

LETTER ON THE PENITENTIARY SYSTEM
OF PENNSYLVANIA.

By

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LETTER

ON THE

PENITENTIARY SYSTEM

OF

PENNSYLVANIA.

Addressed to

WILLIAM ROSCOE, ESQUIRE,

OF TOXTETH PARK, NEAR LIVERPOOL,

BY

ROBERTS VAUX.



PHILADELPHIA:

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1827.

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THE following Letter, which originally appeared in the National Gazette, was subsequently republished in all the daily journals of Philadelphia excepting one, and has since been transferred to several newspapers of the interior of Pennsylvania, and also to some of those of other states, accompanied, in most instances, by approbatory editorial remarks. This favourable notice of the information, and opinions furnished in his letter, has induced the acting Committee of the Prison Society of this city, and the writer, to believe, that further benefit would result from the distribution of it in pamphlet form, which is his sole motive for thus presenting it to his fellow-citizens, with some collateral matter appended.

R. V.

Mulberry Street,
6 mo. 4, 1827

*Letter to William Roscoe, Esquire, of Toxteth Park,
near Liverpool.*

HOWEVER painful it may be to differ in opinion from a gentleman of venerable age and large experience—of distinguished and various attainments—and of acknowledged benignity of mind, I am nevertheless impelled by a sense of duty to dissent from some of the conclusions which I have met with in a pamphlet, for which I am indebted to thy kindness, and which was transmitted to me by the last Packet, entitled “*A brief statement of the causes which have led to the abandonment of the celebrated system of penitentiary discipline, in some of the United States of America, &c. by William Roscoe, Esquire.*”

Except in the defence of valuable and important principles, I should ever desire to avoid controversy; and if I did not believe that through a singular misconception of the design and efforts now employed to perfect the penal code and prison discipline of Pennsylvania, well settled doctrines were improperly assailed, and rendered liable to popular disaffection merely because they are not generally understood, I would have forborne addressing myself thus publicly to thy attention, and to the notice of the citizens of my native State.

In a free scrutiny which this subject demands, I may perhaps betray an earnestness which it is difficult for me to disguise, when my judgment and feelings are enlisted, but I am sure I shall not intentionally transcend the bounds of perfect respect so eminently due to thy character.

Before I proceed to notice those parts of the essay in question, which appear to me to be very objectionable, I take great pleasure in admitting to the utmost extent, the opinions advanced in several of its introductory passages. Among these, I fully believe that a criminal retains all his natural rights, except so far as he is legally divested of them—that moral and religious treatment of convicts, with a view to their reformation, ought to be mainly regarded, and conscientiously administered—that the severity used to maintain the discipline of the Penitentiary at Auburn, in the State of New York, is utterly unjustifiable, and will fail to yield any but the most pernicious results—and, finally, that the benign precepts and sacred obligations of Christianity, must influence and control all successful exertions to restore to

virtue this class of our erring fellow men, as well as rule every other availing endeavour for promoting the security and happiness of human society.

The pamphlet asserts, that in Philadelphia, where for more than forty years some of its most enlightened, judicious and estimable inhabitants have been assiduously engaged to carry these excellent principles into operation, "*the celebrated system of penitentiary discipline has been abandoned,*" and in its place *solitary confinement* is to be substituted, "*the most inhuman and unnatural that the cruelty of a tyrant ever invented, no less derogatory to the character of human nature than it is in direct violation of the leading principles of Christianity.*" p. 24.

Here allow me to remark, that the first position assumed has no foundation whatever in fact; and the second, which is true, is attempted to be disposed of by high and solemn denunciation, as inapplicable as it is unkind, and wholly unmerited.

From the earliest period of their labours, as my "*Notices of the original and successive efforts to Reform the Penal Code,*" a copy of which is in thy possession, will abundantly manifest, the founders of "*the celebrated system of penitentiary discipline*" were convinced, that the *solitary confinement* of criminals was the only effectual mode of treating them. But until buildings suitable for carrying their plans into complete effect could be provided, the County Prison, though in many respects unfit for their purposes, served, with some alterations, to illustrate the advantages of the new, over the old method of punishing convicts. The gallows, excepting for one offence—the pillory—the whipping post, and other ignominious penalties invented in a cruel age, were, by the exertions of the benevolent men to whom I have alluded, no longer permitted to disgrace Pennsylvania.

