

THE ARTICLE

**P R I S O N S**

AND

**PRISON DISCIPLINE,**

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# PRISONS

AND

## PRISON DISCIPLINE.

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### I.

#### *Introduction.—Ends of Imprisonment.*

**T**HE arrangements, necessary to adapt prisons to the ends for which they are designed, seem to require little more than the exercise of good sense; and yet the manner in which the practice of the world blunders on from one absurdity, and very often from one atrocity, to another, shows pretty distinctly, how little public affairs have hitherto had the benefit of that practical faculty, or of any thing that resembles it.

#### *Ends of Imprisonment.*

Prisons have been applied to three purposes; 1st, That of safe-custody; 2dly, That of punishment; 3dly, That of reformation.

It is very evident, that each of these purposes requires an arrangement of means peculiar to itself.

Though each requires a combination of means peculiar to itself, it does not follow that of the means required for each a portion may not be the same in all. Every body will acknowledge that this is the case.

The means of safe-custody, for instance, are required for those who are imprisoned in order to be punished and those who are imprisoned in order that they may be reformed, as well as for those who are imprisoned to the sole end of their being made present at a particular time and place.

The arrangements, then, for safe-custody, form a basis, on which every combination of means for attaining any of the other ends of imprisonment must always be erected. Other means for the attainment of those ends are to be considered as accessions to those required for the first.

It is a corollary from this position, that the same house may, at one and the same time, be employed for all three purposes. Those properties in the building which make it fittest, at the least expence, for safe-custody, make it fittest also for the purposes, either of punishment, or of reformation. This will be rendered abundantly apparent in the sequel; and is nearly proved by the single circumstance, that the means of punishment and reformation are only additions to those of safe-custody. If the arrangements needed, for those who are to be punished, and for those who are to be reformed, interfere not with one another, or with those needed on account of the persons in safe custody merely, the truth of the corollary is indisputable; for nobody will deny that, in point of economy, there must be very great advantage.

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## II.

### *Means of Safe-custody.*

I. We shall consider, first of all, what is the best combination of means for safe-custody. Dungeons and fetters are the expedient of a barbarous age. In respect of prisons, as of every thing which comes within the precincts of law, the expedients of a barbarous age are, with great industry, retained in those which are civilized. They are, indeed, preserved with a success which, if it were not experienced, would be altogether incredible. As the expedients of a barbarous age still exist in many other arrangements for the purposes of law, so it is but of yesterday that the prisons of our forefathers have been regarded as fit for reform; or that the means which those sages in their ancestral wisdom devised for attaining the ends of imprisonment were supposed capable of being altered for the better, by their less instructed sons.

It is at last, however, allowed, that inspection is a means for safe custody, which renders unnecessary all but very ordinary means of any other description. Thus, so long as a man is, and knows that he is, under the eyes of persons able and willing to prevent him, there is very little danger of his making an attempt, which he sees would be vain, to effect a breach in the wall, or force open the door, of his cell. Any great strength, therefore, in such wall or door, or fetters upon any part of his body, are wholly unnecessary, since the attempts are sure of not being made, or of being instantly frustrated.

The plan of a prison, in which the power of inspection is rendered so complete, that the prisoner may see, and cannot know but that he is, under the eyes of his keepers, every moment of his time, a plan which we owe to General Bentham, so universally known for his mechanical genius, is described by his brother, in his work entitled *Panopticon, or Inspection House*; where also a system of management is delineated, and its principles are expounded, so perfectly, that they who proceed in this road, with the principle of utility before them, can do little else than travel in his steps.

An idea of the contrivance may be conveyed in a few words. It is a circular building, of the width of a cell, and of any height; carried round a space, which remains vacant in the middle. The cells are all open inwards, having an iron grating instead of a wall, and, of course, are visible in every part to an eye properly placed in the vacant space. A narrow tower rises in the middle of that space, called the inspection tower, which serves for the residence of the keepers, and in which, by means of windows and blinds, they can see without being seen; the cells, by lights properly disposed, being capable of being rendered as visible by night as by day.

