  as a full representation of the average capacity of the convicts admitted to the prison with which he was familiar; and that only about ten per cent. of the whole number of those convicts were skilled in trades practicable in that prison. These estimates were probably not exact; but they suggest two additional qualifications of our comparison. It is my own opinion that the official reports from which our figures must be taken are not yet sufficiently full and minute to warrant any positive general statement. The labors of this Association will, it is hoped, facilitate both the detection and the supply of deficiencies. In any case, it is proper to expect that due caution will be used in the selection of the prisons to be compared, and in the use of the particulars set forth in their tables.

Upon the whole, it may be safely denied that any manifestation has yet been made of the proper cost of a penitentiary on either plan of discipline; and our results are to be taken as in a measure accidental.

Before proceeding to my last principal subdivision, I beg to make a few suggestions having a general relation to what has been thus far said.

1. It is often objected that, notwithstanding the plausibility of the reasoning in favor of cellular separation, it makes no converts, no progress. This

objection is almost peculiar to this country; and it has a great effect upon persons unable or unwilling to investigate its value: yet the assumption of fact on which it rests is altogether erroneous. The separate system has made, to an extraordinary extent, both converts and progress; the causes which have anywhere retarded its advancement are well known, and they have no proper bearing upon the question of its real merits; and, were this not true, fresh inquirers would not be thereby dispensed from an examination of the evidence.\*

Let us begin at the period when the establishment of the separate penitentiaries of Pennsylvania afforded the first opportunity to test upon a suitable scale the comparative merits of the rival systems. The opinion of almost the whole civilized world was against cellular separation. The cruel experiments in New York, Maine, Rhode Island, and Virginia had produced a general sentiment of condemnation, at home and abroad. The Auburn method was apparently working out the happiest results. The Boston Prison Society, whose annual reports were widely distributed, employed its resources in favor not only of congregate workshops, but even of the entire plan of construction adopted by New York.

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\* While these sheets are going through the press, the writer has felt himself at liberty to add to the text some paragraphs containing more precise details of the progress of the separate system abroad, than, from want of proper means of reference, could be given in his brief original summary. He regrets that a thorough revision of the essay cannot be made.

So influential were its representations, in conjunction with the pre-existing prejudice, that while the Eastern Penitentiary was in course of erection a vigorous controversy upon its plan arose in the legislature of Pennsylvania. The commissioners to whom its superintendence had been intrusted adhered to the separate method; the commissioners who had been appointed to revise the penal code and to adapt it to the new discipline, were so far moved as to pass beyond the limits of their function and to recommend an abandonment of the separate for the associate method. In the face of these discouragements, the persistent efforts of the Philadelphia Society obtained, at length, a confirmation by our legislature of its previously declared policy, and the Eastern Penitentiary went into operation. Such was the aspect of affairs in 1829. Everywhere else, both public opinion and the action of governments were against cellular separation.

At the end of two years the French commissioners appeared among us, charged with a careful examination of the prisons of the United States. Let us take into view the sixteen years which intervened between their arrival in this country, and the congress at Brussels in 1847, at which the collective learning and practical experience of Europe were fully represented. We have no reason to question the value of such portions of our illustrations as are taken from abroad; for although some of the governments actively interested in penal reform are more arbitrary than our own, and hold

in less respect than ours the full liberty of the citizen, yet the object of none of them was to augment or insure the severity of punishment, but all of them were seeking to render it more humane and reformatory. The persons engaged in the discussions were men of established reputation for humanity as well as wisdom. Those discussions have been printed, and are accessible to the public; and difference of political institutions can be readily ascertained to have exercised no influence unfavorable to the rights of individuals of any class. Besides, more than ordinary respect is due to investigations, not begun and hastily completed within a few weeks, as are too many of the inquiries of legislative committees in America; not warped by political partisanship, nor restricted by an undue fear of unpopularity by reason of a liberal application of the public funds; but laboriously conducted during a series of years, tested by all the resources of systematic knowledge, and finally brought into grave deliberation under the observation of the world, and with the certainty of criticism in every community and by the statesmen of every government. The grounds upon which the congress reasoned were the same which have always been occupied by the friends of the separate system in the United States; they were such as those which I have imperfectly suggested.

It is a curious fact that this very multiplication of experience and discussion has served in the United States to discourage a general reference to it. The

keeper of a prison—especially if he has held his office during a large number of years—seems to himself to have acquired that superiority which in this country is always recognized as giving priority of claim to attention and confidence, viz. that of a practical man over a mere theorist. If he is a man of narrow acquirements, he distrusts every thing which he has not seen; and, full of the importance of his own observations, he refuses to listen to what he is told has been witnessed elsewhere. In proportion as the reasoning presented to him is generalized by the authority of facts in other quarters, he appears to become suspicious of speculation; that which to other men is a corroboration is to his mind an occasion for distrust; and he falls back within his little sphere of eyesight as though this were worth all the histories and reasoning of the world. It is in vain that you say to him that, if his experience is of such value, the experience of two or ten or a hundred keepers must have a proportionally greater weight; that, if the observation of a certain number of prisoners during a given number of years in one place is instructive, a like observation in many places must afford a better justification for an opinion. He replies that he is a “practical man;” and, like the warden of Massachusetts already mentioned, he values more highly his own experiment than the accumulated experience of ten thousand others. From him, as the manager of an important State institution, citizens and legislators derive the materials for their own

opinions; and thus the wisdom of mankind is rejected for the judgments, and even the prejudices, of a single undisciplined mind. Against this extravagance it is not my purpose to offer any argument to this Association; but we shall do well to trace its effects, and to counteract them, elsewhere.

Two different things were to be accomplished in any country which should seriously undertake the question of discipline with a view to practical measures. First, the government was to be convinced, and a permanent systematic policy was to be chosen, which must affect the entire scale of penalties, and, if conformed to the idea of convict-separation, must lead to a general reconstruction of prisons, large and small. If within a short space of time we had so far overcome the extraordinary difficulties in our way as to satisfy the legislature, or the executive, or even the commissioners, of only one of the enlightened governments of the world that our penitentiaries deserved their preference, this single fact might have been justly used as evidence of progress from the condition of affairs in the year 1829. In reality, within sixteen years, after scrupulous inquiry, not only had the commissioners of England, France, Prussia, Belgium, and other states, reported in favor of the superiority of the separate penitentiaries, but the governments of those countries, and of Sweden, Holland, and others, had all, upon unusually full public discussion, formally adopted the fundamental principle of separation as preferable to that of association of

prisoners. When the European congress met at Frankfort in 1846, it was resolved by a large majority not only that persons detained for trial, but that convicts for long terms also, ought to be separated from one another by the cellular method.\* So rapid a spread of a new opinion, against so many improbabilities, has certainly not many parallels.

The opinion was not one of merely abstract interest; it drew after it, as an immediate consequence, a large

\* *Resolution 1st.* Separate or individual imprisonment should be applied to the accused (*aux prévenus et aux accusés*) in such manner that there cannot be any kind of communication, either amongst themselves or with other prisoners, except in cases in which, at the request of the prisoners themselves, the investigating officers (*les magistrats chargés de l'instruction*) may think proper to allow them certain relations within the limits determined by law.

*Resolution 2d.* Individual imprisonment shall be applied to the condemned in general, with the aggravations or mitigations required by the nature of the offences and of the sentences, the character and conduct of the prisoners, so that each prisoner be occupied with some useful labor, that he enjoy daily exercise in the open air, that he participate in the benefits of religious, moral, and literary instruction and in the exercises of religion, and that he receive regularly the visits of the minister of his religion, of the director, the physician, and the members of the committees of superintendence and patronage, independently of other visits which may be authorized by the regulations.

*Resolution 3d.* The preceding resolution shall be applied particularly to imprisonments of short duration.