Instead of keepers armed with weapons of death and flagellation, prepared to destroy, or to inflict corporal chastisement, as they might deem either merited—instead of the most humiliating and disgusting spectacle of human degradation, misery, and pollution, which the unrestrained association of persons of all ages, colours, and sexes, and for all grades of crime, that for many years anterior to the revolutionary war, was exhibited in the common jail of this city,—by the unwearied labours of a few philanthropists, that lawless reign of severity, immorality, and wrong, was brought to an end. The prisoners were classified and employed as far as it was practicable, comparative order and decency of conduct were introduced, altogether furnishing an instance of melioration and improvement, which no country in this respect had ever before shown.

Happy as these results were admitted to be, and much as they entitled those who were instrumental in producing them, to the

respect and gratitude of mankind, yet the actors in this work of mercy were convinced, that the perfection of prison discipline—its primary great purpose, which they steadily kept in view—the *reformation of the subjects of it*, greatly, if not wholly depended upon their separate confinement. This principle they then avowed, and have ever since continued to advocate under a firm conviction, derived from long and careful observation, that any association of convicts would deprave those who were allowed to partake of it.

To induce the legislature to construct edifices, adapted to the separate confinement of the prisoners, was the earnest and repeated solicitation of the members of the Prison Society, as well as other citizens who became interested in the subject; and they ultimately succeeded in procuring laws which provided for the erection of penitentiaries upon this principle, and for this express purpose, in the eastern and western extremities of the State. Those penitentiaries are accordingly so planned and built, and at a much greater expense, than would otherwise have been required.

Let it not then be said, and credited, that “*the celebrated system of Penitentiary discipline has been abandoned*” in Pennsylvania, when proof so conclusive is brought to establish the fact, that the genuine original system yet remains to be carried into full effect.

On taking leave of this branch of the subject, I will appeal to thy candour, and to that of every other man, whether it can be believed that gentlemen, whose Christian benevolence, and untiring perseverance, conferred upon suffering humanity the vast benefits I have enumerated, could be capable of suggesting a mode of punishment, “*the most inhuman and unnatural that the cruelty of a tyrant ever invented.*”

It is very evident to my mind, that the true nature of the *separate confinement* which is proposed, requires explanation. I will therefore endeavour to describe, what is intended by its friends. Previously, however, it ought to be understood, that the chambers and yards provided for the prisoners, are like any thing but those dreary, and fearful abodes, which the pamphlet before me would represent them to be, “*destined to contain an epitome and concentration of all human misery, of which the Bastille of France, and the Inquisition of Spain, were only prototypes and humble models.*”—p. 25.

The rooms of the new Penitentiary at Philadelphia are fire proof, of comfortable dimensions, with convenient courts to each,*

* The exact size of the chambers is 8 feet by 12 feet, the highest point of the ceiling 16 feet. The yards are 8 feet by 20 feet.

built on the surface of the ground—judiciously lighted from the roof—well ventilated and warmed, and ingeniously provided with means for affording a continual supply of excellent water, to ensure the most perfect cleanliness of every prisoner, and his apartment. They are, moreover, so arranged as to be inspected, and protected, without a military guard, usually though unnecessarily employed in establishments of this kind in most other states.

In these chambers no individual, however humble, or elevated, can be confined, so long as the public liberty shall endure, but upon conviction of a known and well defined offence, by the verdict of a jury of the country, and under the sentence of a court, for a specified time. The terms of imprisonment it is believed can be apportioned to the nature of every crime with considerable accuracy, and will no doubt be measured in that merciful degree, which has uniformly characterized the modern penal legislation of Pennsylvania. Where then, allow me to inquire, is there in this system the least resemblance to that dreadful receptacle constructed in Paris, during the reign of Charles the Fifth, and which at different periods through four centuries and a half, was an engine of oppression, and torture, to thousands of *innocent* persons; or by what detortion can it be compared to the inquisitorial courts and prisons, that were instituted in Italy, Portugal, and Spain, between the years 1251 and 1537?

With such accommodations as I have mentioned, and with the moderate duration of imprisonment contemplated on the Pennsylvania plan, I cannot admit the possibility of the consequences which thy pamphlet predicts, "*that a great number of individuals will probably be put to death by the superinduction of diseases inseparable from such mode of treatment.*" p. 26. I do not apprehend either the physical maladies, so vividly portrayed, or the mental sufferings, which with equal confidence it is promised, shall "*cause the mind to rush back upon itself, and drive reason from her seat.*" p. 25. On the contrary it is my belief, that less bodily indisposition, and less mortality, will attend separate confinement, than imprisonment upon the present method, for which some reasons might be given that it would be improper here to expose.