Thus, we have provision for safe custody; and along with it, five other important purposes are gained. First of all, there is great economy; the vast expense of thick, impenetrable walls, being rendered unnecessary. Secondly, All pretence for subjecting prisoners to the torture and degradation of irons is taken away. Thirdly, No misbehaviour of the prisoners can elude observation, and instant correction. Fourthly, No negligence, or corruption, or cruelty, on the part of the subordinate agents in the prison, can escape the view of their principals. And, Fifthly, No misconduct towards the prisoners, on the part of their principals, can remain unknown to the public, who may obtain a regulated admittance into the inspection tower, and regulated communication with the prisoners.

The persons who are liable to be in prison, for safe-custody merely, are of three classes: First, Persons apprehended, and about to be put on their trial, for the commission of a crime: Secondly, Persons convicted of a crime, and about to receive their punishment: and, Thirdly, Debtors.

Under a good system of law, very little provision would need to be made for these cases. It is one of the essential properties of a good system of law to permit as little time as possible to intervene between the apprehension and trial, and between the conviction and punishment, of a person for a crime. There would never, therefore, be many such persons in any prison at a time. And under a good system of law, there never would be any body in a prison on account of debt.\* This is mentioned merely to show how little, under a good system of law, the apparatus and expense of a separate prison, for this set of cases, would be wanted.

These persons being inmates of a prison, for insuring their presence merely, the question is, What treatment they ought to receive?

Persons in prison before trial, and debtors, are persons of whom nothing is certainly known, but that they are unfortunate. They are, therefore, entitled to all the benevolence which is due to the unfortunate.

What is done for them in a prison must, however, be done at the expense of the community, that is, by sacrifices demanded of those who are not in prison; and those sacrifices ought, undoubtedly, to be the smallest

\* If fraud were committed in contracting the debt, or if the property of others obtained by loan, had been dishonestly spent, or dishonestly risked, such fraud, or dishonesty, being crimes, not a debt, might justly subject a man to imprisonment, or any other sort of due punishment.

possible. The question is, therefore, to be settled by a compromise between the principle of benevolence, and the principle of economy.

The principle of benevolence undoubtedly requires that the health of the prisoners should not be impaired; for this, importing the premature loss of life, is in reality the punishment of death, inflicted upon those to whom no punishment is due.

That health may not be impaired, three things are indispensable:— 1. A wholesome apartment; 2. A sufficiency of wholesome food; 3. Sufficient clothing.

The principle of economy, with equal certainty, exacts, that all those should be of the cheapest kind.

All this is abundantly clear. It is equally clear, that, with respect to those who are in prison for safe custody merely, the principle of benevolence requires, and the principle of economy does not forbid, that they should be free to use any indulgence, which costs nothing, or which they provide for themselves; and that no farther restraint should be placed upon their liberty than what the custody of their persons, and the rule of economy, which prescribes the limits and accommodations of the place, may demand.

Few words will be necessary to show what is appropriate to the case of the man, who is in prison during the interval between his sentence and his punishment.

By the supposition, in this case, his punishment is something distinct from his imprisonment; because, if not, it is a case which comes under another head, namely, that of persons who are in prison for the sake of punishment; and will be fully considered in another part of this discourse.

If he is in prison for detention merely, his punishment, as meted out and fixed by the judge, being something wholly separate, every particle of hardship imposed upon him, not necessary for his detention, is without law, and contrary to law; is as much injustice and a crime, when inflicted upon him, as if inflicted upon any other member of the community. The same considerations, which, as we found above, ought to regulate the imprisonment of debtors, and persons in custody before trial, namely, the compromise between the principle of benevolence and the principle of economy; apply, without the smallest difference, to the case of persons who, during the interval between their sentence and its execution, are in prison for the mere purpose of preventing their escape.

We foresee a difficulty, or rather an objection, for there is really no difficulty in the case.

Persons come into prisons, who have been accustomed, in the preceding part of their lives, to all degrees of delicate and indulgent living; to whom, therefore, the hard fare prescribed by the principle of economy will occasion very different degrees of uneasiness.

Such persons, when in prison for safe-custody merely (what is required when persons are in prison for punishment, or for reformation, will be seen hereafter), may be allowed to make use of any funds, which they may possess, for procuring to themselves all unexceptionable indulgences. They may be also allowed the exercise of any lucrative art, consistent with

the nature of the prison, for procuring to themselves the means of such indulgences. This the principle of benevolence dictates, and there is nothing in the principle of economy which forbids it.