*Resolution 4th.* Individual imprisonment shall be also applied to long terms of confinement, combining therewith all the progressive mitigations compatible with the maintenance of the principle of separation.—(*Proceedings of the Congress at Frankfort.*)

outlay of funds ; and, as these could be obtained only upon legislative votes, it compelled each government to undertake the satisfying of the public mind. The thorough discussion of the whole subject led to one result which it is to be wished had been reached in Pennsylvania. It was perceived that any reform, to be thorough, must begin in those institutions which receive all classes of prisoners, and under whose influence, therefore, must come all the inmates of convict-prisons before their final incarceration. The course of procedure adopted was to inaugurate the new policy by a reconstitution of county prisons and houses of detention, and thus to prepare the way for an ultimate reconstruction of great penitentiaries. The whole work contemplated was enormous. For France alone 40,000 separate cells were required to be built; for Prussia, more than 13,000; and for other countries, a proportionate number. See what was accomplished within the sixteen years. In England a costly prison was erected, at Pentonville, in the outskirts of London, to serve as a model for the whole of the country ; the government published plans for separate prisons of 12 to 500 cells; and more than 5000 such cells were built, in progress, and ordered. In France, as early as 1836, the Minister of the Interior issued a circular to the prefects of the Departments, informing them that in future the government would approve no plan for county prisons unless they should be such as to secure the absolute separation of prisoners, and ordering that the work on such of that

class of prisons as were then in construction should be stopped until their plan could be changed. In 1841, another Minister of the Interior issued a circular with an atlas of plans for prisons of various sizes, from 12 to 160 cells. In 1847 there were already 23 of these prisons actually occupied, and many more were in course of construction. The government of Belgium, in 1844, presented to the legislative chambers a proposition for the introduction of the separate system into all the prisons of that country. Within three years thereafter, the foundations had been laid for more than 800 cells. Holland, by one sweeping provision, adopted the principle of the cellular system for all prisoners of each sex, and commenced the building of a separate prison of 212 cells. In Prussia, there were ordered five prisons on the cellular plan, some of which had been completed in 1847. One of these was to serve as a model; and all the plans of it were directed to be published. In Sweden, the legislature, by a formal vote, sanctioned the cellular system as the most rational and desirable, appropriated the large sum of more than one million of florins for the erection of new buildings in accordance with it, and began the actual construction of hundreds of cells. The enlightened king Oscar had, upon personal inspection, satisfied himself of the advantages of cellular separation, and in his own writings, as well as through the official papers of his ministers, urged its claims to preference.

Other proofs might be cited; but surely enough

has been said to show that, in consequence of a careful comparison of the separate and the congregate penitentiaries, the chief governments of Europe adopted a new policy, and began the reorganization of their prisons in accordance with the fundamental idea of cellular separation. Travellers from the United States do not, generally, notice prisons; and the few who occasionally turn from palaces and galleries of art to the contemplation of penal institutions, ordinarily fail to mark the fact that reform has been commenced in the minor prisons. They look at the great penitentiaries; and whenever these have not been remodelled they assume that the separate system has made no progress. Of course, it was not to be expected that a change so thorough, so extensive, so costly, as that which has been undertaken, should advance with an unabated rapidity such as that which characterized its outset. M. de Beaumont, so well known by his intelligent tour of observation in this country, appropriately remarked, in the legislature of France, that no government can commit such a folly as the pulling down of all its largest prisons at once, in order to build thirty at a time on a new plan, however advantageous. Besides, in other countries as well as our own there are fluctuations of interest, changes of administration, partisan opposition, foreign diversion, which retard the most clearly recognized improvements. It is not always possible to express immediately, through perfected machinery, our abstract conclusions. Legislation is not always at command.

Temporary biases of the public mind thwart or precipitate the execution of the wisest plans. The cogitations of the closet, even when these are legitimate fruits of a discreet consideration of acknowledged fundamental principles, make their way slowly to the general confidence of the mass of people. The population of no State is homogeneous. In Europe, as well as in the United States, public opinion is influential with the strongest governments. Thus, in Pennsylvania it has happened that the system of education, although it has received constant sanction and repeated aid from our legislature, is very unequal in its relation to different counties. In some of these the plan of the government for common schools has been satisfactorily executed; in others it has still very imperfect instruments. Thus, also, our penitentiary system remains unfinished, although from its foundation to this moment it has had the uninterrupted sanction of the legislature, through formal enactments needed for its interests, and annual appropriations in its favor. The county prisons, which should have been first reformed, continue for the most part at variance with the interests of the convict-discipline contemplated by our penal code. A special act passed for the control of their construction, which is ordered to be always so as to separate the prisoners, an act which requires all plans of gaols to be submitted to the Secretary of State and to have his approval before their final adoption, has not been so respected as even to secure the submission of the plans. Thir-

teen years ago our legislature provided for the official collection of materials for the discussion of every branch of our penal administration. That provision has remained almost a dead letter.

The European changes had to encounter the same difficulties which have presented themselves in the United States. With the design of informing the people, some of the governments abroad confined their first modifications to alterations of a wing of an old prison, or to the construction of prisons in the midst of the most intelligent portions of their population, in order to accustom the public mind to a consideration of the real features of the new plan. In 1848 broke out those domestic dissensions and foreign wars which have since absorbed the care of every European State. Considerations of finance, which would in any condition of things have been important enough to make progress slow, became more urgent under the pressure of a war-tax. They have been officially avowed as the motives for a suspension of progress in France and elsewhere. The concentration of attention, which had given to the separate system of discipline such aid in previous years, was broken up, and penal reform fell into the common routine of domestic affairs. It would be easy to trace the history of the penal institutions of each country to the present time; but my limits do not admit of so extensive an exposition. Suffice it to say that not one of the European governments which have adopted the policy of separation has since rescinded its resolutions in that regard; nor

has there occurred any fact to shake the confidence of those who offered the cellular method to the world's criticism in the penitentiaries of Pennsylvania. In 1853, the government of Brazil sent an intelligent commissioner to examine the penitentiaries of the United States. He had the benefit of all the discussions and all the experience of Europe during the preceding twenty years to put him upon his guard. After a conscientious inspection of our prisons, he not only reported to his government, in a very decided manner, his preference of the separate prisons, but recommended that the work upon a House of Correction then in progress at Rio de Janeiro should be stopped, and the building be converted into a House of Detention; and that a new penitentiary should be constructed on the plan of cellular separation. So lately as within the last three years, or a little more, five commissioners appointed by the legislative authority of Frankfort-on-the-Maine to report upon the best plan for the structure and discipline of a new prison, after reviewing the history of prison systems in Europe and the United States, expressed, in the most unqualified phraseology, their conviction of the superiority of the plan of separation.

The model prison of England appears to require a few words to explain some peculiarities, and to bring into view some illustrations of the caution with which we should receive rumors of change, whether of opinion or practice. The original design of that prison was to receive convicts sentenced

to transportation to the penal colonies. Eighteen months were to be passed in it for reformatory preparation; the remainder of the sentence was to be undergone in the convict-settlements. Good behavior in prison procured certain privileges in the colonies. Great care was employed to insure to each inmate a proper supply of the means of health. Experiments were tried upon food, the quality and quantity of which were changed from time to time; and each prisoner was weighed, to prove the effect of his diet. Partly in consequence of official reports, the term of confinement was reduced in 1848 to fifteen months, and in 1849 to twelve months; and in 1850 the Surveyor-General of Prisons, Lieutenant-Colonel Jebb, officially expressed the opinion that one year should be the average term. Here seems to be proof of the necessity of restricting cellular confinement to short terms. Yet two years later the chaplain of Pentonville, who had been chaplain of a hospital for the insane, and whose capability of discrimination had thus been favorably developed, published a volume which manifests unusual talent for his subject, in which he states that after the reduction of the term the bodily and mental disease largely increased. This seems to prove that the cases of ill health were not dependent upon the discipline. Looking further, however, we find that after the term had been shortened to one year a new class of prisoners were admitted, the average term of total sentence, including the period of transportation, was

raised, and, instead of passing directly to the colonies, the convicts had to pass an intermediate period at the hulks or on the public works. We thus appear to lose the argument of the chaplain; but, continuing our investigation, it becomes known to us that the average both of disease and death among the convicts at Pentonville, whether before or after the change of term, was less than the percentage ascertained for persons of the same ages out of doors, less than that either at the hulks or on the public works, less than that of all the other prisons of England and Wales taken together, although nearly half of the committals to these are for less than two months: in fact, the mortality, allowing for pardons and removals for ill health, was nearly as small as at the Eastern Penitentiary, where it is less than one per cent. Were the comparison otherwise, regard being had to the mental impression produced by the prospect of transportation, and the excitements and irritations attendant upon the plan of rewards at Pentonville, and the fact that at the Eastern Penitentiary the sentences often exceed five years, and that many have been committed for terms ranging from ten to twelve, fifteen, and even twenty years, and that the average of all the sentences is much larger than that of Pentonville, we might safely regard the difficulties of the English prison as proceeding from some other cause than the influence of cellular separation. The resistance of the colonies to the shipment of criminals has raised a new problem for the home govern-

ment, which is embarrassed by the inconveniences and risks of a continual liberation of large numbers of men of the dangerous classes within a small territory. It is to be hoped that from the exigence thus created will come some important suggestion with reference to the care of discharged convicts; but with respect to our topic it is enough to say that the bearing of such varieties of administration as are reported from Pentonville is upon the length of terms of sentence. Nobody in England officially questions the superior value of separate confinement for a reformatory discipline. Upon the relation of sentences to the plan of separation, something will be said hereafter.