The average number of prisoners in the penitentiary in this city, for several years past, has been nearly six hundred; and with all the care taken to preserve their health, two hundred and seventy-nine were in the hospital in 1825, and two hundred and sixty-four in 1826, besides those who were under treatment for slight indisposition, which did not require their introduction into the medical ward. The proportions of sick in previous years were about the same, and the average number of deaths for seven years was upwards of six per cent. So that the invasion of disease, and the stroke which terminates human existence, would

seem to be more frequent in jails than among the same number of persons in the ordinary condition of life. The cells of the old penitentiary are small, and badly contrived, and yet many individuals have, for acts of violence committed in the prison, been confined in them for *six, nine, and twelve months in succession*, generally in irons, and always on a low diet, *but no case of mental alienation has ever occurred there*. When the mind becomes hardened by a career of vice, ultimately reaching a point of degradation which fits it for the perpetration of those crimes that are punishable under the penal statutes, no fear of exciting its tender sensibilities need be entertained, by its mere abstraction from equally guilty minds, so as to induce either melancholy or madness. All experience proves how difficult it is to make any impression whatever upon the feelings of the benighted and unhappy subjects of criminal punishment.

But I have been insensibly led from the exposition which is most material to be given, and return to submit the promised explanation, of what is intended by *separate confinement*, and what benefits its friends confidently expect will result from its adoption. It should, however, be continually borne in mind, that a penitentiary is designed for the correction and safe keeping of that portion of society, whose unrestrained licentiousness renders them unfit for the enjoyment of liberty; and so long as men are constituted as we now find them to be, we have no reason to suppose any people will be exempt from the necessity of prisons and penal laws. Whilst, therefore, a sickly sensibility which would indicate impunity for crime, ought carefully to be avoided, the treatment of prisoners should be of such a nature, as to convince them "*that the way of the transgressor is hard;*" the law, and those who administer its penalties, at the same time regarding offenders not as the subjects of revengeful chastisement, but through exemplary suffering, candidates for amendment of life.

By separate confinement, therefore, it is intended to *punish* those who will not control their wicked passions and propensities, thereby violating divine and human laws; and moreover to effect this punishment, without terminating the life of the culprit in the midst of his wickedness, or making a mockery of justice by forming such into communities of hardened, and corrupting transgressors, who enjoy each other's society, and condemn the very power which thus vainly seeks their restoration, and idly calculates to afford security to the state, from their outrages in future.

In separate confinement every prisoner is placed beyond the possibility of being made more corrupt by his imprisonment, since the least association of convicts with each other must in-

evitably yield pernicious consequences in a greater or less degree.

In separate confinement, the prisoners will not know who are undergoing punishment at the same time with themselves, and thus will be afforded one of the greatest protections to such as may happily be enabled to form resolutions to behave well when they are discharged, and be better qualified to do so; because plans of villainy are often formed in jail which the authors carry into operation when at large, not unfrequently engaging the aid of their companions, who are thereby induced to commit new and more heinous offences, and come back to prison under the heaviest sentences of the law.

In separate confinement, it is especially intended to furnish the criminal with every opportunity which christian duty enjoins, for promoting his restoration to the path of virtue, because seclusion is believed to be an essential ingredient in moral treatment, and with religious instruction and advice superadded, is calculated to achieve more than has ever yet been done, for the miserable tenants of our penitentiaries.

In separate confinement a specific graduation of punishment can be obtained, as surely, and with as much facility as by any other system. Some prisoners may labour—some may be kept without labour—some may have the privilege of books—others may be deprived of it—some may experience total seclusion—others may enjoy such intercourse as shall comport with an entire separation of prisoners.

In separate confinement, the same variety of discipline, for offences committed after convicts are introduced into prison, which any other mode affords, can be obtained, though irregularities must necessarily be less frequent,—by denying the refractory individual the benefit of his yard, by taking from him his books or labour, and lastly, in extreme cases, by diminishing his diet to the lowest rate. By the last mean, the most fierce, hardened, and desperate offender can be subdued.

By separate confinement other advantages of an economical nature will result; among these may be mentioned a great reduction of the terms of imprisonment: for instead of from three to twenty years, and sometimes longer, as many months, excepting for very atrocious crimes, will answer all the ends of retributive justice, and penitential experience, which, on the actual plan, the greatest detention in prison altogether fails to accomplish.—Besides this abatement of expense in maintaining prisoners, very few keepers will be required on the new system, and as the females should be entrusted wholly to the custody of suitable individuals of their own sex, their services can of course be secured for less compensation than men. Such of the prisoners as may

be employed, will necessarily labour alone, and the kinds of business in which they will be engaged, not being as rough, and exposing, as those now adopted, the expenditure for clothing must be much diminished.