We shall be told, however, that there are persons, who have been accustomed to a delicate mode of living, and who come into prison without the command of any funds, or the knowledge of any art, by which they may soften the hardship of their lot: and we shall be asked what is the course which our philosophy recommends for the treatment of them? The course which it recommends is very clear. Such persons are paupers, and whatsoever treatment is fit for paupers, of the description to which they belong, is fit also for them. If there are any funds, to which as paupers they can apply, the application should be open to them. If there is not any, nor any person to whose benevolence they can resort, the effects of such a destitute situation must be sustained, the same way in a prison, as they must be, when any person falls into it, out of a prison.

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### III.

#### *Means of Punishment.*

II. Having stated what appears to us necessary for illustrating the principles which ought to regulate the imprisonment of those, in respect to whom safe-custody is the end in view, we come, in the next place, to the case of those, in respect to whom, in addition to safe-custody, punishment is to be effected through the same medium.

This subject we shall unfortunately be under the necessity of treating superficially; because, in order to explain it fully, we ought to have before us the whole doctrine of punishment; and, for this purpose, a developement, too extensive for the present occasion, would be required.

This we may assume as an indisputable principle; That whatever punishment is to be inflicted, should be determined by the judge, and by him alone; that it should be determined by its adaptation to the crime; and that it should not be competent to those to whom the execution of the sentence of the judge is entrusted, either to go beyond the line which he has drawn, or to fall short of it.

We have already established, on what seemed sufficient reasons, that for persons confined, on account of safe-custody merely, the cheapest accommodation, not importing injury to health, in respect to apartment, food, and clothing, should alone be provided at the public expense.

Unless in the case of those whom the judge might condemn to lose a portion of their health, by the sufferings of an unwholesome prison, unwholesome food, or improper clothing, this accommodation ought to be afforded, even to those who are placed in prisons for the sake of punishment. And if it should be thought that the loss of health never can be a proper punishment, if it has never been regarded as such even by savages, and is repudiated by every principle of reason, then it follows,

that the accommodations which we have described in the former part of this discourse, as required in the case of prisoners detained for safe-custody, are required in the case of prisoners of every description.

This is a basis, therefore, upon which every thing is to rest. In every rational system of prison management, this is an essential condition. We are now to see in what manner, upon this footing, punishment, by means of imprisonment, is to be effected.

One mode is sufficiently obvious and sufficiently known. The punishment may be rendered more or less severe by its duration. Want of liberty is, in almost all cases, a source of uneasiness; want of liberty, added to the denial of all pleasures of sense, can hardly ever fail to be a source of great uneasiness. A long imprisonment, therefore, with the cheapest accommodation not importing injury to health, must be a severe punishment. This, it is evident, may be graduated to more or less of severity, not only by degrees of time, but of the use of such means as the prisoner might command for procuring accommodations and indulgences.

To this imprisonment may be added solitude. But though we mention this, as a practicable addition to simple imprisonment, it is well known how little, unless for short periods, and on very particular occasions, it is to be recommended.

The modes, which lately have been most in repute, of adding to the severity of simple imprisonment, for the purpose of punishment, have been two; 1st, Hard labour; and, 2dly, Bad prisons, with bad management in those prisons.

1. The species of labour which appears to have obtained the preference is that of treading in a wheel.

If a criminal in a prison is ever to be let out again, and to mix in society, it is desirable that nothing should be done, and least of all done on purpose, to make him a worse member of society than when he went in. There cannot be a worse quality of a punishment, than that it has a tendency to corrupt and deteriorate the individual on whom it is inflicted; unless, indeed, he is a prisoner for life; in that case, people of a certain temper might say, that making worse his disposition is a matter of little importance; and to them we have no time to make any reply.

Most of those persons who come into prison as criminals, are bad, because they have hated labour, and have had recourse to other means than their industry of attaining the supply of their wants and the gratification of their desires. People of industry, people who love labour, seldom become the criminal inmates of a prison.

One thing, however, is pretty certain, that men seldom become in love with their punishments. If the grand cause of the crimes which have brought a man to punishment is his not having a love but hatred of labour; to make labour his punishment, is only to make him hate it the more. If the more a man hates labour, the more he is likely to act as a bad member of society; to punish a man with labour, and then to turn him out upon society, is a course of legislation which savours not of the highest wisdom.