In the United States it is true that there has hitherto been an unwillingness to adopt the cellular mode of imprisonment; but a consideration of the history of the subject ought to satisfy an impartial inquirer that no inference can be thence fairly drawn to overthrow, or even to qualify, the evidence presented by the penitentiaries of Pennsylvania. In this country it is not the usage to proceed by the systematic steps taken by foreign governments. Reforms are introduced into new prisons; but old establishments are not pulled down for the sake of inaugurating or extending a change of policy. Hence we have to await in each State the time when, without reference to a choice of penal systems, it becomes expedient to construct a new prison. When that time arrives, the subject is not thoroughly examined; nor is the evidence, after

being carefully discussed by the most competent persons, presented in an elaborate communication from one of the Secretaries of State. A bill is introduced by some one into the legislature. After a few weeks, it is debated, and passed or rejected mainly upon financial considerations. Perhaps now and then a commissioner may be appointed to visit the prisons of other States and to report the results of his observation; but the choice of such an agent is not, ordinarily, determined by his previous studies, but rather by his general character as a man, and by his claims upon the patronage of the appointing power. To the people as well as to the legislature the question of prison discipline is a distasteful and unaccustomed subject; and, as each State is independent of the others, an inquiry into the penal institutions of any of them is an investigation as foreign as if it were carried into Canada or Brazil. In these circumstances, a prejudice, or a feeling of interest in pecuniary results, finds little to check it from the side of patient discussion. It is an indisputable fact, moreover, that there has never ceased to exist throughout this country, and there still lingers in some portions of Europe, a very strong prejudice against cellular separation. If this could be regarded as the expression of a natural sentiment in view of the whole case, it certainly ought to be respected, and even to receive the treatment due to an argument upon a question which involves the rights of human beings under the administration of public justice. It is not true, however, that the

resistance to the idea of convict-separation is directed against the system of Pennsylvania, but against the imaginary engine of cruelty which that system has been falsely assumed to be. The Boston Society's reports, and the occasional apparent confirmation which these have received from unqualified observers, have continued to furnish topics of objection where no answer could be seasonably made. The surprise expressed by most persons, who visit for the first time the Eastern Penitentiary, at the provision there made for the health and comfort and improvement of prisoners, attests the strength of the prepossession against the discipline of the place. Perhaps the best illustration of this kind of influence is to be found in the report made by a distinguished English author of his visit to that penitentiary. Availing himself of his reputation and of his skill with the pen, he published a narrative in which the horrors of isolation were depicted in such a manner as must shock every sensitive mind. His myriads of readers in this country and Great Britain received as verity what came upon testimony apparently so trustworthy; and thus Mr. Dickens became the expositor of the value of cellular separation in its relations to health, reformation, and the sanctity of penal justice. Those persons who were most familiar with the real state of things were confounded by the almost inconceivable misstatements of the published report; and, as the convicts with whom Mr. Dickens held his conversations had been noted by the warden of the penitentiary,

the British consul, a gentleman of liberal education, was invited to follow the romancer's route from cell to cell. The investigation might be termed ludicrous, were it not for the important relations which it had to public opinion upon a momentous public question. Not one of all the list of examples stated by Mr. Dickens was found to justify, in any degree, his report; and the climax of confutation was given when the consul stated that the three young women who had chiefly enlisted the general sympathy were mulattoes, decoys of a low brothel; and that all of them had been consciously benefited by their incarceration.\*

Of the mode in which investigations authorized by the legislature of one of our States may be conducted so as to reach a conclusion with entire ignorance of the elements of the question proposed, an example may be offered in the case of Missouri, in whose behalf a commissioner visited the principal penitentiaries of the Atlantic States in 1852. Placing himself in communication with the managing agent of the Boston Society, he collected the stale, often confuted "statistics" and descriptions of that society's reports, and repeated them as though verified by his own observation. He totally misrepresented the regulations and actual practice of the peniten-

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\* The writer thinks it expedient to give, in an appendix, the narrative of Mr. Dickens and the comments of the consul, Mr. Peter. The narrative was reprinted as EVIDENCE in the eighteenth annual report of the Boston Society!

tiaries of Pennsylvania, though he had visited these. He altogether perverted the evidence of cost, even to the extent of asserting that the erection of a congregate prison was "not half so expensive" as that of one on the separate plan; and he held out the mythical bait that a congregate prison, "after paying for itself during the first few years of its existence, will thereafter yield annually a handsome revenue to the State." A more worthless, a more pernicious, document of its kind could scarcely be officially presented to any government. Yet it was a formal report by a selected commissioner, made after months of travel and inquiry. How were the members of the legislature to know that it was false even as to most obvious facts?

In New Jersey, where a penitentiary designed for convict-separation was erected upon plans furnished by the architect who constructed the large prisons of Pennsylvania, it was hoped that an opportunity would be gained for a comparison of results, and that the statistics contributed would give an advantage proportionate to the additional number of persons who were to come under the influence of cellular confinement. The two States being adjacent, and the prison of one being modelled after those of the other, we ought to have had at least an approximation to sameness of management in all of them. In the tables of foreign writers, the penitentiary of New Jersey has been usually placed upon the same footing as the Eastern and Western Penitentiaries, for the purpose of comparison with

the congregate-prisons. If now it be announced, without explanation, that, an enlargement of the penitentiary of New Jersey having become necessary, the government of that State has abandoned the plan of separation and has ordered a new wing to be adapted to associate labor, the citizens of other States will reasonably conclude that here at least is direct evidence against the cellular method, and that the proposed change is a legitimate result of experience. The officers who have had the oversight of the prison will be appealed to as witnesses of the practical superiority of the congregate plan. From our own friends will seem to arise conclusive proof against us. It is nevertheless true, as there has been previous occasion to remark, that during many years the penitentiary of New Jersey has not been regarded by the Philadelphia Society as an example of its own plans. No officers of that penitentiary who have been in function during those years can be properly said to have had experience in it either of the separate or of the congregate system; and, whatever respect may be due to their general intelligence and character, the testimony of none of them as to either of these systems would be accepted by any practised inquirer. When the augmented population of the State began to crowd the cells, and larger accommodation was needed, it was alleged that financial economy would be promoted by the introduction of associate labor. The reports of congregate prisons, taken in the unqualified form in which it is customary to throw

receipts and expenses into their general annual statements of accounts, were offered to the members of the legislature as examples of what might be done to lessen taxation. The calculations of the officers of the prison, to show what might be gained by the common workshops, strengthened the expectations based upon the reports. There was no general review of the discussions of experts elsewhere—no thorough scrutiny of the returns of health—not even a proper consideration of that main stay of the allegations of profit, the contract-system of labor. Upon the irrelevant experience of a misused penitentiary, and upon a promise of pecuniary advantage, the legislature authorized the construction of a cell block and shops for associate labor.

Within the last five years a former warden of the prison officially reported, "We have enjoyed extraordinary good health." "The discipline of the prison is in a wholesome condition. No serious offences, and but one case of insubordination has occurred. The rules to regulate the deportment of prisoners are characterized by a mildness only practicable under the separate system." "So long as the reformation of the convict is to be considered a controlling purpose of the discipline to which he is subjected, his labor and the profits resulting therefrom must be made a secondary consideration." At the same time, a special committee of the legislature reported that the greatest evil which they could discover was "the political character of the prison, and the mutations of govern-

ment to which it is liable from the frequent changes of party. The great qualification which seems now to be taken into consideration is the peculiar tenets of the keeper, and not the fitness or ability which is requisite for an office in which so much depends upon its executive." The committee asserted positively that in New Jersey "the separate system had not been fairly tested;" and they said, "After a careful examination of the two systems which have been adopted in this country, the separate and the congregate, or the silent, they have arrived at the conclusion that the preference in all respects is to be awarded to the former." What has happened during these five years to justify a change of policy? Is it not clear that the case offers only another example of that which the Brazilian commissioner noticed as being at once foreign to the purpose of punishment, and as characteristic of Americans, *viz.*, a preference of what is thought to cost the fewest dollars?