On the score of cost, therefore, if that indeed be an object in a work of this magnitude, the solitary plan recommends itself to the regard of the public economist. But the problem of expense, in my opinion, can only be truly solved, by showing the cheapest method of keeping prisoners to be, that which is most likely to reform them, to deter others by the imposing character of the punishment, from preying upon the honest, and unoffending members of society, afterwards involving heavy judicial costs to establish their guilt—and becoming at last a charge to the country as convicted felons.

I have thus, as briefly as the nature of the subject would allow, presented some of the merits of the Pennsylvania plan to thy view; and when I consider that the essay which gave rise to these remarks approves of *Solitary Confinement at night*, and deprecates association by day, without a classification which it would seem to be impossible to accomplish, I am at a loss to discover, why *entire seclusion* should receive the harsh condemnation originally quoted.

The advocates of a mild and efficient system of penal jurisprudence, and prison discipline, have reason to feel great solicitude at the present moment, lest by mistaken ideas of large expenditures on the one hand, and unfounded fears of cruelty on the other, some such scheme as that of *Auburn*, with its arbitrary policy, and frightful catalogue of abuses* may obtain in Pennsylvania, to the exclusion of the plan recommended by the long and steadfast friends of her prisonreform.

I am, very respectfully,

ROBERTS VAUX.

Philadelphia, 5 mo. 10th, 1827.

* Vide the report of a commission of investigation made to the senate of New York, 1827.

APPENDIX.

Lord Mansfield on Solitary Confinement.

Extracted from Holliday's sketch of the life, &c. of William, Earl of Mansfield.

“To manifest his (the earl of Mansfield's) opinion of the salutary effects of the new jails in Sussex, Gloucester, Oxford, Stafford, and other counties, *where useful reform has been promoted by solitary confinement*, he was accustomed to relate the following dialogue between himself and the governor of Horsham new jail in Sussex.

“*Lord Mansfield.* A few hours only have flitted away since, in the discharge of my duty as a judge, I delivered your new jail. I was very much pleased at the sight of a calendar where the number of prisoners, which formerly have fallen to my lot to try at Horsham, was *reduced more than one half*. I am now very much astonished to find, that the few prisoners I have tried at this period would not occupy one-fourth part of the new jail. How can your lord lieutenant satisfy the county of Sussex that there has not been *prodigality* in raising so large and stately an edifice, three-fourths of which appear to be untenanted?

“The answer was:—My lord, I must leave his grace of Richmond to answer for himself. I have very little doubt of our lord lieutenant acquitting himself of your lordship's heavy charge of *prodigality*. This, my lord, I can truly say, that I was twelve years keeper of the old jail, and have been nearly twelve years governor of the present county prison. I can say farther that the new jail was built upon a plan to contain the average number of criminals and debtors which the old prison was accustomed to hold. But, my lord, although in days of yore my visitors were very troublesome and very frequent in their visits to me, discharged at one assizes and in prison again within the old walls long before the next, yet such, my lord, is the effect of our *solitary confinement*, and of making a rogue think a little, and become *acquainted with himself*, that in the course of the last twelve years I can solemnly declare before your lordship, that only *one single prisoner* has been *twice* within these walls!”

The earl replied, “this language of experience is very forcible, and the fact ought to be more generally known.”

The letter from which the following extract is made, was written in prison, where the author of it is now confined, and is a genuine document, entirely the result of his own observations and reflections, during a penitentiary, or jail life, of several years. Such testimony must outweigh any amount of mere speculation, and is eminently entitled, from the knowledge and sincerity with which it is given, to the attentive consideration of legislators and philanthropists.

Extract of a Letter from a Convict on the Penitentiary System.

Philadelphia Penitentiary, March 14, 1827.

MUCH RESPECTED SIR,

IN addressing you upon a subject which has been so fully and ably canvassed by men of respectability, learning, and eminent talents, I do it with humility, being conscious of my own inferiority and want of literary acquirements; but notwithstanding the disadvantages under which I labour, from the want of these powerful auxiliaries, I have the superiority in one important point, which is—the actual suffering and degradation, with the consequent feelings the convict experiences, and of which no man can form an adequate idea save him who suffers. I am aware, sir, that much has been said, and that the public prints have teemed with controversy, respecting the laws which are to be passed relative to the new penitentiary, and that a diversity of opinions have been offered to the public, few of which agree upon the plan to be pursued. The cause is obvious, and I am not at all surprised at the different opinions expressed upon this important subject; for it is not in the power of those who have not associated with prisoners on the most *intimate terms* to know the effect confinement and punishment has upon them. But having, unfortunately, suffered myself, and been for a long time confined among men of all descriptions, from almost every part of the globe,---many of whom have experienced punishment in various prisons in the United States, and some parts of Europe, —I have had a fair opportunity of learning from them, the true and undisguised effects their different punishments have had upon their minds; for they would be naturally open and free to me, whereas when in conversation with any citizen or officer of the institution, they would deviate from the truth, and endeavour to make that system the most severe which was to them the most favourable. The main object of the penitentiary system is, I believe, (and ought to be) the reformation of the criminal, and the suppression of crime. To obtain this much desired end, has for ages baffled the wisdom of men, and the mode which has been