Besides, in treating labour as an instrument of punishment, call it *hard* labour, if you will, what sort of a lesson do you teach to the industrious and laborious class, who form the great body of your people? to those whose lot is labour, whose lot is hard labour, harder than any which it is in your power to impose? What compulsory labour is so hard as many species of voluntary labour?

As an instrument of reformation, labour, as we shall presently see, is invaluable. As an instrument of punishment, hardly any thing can be conceived more exceptionable. That which is the source of all that mankind enjoy, that which is the foundation of every virtue in the most numerous class of the community; would you stamp with ignominy and dishonour, by inflicting it as a punishment upon the worst and basest of your people? Is this your expedient for rendering it, what every wise legislator would wish to render it, honourable, and thence desirable?

There are other objections, perfectly decisive, against labour as a punishment. It operates with more inequality than almost any other instrument of punishment that ever has been invented. The same degree of labour would kill one man, that to another would be only a pastime. From this source we may apprehend the most horrid abuses, in the continuance of those tread-mills. We may be very sure, that the most atrocious cruelty will often be inflicted upon those who, with strength below the average standard, are placed in those penal engines; while, in the case of those whose strength is much above that standard, they will hardly operate as a punishment at all.

It is impossible that the judge can measure out this punishment; because the judge has not the means of ascertaining the relative strength of the parties who come before him. It must, therefore, be left to the jailor. The jailor, not the judge, will mete out and determine the degree of suffering which each individual is to undergo. The jailor, not the judge, is the man who adapts the punishment to the crime. Hence one of the stains which mark a careless and stupid legislation.

It is a far inferior, though still no inconsiderable proof of a blundering legislation, that the labour, if labour it must be, is not of such a sort as to be useful. The turning of a wheel, by human labour, when so many better means of turning it are possessed in abundance, is destitute of even this recommendation. It stands upon a similar footing with the contrivance of the jailor, whom Mr. Bentham celebrates: "We are told somewhere," he says, "towards the close of Sully's *Memoirs*, that for some time after the decease of that great and honest minister, certain high mounds were to be seen at no great distance from his house. These mounds were so many monuments of his charity. The poor in his neighbourhood happened to have industry to spare, and the best employment he could find for it was, to remove dirt from the place where it lay to another where it was of no use. By the mere force of innate genius, and without having ever put himself to school to learn economy of a French minister, a plain English jailor, whom Howard met with, was seen practising this revived species of pyramid architecture in miniature. He had

got a parcel of stones together, shot them down at one end of his yard, and set the prisoners to bring them to the other; the task atchieved, Now, says he, you may fetch them back again. Being asked what was the object of this industry, his answer was, 'To plague the prisoners.'" In a note on this passage, Mr. Bentham says, "I beg the jailor's pardon; what is above was from memory; his contrivance was the setting them to saw wood with a blunt saw, made blunt on purpose. The removers of mounts were a committee of justices."

2. Bad prisons, and bad management in those prisons, is a mode of punishment, the recommendation of which has lately been revived, after we might have hoped that, in this country at least, it was exploded for ever. The language of such recommendation has, on several recent occasions, been heard in Parliament; and an article on Prison Discipline, which lately appeared in the *Edinburgh Review*, cannot, if the writer is to be considered as speaking in earnest (which, perhaps, may be doubted), be interpreted in any other sense. Even the Committee of the Society for the Improvement of Prison Discipline have not been able to withstand the force of what they may have supposed to be fashionable doctrine. In their *Fourth Report*, lately published, which we are sorry to say evinces more of good intention, than of enlightened views for its guidance; they say, "No charge can be more mistaken and unfounded, than that the plans recommended by this institution are calculated to introduce comfort into gaols. The committee are of opinion, and have always contended, that severe punishment must form the basis of an effective system of prison discipline;" thereby confounding two things, punishment, and prison discipline; things totally distinct; and between which, it is of so much importance to preserve the distinction, that without preserving it not a rational idea can be entertained about either.