There is another aspect of the question of progress which ought not to be omitted. During the sixteen years taken for our term of observation, there may be seen a gradual diminution of the claims of the congregate system to those grounds of absolute confidence which were once thought to be indisputably occupied. Its statistics of health have been confuted; its boast of "profit" has been disproved by the accumulation of years of account, and even the semblance of profit has been purchased by an unjust system of labor; its alleged success in

the maintenance of non-intercourse has been shown to be an impossibility: so that at the very time at which the system of Pennsylvania, having grown in the confidence of its early friends, was achieving a climax of triumph in the European congress, we find that in New York an assemblage of wise and experienced citizens, led by one of the Inspectors of Prisons for that State, were deliberately expressing the opinion that something better than the plan of Auburn was needed.

2. This reference to the New York Prison Association suggests some further cautions. It is currently believed that so wedded is the Philadelphia Society to the idea of cellular separation that no quantity or strength of evidence can affect in the slightest degree the partisan bias of its members. Yet it ought to be as currently remarked that that society is at least entitled to demand a correct appreciation of its real position, and an acknowledgement of the fact that, excepting in relation to the single feature of separation of convicts one from another, it is always occupied with the investigation of possibilities of improvement. In this connection we perceive the value of a clear definition of the word "system." When the French architects made in their plans a special arrangement of the yards for exercise, and contrived such a disposition of their chapels as would allow the prisoners to witness the celebration of mass, the phrase "French system" was immediately employed, although nothing was new except mechanical changes

intended to meet local religious opinions, or to supply for out-of-door exercise greater conveniences than had been attained at the pioneer prison. In such a sense, every alteration must justify the allegation of a change of system; and in the same sense the friends of cellular separation desire every improvement that can be reasonably commended to the attention of governments. They have never treated the Eastern Penitentiary as a model prison to any greater extent than was warranted by the fact that it offered the largest and most conveniently situated illustration of the plan of convict-separation. Every one of its seven blocks of cells exhibits improvement; and between the first and the seventh are differences as great as are usually observable between prisons of different States. The large county prisons erected in Pennsylvania at later dates, and designed in part for convicts, have derived advantage from foreign plans; and in some respects their details are superior to those of the penitentiaries. Thus, too, with regard to diet, exercise, special punishments, the apportionment of sentences, and the supply of labor, the Philadelphia Society has unremittingly sought counsel. A few years ago it sent a medical commission to inspect the most important congregate prisons of this country, in order to procure ampler means of judgment upon the sanitary regulations proper to cellular confinement. It has repeatedly applied to the government for a more complete manifestation of the apportionment of penalties for the various classes of

crime; and it has long since represented its conviction that the sentences passed under our code are frequently too long for the character of the confinement to which they subject offenders. Not, indeed, that the extreme conclusion of the British Surveyor-General, counteracted as this is by numerous reports, official and others, and by our own experience, has ever been adopted in Pennsylvania; not that the average term of imprisonment has been ascertained to be greatly in excess; but there have been imposed upon certain of the prisoners disproportionate terms. These affect both the discipline and the health of our penitentiaries: yet, in spite of this disadvantage, our statistics are favorable.

In the same spirit we have always desired that where the congregate plan is preferred it shall have all the instrumentalities which are needed for its humane administration; but when its pecuniary reports are claimed as an advantage, we cannot but censure the labor-system which sustains them. When it assumes to prevent evil intercourse by the discipline of its shops, we cannot but accept the proofs which come to us from every prison in this country and in Europe in which such prevention has been attempted, that it is impracticable.

In the hope of avoiding the difficulties which have involved in prolonged controversy the methods of congregation and separation, it has been repeatedly suggested that there may be devised a system which shall have the advantages, while it

avoids the peculiar evils, attributed to each. On the continent of Europe the full recognition of cellular separation was preceded in some countries by experiments having in view this mixture of features. In one locality, a separate and an associate prison were placed side by side; in another, a portion of the same building was given to the trial of each form of discipline, and convicts were classified and distributed according to their supposed character; sometimes the cellular confinement was used as an introduction to the privileges of the associate shops, which were treated as places of promotion, and unruly subjects were remanded from them to the separate cells. In England, as we have seen, the cells were intended to be places of preparation for associate labor on the public works and in the penal colonies. In the endeavor to make classification serve the requirements of safe custody and discipline, the subdivisions have been carried to as many as fifteen, twenty, even nearly forty, classes; and everywhere they have failed, unless in relation to indications so gross as to be valueless for our question. Men may easily be grouped according to age, crime charged, time of sentence, health, previous profession, behavior in prison, skill in labor; but for any nice discrimination for discipline the means have never yet been discovered. I do not pretend to set bounds to human invention, nor to assume that the thoughts which are familiar to us will always constitute our stock of knowledge; but it is not easy to see the wisdom of repeating trials which have already failed.

in the hands of expert officers of each sex. At all events, whenever classification is offered as a safeguard, let us hope that our legislatures will at least inquire what number and kind of persons have already subjected it to patient observation during many years, and what account they give of the actual results.

The New York Prison Association, unwilling to sanction the cellular method for all convicts, or for the entire term of their sentences, yet perceiving some of its advantages, sought to encourage that union and development of particular features which have been so often suggested abroad. The contract-system was to be proscribed; the prisoners were to be classed, first to assign some of them to separate cells, and others to the associate wing; next to group the prisoners in the latter, according to certain types of character to be detected by the scrutiny of the officers. Intercommunication was not to be prohibited to the extent theretofore considered proper; but some reliance was to be placed upon the success of official scrutiny and supervision; and a regulated intercourse among the convicts was to aid the reforming efforts of the administration, and to train repentant minds for the social opportunities which awaited their discharge. This is an attractive picture of a penitentiary administration. Is it warranted by experience? I freely submit it to you for comparison with the records of prisons at home and abroad during the last thirty years. Its rejection of the contract-system, and its promise of

suitable officers, will inevitably deprive it of the financial superiority claimed by the congregate method.

For my own part, were it not that the cost of reconstruction embarrasses so greatly every proposal for change of discipline, I would be glad to see the suggestions of the New York Prison Association brought to trial under the eyes of its intelligent and humane members. It would be an important end gained to break the force of habit and to stir the public mind to fresh thoughts, and it would be a step towards the ultimate separation of every convict from every other convict; but considering the length of the period that must ensue before any State would make a second change of a radical character, I prefer to avoid the intermediate loss, and to ask that the next experiment be made with a principle which, with all the defects of its administration in Pennsylvania, has never suggested there the expediency of seeking something better.

It will be understood that no State is asked to tear down its great prisons for the sake of reconstructing them upon the plan of separation; but every State may adopt a policy, and work towards its execution as time brings motives for action. Old penitentiaries need alterations; increase of population demands new blocks of cells; occasionally in a new State the opportunity is offered to lay the foundation of a system. It is thus that all countries slowly advance towards the consummation of the plans of their governments.

It is with great regret, Mr. President, that I have found myself obliged to present in so imperfect a manner some of the considerations which still sustain the friends of convict-separation in their opposition to the companionship of criminals. I proceed with more alacrity to the notice of the last subdivision of my reflections—that which embraces the topics upon which all parties may unite without conflict with their respective conclusions upon the question of cellular confinement for convicts.

IV. After what has been said, you will not be surprised if I put in the foremost place the COLLECTION OF EVIDENCE. The accomplishment of this alone will give to the Association a very extensive, and at times a very laborious, occupation. We have first to determine what particulars of evidence are needed. The number of these is great; and their ascertainment depends upon a careful examination both of the questions to be decided, and of the probable sources of error. We have then to agree upon a uniform method in which the particulars shall be reported, and to provide securities against errors of observation and errors consequent upon misconception of our objects. Then we have to obtain the practical adoption of our method by the officers who are to record and publish the particulars. This will require, in many places, fresh legislation; and as some of our requisites will occasion additional labor, or expense, or both, it will be

necessary to use the means appropriate for convincing members of the legislatures, executive officers, and a portion of the community at large, that our purpose is such as to entitle it to aid from the authorities of each State. When all this has been done, it will be our duty in each State to see that the official records be kept in conformity with the general plan, and that the official reports comprehend all the necessary items duly ascertained. It will be our business to awaken the public interest in such a manner as to insure the steady maintenance of official action; and we ought to establish a permanent collection of statistical documents to which reference may be conveniently made during our joint deliberations. In no State has any portion of this large undertaking been satisfactorily executed. In Pennsylvania, the law obtained in 1847, upon the memorial of the Prison Society of Philadelphia, was all that could be accomplished at that time, even in the way of formal enactment; and it does not embrace all of the desirable details of our penal administration. Its provisions will, however, serve to illustrate the character of the inquiries which we need. As before noticed, it has not been enforced; nor can it be, until further steps shall have been taken to satisfy the government that official duty requires its full execution.