most universally established and pursued, has had a contrary effect; and instead of a decrease, the number and aggravation of depredations have been greatly augmented. The cause is evident. Take for example, a youth, young and inexperienced in vice, arrested on a charge of felony, or perhaps some trifling offence, and committed to Arch street prison to await his trial, where he is immediately surrounded by every description of beings (except the good and virtuous) from the vagrant to the most abandoned robber, and by those yet young in infamy, to others who have grown grey in its service. His feelings, 'tis true, at first are full of horror, combined with heart-felt penitence, but in a few days it wears off, and he can then listen to the passing jest, and various tales of his companions, and with eagerness attend, while they relate the many successful depredations they have committed, the amount of money they have amassed, and the pleasures they have enjoyed, all of which will be sufficiently exaggerated. His mind soon becomes filled with these ideas, and he gradually becomes a convert to their debased principles; and should he be acquitted at court, or discharged by the influence of friends, he enters into society with his morals corrupted, his mind inflamed with the pernicious counsels of his prison advisers, and in the event he becomes a *convict*.

This, my dear sir, is no fiction; hundreds have felt the truth of what I relate; and both old and young have fallen into the same snare, becoming a pest and torment to society, when by a different method of confinement they might have returned better members than before their commitment.

As the untried apartment is only the preparatory school of vice, I would suggest the propriety of a different course to be pursued in that prison; if there cannot be solitary apartments, let each individual committed be examined by a judicious officer of the Institution, and according to the knowledge he may possess himself of, and by other information, and also, according to the crime with which the prisoner may be charged, let him be placed with those whose character corresponds with his own, and for this purpose there must be a classification of untried prisoners, and let there be no communication from one class to another; if they labour, let them be in different yards; eat at different tables, and be placed in separate rooms at night; but an entire separation would be preferable, if it was practicable—as the most penetrating person might sometimes be deceived in his opinions of the character and disposition of the prisoner committed. When I assert that the County Prison is the school, I may with propriety state the Penitentiary, according to the present arrangements, to be the college of vice and infamy. In the former, men commence the study of every species of vice, while in

the latter they reduce it to a settled theory, and only wait for an opportunity to try the experiment of the many long concerted plans they have formed, by the help of the most hardened adepts in every species of villainy. Pursuing their labour during the day, and herded together at night, from the number of thirty to forty, without distinction of crime, age or disposition, the young and old offenders often become close and intimate companions. I have known many to enter the Penitentiary with but few vices and some virtues, perhaps from the interior of the State, young in vice, although at the age of manhood, and truly honest—but convicted for manslaughter—yet before they left the prison become converts to the raging mania of their infamous associates. Thus under the present discipline, where one becomes reformed, hundreds are added to the catalogue of hardened and dangerous characters.

In the erection of a new prison and a revision of the Penal Code of Laws, new regulations to govern it, might do away these pernicious and dreadful effects. The only proper mode in my humble estimation is *Solitary Confinement*, and that the convicts should be excluded from all communication with each other, even by look or speech. Much has been said in favour of the celebrated Auburn Prison, and in *some respects* it certainly deserves praise. I have conversed with several who have undergone a servitude in that prison, and from the feelings and sentiments they express, and the effect it had upon them, I am convinced that, instead of endeavouring to reclaim the convict, the government of that prison is such as to embitter and exasperate the mind of those placed under their care; for it appears the least deviation from the most trifling rules, is punished with barbarity and unexampled severity; whipping and beating appear to be the order of the day. The folly and pernicious effects of the rigorous course pursued in that prison, must certainly be revolting to the minds of all wise, judicious, and humane persons. Corporal and severe punishment ought ever to be avoided; it not only degrades and sours the mind of the convict, but it is a stigma on those who inflict it: it also hardens the heart of the offender and renders him callous and dead to every honourable and virtuous feeling; his whole soul is bent and determined on revenge, and he never will forget the cruelty which has been exercised towards him. But a humane and impartial treatment, combined with determined justice, will constrain him to feel and exercise gratitude towards the officers placed over him, and truly thankful to that society, who have compassionated him, even in his fallen state.

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