As our penal institutions are designed for every agency of public justice, from the detection of an offender to the completion of the disciplinary infliction awarded to him, it is evident that police, the

functions of committing magistrates, primary detentions, courts and juries, as well as prisons, are proper objects for the deliberation and efforts of this Association. With respect to all of these the public mind needs information; all of them need reform.

The sources of crime, and the philosophy of the dangerous classes; the definition of new crimes; the relation of judicial sentences to the various classes of crime, and to the fundamental ideas of penal discipline; the extent of the influence of that discipline, and the ends to which it ought to be directed; the peculiarities of treatment due to persons confined for life; the care of discharged convicts, and kindred topics, await your discussion. With respect to all of these the friends of both systems of imprisonment may co-operate without difficulty.

One topic I notice specially, because a peculiar misconception exists in many minds in relation to it. In the treatment of the question of separation by day and by night, prisons for detention before trial have too often been classed with prisons for convicts, as though the former were liable to the same objections, and depended upon the same reasons, which influence our conclusions respecting the latter. In Europe the distinction has been clearly marked. At the Frankfort convention in 1846, where there were some voices raised against the cellular separation of convicts, there was unanimity in favor of that plan of confinement in the prisons

used before trial. I believe that only one negative vote was given. The New York Prison Association early recognized the distinction; as may be seen in its reports. In Great Britain, so confused at one time was public opinion on this subject that objection was made in Parliament to the separate imprisonment of unconvicted persons, on the ground that it was cruelty to the innocent! About twelve years ago, Lord Nugent moved to repeal so much of the act of the 2 & 3 Victoria as gave power to magistrates to inflict separate imprisonment upon persons committed for trial; a power which appeared to him to be "inconsistent with every principle of general justice and with the whole spirit of the criminal code." The masterly reply of Sir George Gray induced the mover to withdraw his proposition, which he did in accordance with the general feeling of the House. The pith of the argument is summed up by the chaplain to the Preston House of Correction:—"Should it be objected that to separate the untried is to punish them, and that punishment must not be inflicted until guilt is proved, I would reply that a prisoner committed for trial must be either guilty or innocent—an adept in crime or a novice. If the former, separation is no injustice to him; for he has no right to be placed among those whom he would contaminate. If, on the other hand, the newly committed prisoner be innocent or unused to crime, he has a right to be protected from influences which would inflict upon him a horrible and irreparable injury."

Since, then, the jails for detention before trial are quite free from the objections made against the separate imprisonment of convicts; objections which relate mainly to health and economy during long periods of incarceration, what is to hinder a joint effort for such a reform of the county prisons of the United States as will answer the ends of public justice and individual safety? Allowing the question as to convicts to be discussed on its peculiar reasons, we may unite in a plan for the improvement of those institutions which precede in order of use, and which materially influence, our convict discipline.

I should be glad to believe, Mr. President, that the labors of this Association will contribute to the public good in the respects in which that is dependent upon the topics which have been mentioned to you. With zeal tempered by rational caution, with energy, with perseverance, with patience, with readiness to receive the instruction of facts, and with harmonious co-operation, we may procure such a concentration of social forces upon the great work before us as will insure its accomplishment. Let no apprehension of temporary popular opposition sway us from the steadfast maintenance of whatever policy we know to be the best for the State. If considerations of cost or of time interfere with the immediate realization of our plans, let us not, while yielding to the inevitable constraint of present circumstances, suspend our assertion of the prin-

ples upon which the penal jurisprudence of the country ought ultimately to rest. It is by adherence to these through every vicissitude of means, of opportunity, and of resistance, that we are to gain at last the public confidence, and with it the crown of success.

## APPENDIX.

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*Mr. Dickens' Report of his Visit to the Eastern Penitentiary.*

"In the outskirts, stands a great prison, called the Eastern Penitentiary: conducted on a plan peculiar to the state of Pennsylvania. The system here, is rigid, strict, and hopeless solitary confinement. I believe it, in its effects, to be cruel and wrong.

"In its intention, I am well convinced that it is kind, humane, and meant for reformation; but I am persuaded that those who devised this system of Prison Discipline, and those benevolent gentlemen who carry it into execution, do not know what it is that they are doing. I believe that very few men are capable of estimating the immense amount of torture and agony which this dreadful punishment, prolonged for years, inflicts upon the sufferers; and in guessing at it myself, and in reasoning from what I have seen written upon their faces, and what to my certain knowledge they feel within, I am only the more convinced that there is a depth of terrible endurance in it which none but the sufferers themselves can fathom, and which no man has a right to inflict upon his fellow creature. I hold this slow and daily tampering with the mysteries of the brain, to be immeasurably worse than any torture of the body: and because its ghastly signs and tokens are not so palpable to the eye and sense of touch as scars upon the flesh; because its wounds are not upon the surface, and it extorts few cries that human ears can hear; therefore I the more denounce it, as a secret punishment which slumbering humanity is not roused up to stay. I hesitated once, debating with myself, whether, if I had the power of saying 'Yes' or 'No,' I would allow it to be tried

in certain cases, where the terms of imprisonment were short; but now, I solemnly declare, that with no rewards or honours could I walk a happy man beneath the open sky by day, or lie me down upon my bed at night, with the consciousness that one human creature, for any length of time, no matter what, lay suffering this unknown punishment in his silent cell, and I the cause, or I consenting to it in the least degree.

“I was accompanied to this prison by two gentlemen officially connected with its management, and passed the day in going from cell to cell, and talking with the inmates. Every facility was afforded me, that the utmost courtesy could suggest. Nothing was concealed or hidden from my view, and every piece of information that I sought, was openly and frankly given. The perfect order of the building cannot be praised too highly, and of the excellent motives of all who are immediately concerned in the administration of the system, there can be no kind of question.

“Between the body of the prison and the outer wall, there is a spacious garden. Entering it, by a wicket in the massive gate, we pursued the path before us to its other termination, and passed into a large chamber, from which seven long passages radiate.

“On either side of each, is a long, long row of low cell doors, with a certain number over every one. Above, a gallery of cells like those below, except that they have no narrow yard attached (as those in the ground tier have), and are somewhat smaller. The possession of two of these, is supposed to compensate for the absence of so much air and exercise as can be had in the dull strip attached to each of the others, in an hour’s time every day; and therefore every prisoner in this upper story has two cells, adjoining and communicating with, each other.

“Standing at the central point, and looking down these dreary passages, the dull repose and quiet that prevails, is awful. Occasionally there is a drowsy sound from some lone weaver’s shuttle, or shoemaker’s last, but it is stifled by the thick walls and heavy dungeon-door, and only serves to make the general stillness more profound. Over the head and face of every prisoner who comes into this melancholy house, a black hood is drawn; and in this dark shroud, an emblem of the curtain dropped between him and

the living world, he is led to the cell from which he never again comes forth, until his whole term of imprisonment has expired. He never hears of wife or children; home or friends; the life or death of any single creature. He sees the prison officers, but with that exception he never looks upon a human countenance or hears a human voice. He is a man buried alive; to be dug out in the slow round of years; and in the mean time dead to every thing but torturing anxieties and horrible despair.

"His name, and crime, and term of suffering, are unknown, even to the officer who delivers him his daily food. There is a number over his cell-door, and in a book of which the governor of the prison has one copy, and the moral instructor another: this is the index to his history. Beyond these pages the prison has no record of his existence: and though he live to be in the same cell ten weary years, he has no means of knowing, down to the very last hour, in what part of the building it is situated; what kind of men there are about him; whether in the long winter nights there are living people near, or he is in some lonely corner of the great jail, with walls, and passages, and iron doors, between him and the nearest sharer in its solitary horrors.

"Every cell has double doors: the outer one of sturdy oak, the other of grated iron, wherein there is a trap through which his food is handed. He has a Bible, and a slate and pencil, and, under certain restrictions, has sometimes other books, provided for the purpose, and pen, and ink, and paper. His razor, plate, and can, and basin, hang upon the wall, or shine upon the little shelf. Fresh water is laid on in every cell, and he can draw it at his pleasure. During the day, his bedstead turns up against the wall, and leaves more space for him to work in. His loom, or bench, or wheel, is there; and there he labours, sleeps and wakes, and counts the seasons as they change, and grows old.

\* "The first man I saw, was seated at his loom, at work. He had been there, six years, and was to remain, I think, three more. He had been convicted as a receiver of stolen goods, but even after

[\* These cases are referred to by numbers in the subjoined letter of the British consul, Mr. Peter.]

this long imprisonment, denied his guilt, and said he had been hardly dealt by. It was his second offence.

"He stopped his work when we went in, took off his spectacles, and answered freely to every thing that was said to him, but always with a strange kind of pause first, and in a low, thoughtful voice. He wore a paper hat of his own making, and was pleased to have it noticed and commended. He had very ingeniously manufactured a sort of Dutch clock from some disregarded odds and ends; and his vinegar-bottle served for the pendulum. Seeing me interested in this contrivance, he looked up at it with a great deal of pride, and said that he had been thinking of improving it, and that he hoped the hammer and a little piece of broken glass beside it 'would play music before long.' He had extracted some colours from the yarn with which he worked, and painted a few poor figures on the wall. One, of a female, over the door, he called 'The Lady of the Lake.'

"He smiled as I looked at these contrivances to wile away the time; but when I looked from them to him, I saw that his lip trembled, and could have counted the beating of his heart. I forget how it came about, but some allusion was made to his having a wife. He shook his head at the word, turned aside, and covered his face with his hands.

"'But you are resigned now!' said one of the gentlemen after a short pause, during which he had resumed his former manner. He answered with a sigh, that seemed quite reckless in its hopelessness, 'Oh yes, oh yes! I am resigned to it.' 'And are a better man, you think?' 'Well, I hope so: I'm sure I hope I may be.' 'And time goes pretty quickly?' 'Time is very long, gentlemen, within these four walls?'

"He gazed about him—Heaven only knows how wearily!—as he said these words; and in the act of doing so, fell into a strange stare as if he had forgotten something. A moment afterwards he sighed heavily, put on his spectacles, and went about his work again.

"In another cell, there was a German, sentenced to five years' imprisonment for larceny, two of which had just expired. With colours procured in the same manner, he had painted every inch of

the walls and ceiling quite beautifully. He had laid out the few feet of ground, behind, with exquisite neatness, and had made a little bed in the centre, that looked by the bye like a grave. The taste and ingenuity he had displayed in every thing were most extraordinary ; and yet a more dejected, heart-broken, wretched creature, it would be difficult to imagine. I never saw such a picture of forlorn affliction and distress of mind. My heart bled for him; and when the tears ran down his cheeks, and he took one of the visitors aside, to ask, with his trembling hands nervously clutching at his coat to detain him, whether there was no hope of his dismal sentence being commuted, the spectacle was really too painful to witness. I never saw or heard of any kind of misery that impressed me more than the wretchedness of this man.

"In the third cell, was a tall strong black, a burglar, working at his proper trade of making screws and the like. His time was nearly out. He was not only a very dexterous thief, but was notorious for his boldness and hardihood, and for the number of his previous convictions. He entertained us with a long account of his achievements, which he narrated with such infinite relish, that he actually seemed to lick his lips as he told us racy anecdotes of stolen plate, and of old ladies whom he had watched as they sat at windows in silver spectacles (he had plainly had an eye to their metal even from the other side of the street), and had afterwards robbed. This fellow, upon the slightest encouragement, would have mingled with his professional recollections the most detestable cant; but I am very much mistaken if he could have surpassed the unmitigated hypocrisy with which he declared that he blessed the day on which he came into that prison, and that he never would commit another robbery as long as he lived.

"There was one man who was allowed, as an indulgence, to keep rabbits. His room having rather a close smell in consequence, they called to him at the door to come out into the passage. He complied of course, and stood shading his haggard face in the unwonted sunlight of the great window, looking as wan and unearthly as if he had been summoned from the grave. He had a white rabbit in his breast ; and when the little creature, getting down upon the ground, stole back into the cell, and he, being

dismissed, crept timidly after it, I thought it would have been very hard to say in what respect the man was the nobler animal of the two.

"There was an English thief, who had been there but a few days out of seven years: a villainous, low-browed, thin-lipped fellow, with a white face; who had as yet no relish for visitors, and who, but for the additional penalty, would have gladly stabbed me with his shoemaker's knife. There was another German who had entered the jail but yesterday, and who started from his bed when we looked in, and pleaded, in his broken English, very hard for work. There was a poet who, after doing two days' work in every four-and-twenty hours, one for himself and one for the prison, wrote verses about ships, (he was by trade a mariner,) and 'the maddening wine-cup,' and his friends at home. There were very many of them. Some reddened at the sight of visitors, and some turned very pale. Some two or three had prisoner nurses with them, for they were very sick; and one, a fat old negro whose leg had been taken off within the jail, had for his attendant a classical scholar and an accomplished surgeon, himself a prisoner likewise. Sitting upon the stairs, engaged in some slight work, was a pretty coloured boy. 'Is there no refuge for young criminals in Philadelphia, then?' said I. 'Yes, but only for white children.' Noble aristocracy in crime!\*

"There was a sailor who had been there upwards of eleven years, and who in a few months' time would be free. Eleven years of solitary confinement!

"'I am very glad to hear your time is nearly out.' What does he say? Nothing. Why does he stare at his hands, and pick the flesh upon his fingers, and raise his eyes for an instant, every now and then, to those bare walls which have seen his head turn grey? It is a way he has sometimes.

"Does he never look men in the face, and does he always pluck at those hands of his, as though he were bent on parting skin and bone? It is his humour: nothing more.

[\* There has been since completed and occupied a House of Refuge for coloured children at Philadelphia.]

"It is his humour too, to say that he does not look forward to going out; that he is not glad the time is drawing near; that he did look forward to it once, but that was very long ago; that he has lost all care for every thing. Is it his humour to be a helpless, crushed, and broken man. And, Heaven be his witness that he has his humour thoroughly gratified !

"There were three young women in adjoining cells, all convicted at the same time of a conspiracy to rob their prosecutor. In the silence and solitude of their lives, they had grown to be quite beautiful. Their looks were very sad, and might have moved the sternest visitor to tears, but not to that kind of sorrow which the contemplation of the men, awakens. One was a young girl; not twenty, as I recollect; whose snow-white room was hung with the work of some former prisoner, and upon whose downcast face the sun in all its splendour shone down through the high chink in the wall, where one narrow strip of bright blue sky was visible. She was very penitent and quiet; had come to be resigned, she said (and I believe her); and had a mind at peace. 'In a word, you are happy here?' said one of my companions. She struggled—she did struggle very hard—to answer, Yes: but raising her eyes, and meeting that glimpse of freedom over-head, she burst into tears, and said, 'She tried to be; she uttered no complaint; but it was natural that she should sometimes long to go out of that one cell: she could not help *that*,' she sobbed, poor thing!

"I went from cell to cell that day; and every face I saw, or word I heard, or incident I noted, is present to my mind in all its painfulness. But let me pass them by, for one, more pleasant, glance of a prison on the same plan which I afterwards saw at Pittsburgh.

"When I had gone over that, in the same manner, I asked the governor if he had any person in his charge who was shortly going out. He had one, he said, whose time was up next day; but he had only been a prisoner two years.

"Two years! I looked back through two years in my own life —out of jail, prosperous, happy, surrounded by blessings, comforts, and good fortune—and thought how wide a gap it was, and how long those two years passed in solitary captivity would have

been. I have the face of this man, who was going to be released next day, before me now. It is almost more memorable in its happiness than the other faces in their misery. How easy and how natural it was for him to say that the system was a good one; and that the time went ‘pretty quick—considering;’ and that when a man once felt he had offended the law, and must satisfy it, ‘he got along, somehow!’ and so forth!

“‘What did he call you back to say to you, in that strange flutter?’ I asked of my conductor, when he had locked the door and joined me in the passage.

“‘Oh! that he was afraid the soles of his boots were not fit for walking, as they were a good deal worn when he came in; and that he would thank me very much to have them mended, ready.’

“Those boots had been taken off his feet, and put away with the rest of his clothes, two years before!

“I took that opportunity of inquiring how they conducted themselves immediately before going out; adding that I presumed they trembled very much.

“‘Well, it’s not so much a trembling,’ was the answer—‘though they do quiver—as a complete derangement of the nervous system. They can’t sign their names to the book; sometimes can’t even hold the pen; look about ‘em without appearing to know why, or where they are; and sometimes get up and sit down again twenty times in a minute. This is when they’re in the office, where they are taken with the hood on, as they were brought in. When they get outside the gate, they stop, and look first one way and then the other: not knowing which to take. Sometimes they stagger as if they were drunk, and sometimes are forced to lean against the fence, they’re so bad:—but they clear off in course of time.’

\* \* \* \* \*

“On the haggard face of every man among these prisoners, the same expression sat. I know not what to liken it to. It had something of that strained attention which we see upon the faces of the blind and deaf, mingled with a kind of horror, as though they had all been secretly terrified.

“In every little chamber that I entered, and at every gate through which I looked, I seemed to see the same appalling coun-

tenance. It lives in my memory, with the fascination of a remarkable picture. Parade before my eyes, a hundred men, with one among them newly released from this solitary suffering, and I would point him out.

"The faces of the women, as I have said, it humanizes and refines. Whether this be, because of their better nature, which is elicited in solitude, or because of their being gentler creatures, of greater patience and longer suffering, I do not know; but so it is. That the punishment is nevertheless, to my thinking, fully as cruel and as wrong in their case, as in that of the men, I need scarcely add.

"My firm conviction is, that independent of the mental anguish it occasions—an anguish so acute and so tremendous, that all imagination of it must fall far short of the reality—it wears the mind into a morbid state, which renders it unfit for the rough contact and busy action of the world. It is my fixed opinion, that those who have undergone this punishment, MUST pass into society again morally unhealthy and diseased. There are many instances on record, of men who have chosen, or have been condemned, to lives of perfect solitude, but I scarcely remember one, even among sages of strong and vigorous intellect, where its effect has not become apparent, in some disordered train of thought, or some gloomy hallucination. What monstrous phantoms, bred of despondency and doubt, and born and reared in solitude, have stalked upon the earth, making creation ugly, and darkening the face of Heaven!

"Suicides are rare among these prisoners: are almost, indeed, unknown. But no argument in favor of the system, can reasonably be deduced from this circumstance, although it is very often urged. All men who have made diseases of the mind, their study, know perfectly well that such extreme depression and despair as will change the whole character, and beat down all its powers of elasticity and self-resistance, may be at work within a man, and yet stop short of self-destruction. This is a common case.

"That it makes the senses dull, and by degrees impairs the bodily faculties, I am quite sure. I remarked to those who were with me in this very establishment at Philadelphia, that the crimi-

nals who had been there long, were deaf. They, who were in the habit of seeing these men constantly, were perfectly amazed at the idea, which they regarded as groundless and fanciful. And yet the very first prisoner to whom they appealed—one of their own selection—confirmed my impression (which was unknown to him) instantly, and said, with a genuine air it was impossible to doubt, that he couldn't think how it happened, but he *was* growing very dull of hearing.

"That it is a singularly unequal punishment, and affects the worst man least, there is no doubt. In its superior efficiency as a means of reformation, compared with that other code of regulations which allows the prisoners to work in company without communicating together, I have not the smallest faith. All the instances of reformation that were mentioned to me, were of a kind that might have been—and I have no doubt whatever, in my own mind, would have been—equally well brought about by the Silent System. With regard to such men as the negro burglar and the English thief, even the most enthusiastic have scarcely any hope of their conversion.

"It seems to me that the objection that nothing wholesome or good has ever had its growth in such unnatural solitude, and that even a dog or any of the more intelligent among beasts, would pine, and mope, and rust away, beneath its influence, would be in itself a sufficient argument against this system. But when we recollect, in addition, how very cruel and severe it is, and that a solitary life is always liable to peculiar and distinct objections of a most deplorable nature, which have arisen here; and call to mind, moreover, that the choice is not between this system and a bad or ill-considered one, but between it and another which has worked well, and is, in its whole design and practice, excellent; there is surely more than sufficient reason for abandoning a mode of punishment attended by so little hope or promise, and fraught, beyond dispute, with such a host of evils."

PHILADELPHIA, Jan. 20, 1845.

To WILLIAM PETER, Esq.,

*Her Britannic Majesty's Consul-General for the State of  
Pennsylvania.*

MY DEAR SIR,—You informed me some time ago, that you were satisfied, from repeated visits to the Eastern Penitentiary, that Mr. *Charles Dickens's* account of that institution in his *American Notes*, was exceedingly erroneous. You will confer, I think, a benefit upon the cause of truth as well as philanthropy, if you will communicate to me for publication, the result of your inquiries as to his facts, and your views of the soundness or fallacy of his general conclusions.

*Samuel R. Wood*, the former warden of this prison, has lately returned from England. He tells me that the honest repute of this eminent establishment, has been injured there by the representations of *Mr. Dickens*, whose note as a writer of fictions, has secured for his crude performance a diffusive popularity. What from the extravagant fancies of this writer on the one hand, and the inflamed party zeal of the Boston Prison Society's Reports on the other, the benevolent public, both at home and abroad, are in danger of being greatly abused and misled.

On such a question, your testimony and judgment as a gentleman of profound and various research, as an unbiassed foreigner of long acquaintance with prison discipline, would be of signal worth. I venture therefore to appeal to you, from the distortions of one whose native temperament gives him, perhaps, even less claim to consideration as a judge, than his very hurried and superficial inspection of the prison, entitles him to respect as a witness.

I am, very truly,

Yours, &c.,

J. R. TYSON.

## [ANSWER.]

PHILADELPHIA, January 25, 1845.

To JOB R. TYSON, Esq.

MY DEAR SIR,

I have received your letter of the 20th, respecting the Eastern Penitentiary of this city; and, in compliance with your request, as well as in justice to that institution and the benevolent individuals who superintend and conduct it, hasten to give you the result of the investigations, which, in consequence of Mr. Dickens' statements, I considered it my duty to make on the subject. Though I had frequently visited the penitentiary and approved of it as a whole, it was not until after the appearance of his remarks, that my attention was called to its more particular cases and details. The result of these subsequent and minuter inquiries has only served to strengthen and confirm my earlier impressions. Better arranged buildings, more judicious regulations, or humarer treatment of prisoners,—in short, means better adapted and directed to their proposed end,—I have never seen in any institution for the punishment and reformation of criminals. In truth, I might add, that it is *superior* to any thing of the kind that I am acquainted with, either in the old world or the new.

I. “*The first man*,” noticed by Mr. D—, had come into the penitentiary in February, 1839, and left it February, 1843, the remaining portion of his sentence having been remitted. During his imprisonment he had been allowed to correspond with his wife,—a most respectable woman,—who supported herself and children by needle-work, and whose letters to her husband, were full of kind and excellent advice. On quitting prison he received \$51 for extra work, and now earns a comfortable livelihood by his labours as a journeyman printer. As far as I am able to learn, he is not worse for his imprisonment, either in body or mind,—nay, as to the latter, very much improved. He is in correspondence with the chaplain, and writes a very good letter.

II. *The “German”* (who has ornamented his cell, and laid out the few feet of ground behind with such ingenuity and neatness) came in May, 1840, and will leave in May, 1845. He had been

convicted of two offences, for each of which he was condemned to two years and an half imprisonment. The sentence has been considered by some as too severe; but as for his being a "dejected, heart-broken, wretched creature;" as for his "forlorn affliction and distress of mind," I could discover no signs or symptoms of either. He was in as excellent health and spirits as mortal need be,—conversed freely about his situation, and expressed confident hopes, that he should, through the kindness and recommendations of the governor and others, be able to get into good employment as a paper-stainer, on the expiration of his term of imprisonment. He is an ingenious and clever fellow, but a great hypocrite, and evidently saw Mr. D.'s *weak side*—saw

"Drops of compassion trembling on his eyelids  
Ready to fall, as soon as he had told his  
Pitiful story."

III. "*The black burglar*"—came in April, 1837—went out April, 1842—came in again on the 13th of July following. Just as Mr. Dickens described him, "a very dexterous thief; notorious for his boldness, hardihood, and for the number of his previous convictions," &c. He had been convicted of stealing silver spoons, and seemed to glory in the crime, telling me that, though bred to the *iron* trade, he liked the *silver* trade much better—scorns to be thought a common thief, and calls himself a burglar by profession—has a mania for plunder that can never be cured. He is one of those who "laugh and grow fat" in spite of all punishment.

IV. *The man "allowed to keep rabbits,"* came in November, 1833, and went out in November, 1842, in good health and spirits. He now resides in Canada, and (according to letters received from him by his countrymen) is doing well.

V. *The "English Thief,"* looks in good health and is conducting himself well.

VI. *The "Poet"* came in July, 1840, and left in July, 1843. He had been discarded by his father some years before, for intemperate habits; he received on quitting prison \$30 for extra work, besides \$50 for the copyright of his book. He is now in respectable business, reconciled to his father, and respectably

married. (His wife knew of his imprisonment.) He frequently visits the warden, and is, to all appearance, well in mind, body, and circumstances.

VII. *The "accomplished surgeon,"* came in July, 1840, and left in January, 1843, in good health—he is now employed in a large apothecary's establishment in South America, and conducting himself with propriety. He has written to the chaplain of the penitentiary, thanking him and the officers of the prison, for their kindness to him during his confinement.

VIII. *The "pretty coloured boy,"* came in November, 1841, and left in November, 1843. He was quite ignorant and un instructed when he entered, but learned whilst in prison to read, write, and cipher; has now a good place as servant, in Mr. ——'s family, and behaves remarkably well.

IX. *The "Sailor,"* came in December, 1830, and left in January, 1842. He had been convicted of rape—he left with no appearance about him of "the helpless, crushed, and broken man," but in apparent health and spirits. His first request, on being liberated, was to have "a chew of tobacco." He is now in the employment of a farmer in the interior of the State, and said to be conducting himself well.

X. *The "three young women in adjoining cells,"* still continue in prison, but have nothing "very sad" in their looks, or in any way calculated to move "the sternest visiter to tears." They have been a kind of decoy-ducks for keepers of low brothels, and were convicted of a conspiracy to rob their prosecutor. They came into prison quite ignorant and untaught, but now read, write, cipher, and work remarkably well. One of them (she to whom Mr. Dickens more particularly refers) told me that their imprisonment had been "a very good thing" for them all, and that she did not know what would have become of them, had they not been sent there—that they had been very bad girls, and used to be drunk from morning to night—and indeed, "had no comfort or peace except when drunk." She hopes now that she shall be able to earn an honest livelihood. Her parents (who are respectable coloured people in another State, and from whom she ran away at fifteen) are now reconciled and have written to say

that they will receive, and do what they can for her when she comes out of prison. She has become an excellent seamstress, and they are now all three out of prison, in good service, and said to be conducting themselves with propriety.

I could not perceive that any of "the criminals, who had been long there, were deaf," or even more "dull of hearing" than the inmates of other prisons.

I have only to add, that, though I have frequently visited the penitentiary and seen and conversed with many of its inmates, I cannot recollect having witnessed a single instance of the pains and wretchedness described by Mr. Dickens. It is not true, that the prisoner "never hears of wife or children; home or friends; the life or death of any single creature"—that, with the exception of the prison officers, "he never looks upon a human countenance or hears a human voice," &c. On the contrary, he is allowed, under proper restrictions, to correspond with, and even in some cases, to see both wife and children. He sees also, from time to time, moral instructors, and other benevolent individuals who are in the habit of visiting the prison,\* and is always at liberty to have the minister of his own church or sect with him, except after lock-up hours, or when engaged in the daily task of the establishment. It is not, properly speaking, *solitary* imprisonment that he undergoes, but merely *separation* from his fellows in crime.

I have heard Mr. Dickens accused of wilful misrepresentation. Of that I most fully absolve him. I do not think that he would be guilty—knowingly guilty—of a falsehood for any consideration. But all things are not given to all men; and the very

[\* Mr. Peter's reference includes the members of the Acting Committee of the Philadelphia Prison Society. How freely the intercourse of convicts with honest people may be encouraged without a violation of the "SEPARATE SYSTEM" may be seen in the fact that during the last year alone, members of the Acting Committee have made more than seven hundred and fifty visits to the Eastern Penitentiary, during which they held more than seven thousand interviews with the prisoners, averaging at least a quarter of an hour each. Of these visits, more than one hundred and fifty written reports were made to the Committee on the Penitentiary. During the same period a committee of educated women made nearly twelve hundred visits to the convicts in the female departments of the Penitentiary and the Moyamensing Prison.]

faculty which has enabled him so to excel in one species of composition, almost incapacitates him for some others. His prison-scenes are much of a kin to Sterne's. Still I believe that he never deceived another without having first deceived himself.\*

I am, my dear sir,

Very truly, yours, &c.,

WILLIAM PETER.

\* For some admirable remarks on Mr. D., and on his merits and defects as a writer, see the LEAGUE newspaper of December 21st, p. 204.

## **PROPOSED ACT**

### **RELATIVE TO THE COUNTY PRISONS AND ALMSHOUSES OF THE COMMONWEALTH.**

*SECTION 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met and it is hereby enacted by the authority of the same* That the Governor of this Commonwealth be and he is hereby authorized to appoint by and with the advice and consent of the Senate a competent person as commissioner of the county jails and almshouses of this Commonwealth and the said commissioner shall hold his office for the term of three years from the date of his appointment unless sooner removed by the Governor or should die or resign and shall receive a salary of

*SECTION 2. It shall be the duty of the said commissioner to visit at least once every year and carefully inspect every county prison and every almshouse in the Commonwealth confer with the inspectors overseers and other persons interested with the management of the said prisons and almshouses and fully report thereon to the Governor on the thirtieth day of November in each and every year showing the number of inmates in each of the said institutions their age sex color place of nativity cost of maintenance the character and quantity of the food daily supplied to each inmate and any further information the Governor may from time to time require of him.*

SECTION 3. The judges of the courts of quarter sessions in each and every county of this Commonwealth where inspectors are not already appointed shall on the first Monday of May next appoint three six or nine inspectors as they the said judges shall think proper one-third of whom shall retire yearly and the said judges shall annually on the first Monday of May appoint persons to fill the said vacancies and shall with all convenient speed fill any vacancies that shall arise from death resignation or removal from the county.

SECTION 4. That the said inspectors appointed on the first Monday in May next shall meet on the first Monday of June at the county court house or other place designated by the said judges at two o'clock P M and determine by lot the term of service of each inspector so appointed which shall be for one two or three years from the first Monday of June next and the persons thereafter appointed shall serve for three years except those who may be appointed in the place of inspectors dying resigning or removing from the county and such persons appointed to fill such vacancies shall serve for the unexpired term of the persons so resigning dying or removing from the county.

SECTION 5. It shall be the duty of the said inspectors to hold stated meetings monthly and at such other times as the chairman shall think expedient to keep regular minutes of their proceedings which shall be submitted to the commissioner whenever he may require them and they shall on the thirtieth day of November in each and every year make a full report to the Governor on the condition of the prison entrusted to their manage-

ment setting forth the number of prisoners committed during the preceding year the nature of the offences charged against them the number of convictions the offences the condition of the buildings the description of the food and the quantity thereof daily furnished to each prisoner the arrangements made to separate the male from the female prisoners and whether the said arrangements are effectual the arrangements made for insane prisoners with such other information the Governor may from time to time require of them

SECTION 6. That the overseers of the poor and managers and directors of all the almshouses poor houses or houses of employment within the Commonwealth shall on the thirtieth day of November in each and every year make a full report to the Governor on the condition of the almshouse poor house or house of employment under their care and management setting forth the state of the buildings the nature and quantity of the food daily furnished to each of the inmates and the annual average cost of each inmate the arrangements made for the classification and employment of the inmates and whether such arrangements are effectual the number ages sex color place of nativity of the inmates how many of them are insane or idiotic and what provision has been made for the proper treatment of such insane or idiotic inmates the number of officers employed and the compensation received by them together with such other information as the Governor may from time to time require.

SECTION 7. It shall be the duty of the clerk of each and every Mayor's court court of quarter sessions and

oyer and terminer within this Commonwealth to make on the thirtieth day of November in each and every year a full report to the Governor of the number of bills sent to the grand jury during the preceding year the number returned true bills the number of bills tried the number not tried of those tried the number of convictions and the number of acquittals the number sentenced the number not sentenced the nature of the charges and the length of sentence and any other information the Governor may from time to time require.

SECTION 8. In case any inspector guardian or overseer of the poor or manager of any almshouse or house of employment or other person shall neglect to make report as is required by this act such person shall be liable to pay the sum of fifty dollars to this Commonwealth to be recovered by the Commonwealth in the court of common pleas of Dauphin county it shall be the duty of the Secretary of the Commonwealth to report to the Attorney General thereof on or before the first day of January in each and every year the names of all persons who have incurred the aforesaid penalty and it shall be the duty of the Attorney General on such report being made to him to institute such proceedings as may be necessary for the recovery of the said penalty.

SECTION 9. It shall be the duty of the Governor of the Commonwealth to cause the reports submitted to him or such abstracts thereof as he shall deem expedient to be laid before the General Assembly on or before the first day of February in each and every year.











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