No doubt crimes must be punished. Who needs instruction upon that head? But when the judge has prescribed, that, in a particular way, which he points out, a particular measure of pain shall be inflicted upon an individual; and when the individual is taken, and made to sustain the operations through which the pain is generated; what has this to do with the discipline of the prison? It is an act or series of acts, *sui generis*; acts not forming any part of the ordinary course of prison management; acts which would not have taken place, which ought not to have taken place, if the judge had not commanded them, and which were performed solely and exclusively in obedience to his commandment. This is the nature of punishment,—other punishment than this there ought to be none.

The committee would make severe punishment the basis of prison discipline! What business have the committee with punishment? The assigning of punishment the legislature have given to other and fitter hands; to those who take cognizance of the offence, and alone ought to measure the punishment. Saying they would make punishment the basis of prison discipline, what do they intend by this ill-contrived expression? Do they mean, that their jailor shall hold the scales, and weigh out the

proper quantity? If not, how are they to be understood? for if not the jailor but the judge is to weigh, and the jailor is to do nothing but punctually carry the prescription of the judge into execution, then is punishment, in no proper sense of the word, any part of prison discipline. It is a separate operation, performed on a particular occasion, because prescribed by the judge, and in the exact manner in which the judge has prescribed it. If it is, on the other hand, a part of prison discipline, then all the horrid consequences, inseparable from making the jailor the judge and meter of punishment, present themselves to the imagination; and he who can endure to look at them may dwell upon the picture of a prison, wherein the poor will not be more comfortable than at home, nor by the charms of imprisonment enticed to the commission of crimes.

Nothing can more clearly indicate that vulgar state of mind, which consists in confusion of ideas, than the vague language which we hear about the necessity of making prisons the seats of wretchedness, that crimes, they say, may not receive encouragement.

We have already seen, that, unless it is part of a man's punishment, expressly ordained, that he shall lose a portion of his health; that is, that his life shall be cut short; that is, that along with a portion of torture, he shall receive a capital punishment; a wholesome apartment, a sufficiency of wholesome food, proper clothing, all of the cheapest kind, must be provided for every body. When people talk about making prisons seats of wretchedness, do they mean something worse than this?

Many of them will no doubt answer; Yes, we mean hard labour in addition. We ask again, Do you mean hard labour, according to the prescription of the judge, or without the prescription of the judge? If according to the prescription of the judge, the case is the same with that which we have previously examined. This instrument of punishment is exceptionable, only because it is a bad instrument.

The whole matter evidently comes to this. If more wretchedness is desired than what is implied in confinement under the worst accommodation which the preservation of health admits, it must be meted out, either at the pleasure of the jailor, or the pleasure of the judge. The writers in the *Edinburgh Review*, and the Committee of the Society for the Improvement of Prison Discipline, speak as if they had never reflected upon the difference.

We do not mean to bestow a word upon that theory, which, for the prevention of offences, would make prisons scenes of wretchedness at the pleasure of the jailor.

The only question which can deserve a solution is, what mode of inflicting evil in a gaol can the judge make use for best attaining the ends of punishment? The answer is not difficult. Unless, where that course of reformatory discipline, which we shall delineate under the next head, suffices; and we allow, that, though it may be made to involve no small degree of punishment, there are cases in which it would not suffice; it will certainly appear, that prisons are not the best instruments of punishment.

A single consideration suffices for the proof of this proposition. Punishment in a prison loses the grand requisite of a punishment, that of engendering the greatest quantity of terror in others, by the smallest quantity of suffering in the victim. The principal, perhaps the sole end of punishment, is, to restrain by the example; because, with respect to the individual whom you have got, if you think society in any danger from him, you can keep him in sight, and no more is required. Yet, the language we hear about the tread-mill, and hear from mouths of high persons, implies, that hardly any thing more is in their minds, than the effect upon the individual sufferers. "Nothing finer than the tread-mill; a fellow who has been in the tread-mill never comes back again." Be it so, but by your leave, this is a very insignificant part of the question.

The choice of expedients, for obtaining the punishment best adapted to the several cases for which a course of reformatory discipline does not suffice, belongs to another head of inquiry, and must, for the present purpose, be regarded as determined. All that it is necessary for us to show here is, that a prison is not the proper scene for it, nor the instruments of a prison the proper instruments. To render a punishment the most efficacious in accomplishing the great end of punishment, it must be a punishment calculated to make the strongest impression upon the senses, and, through the senses, upon the imagination, of the public at large; more especially of that part of the public who lie under the strongest temptations to the commission of similar crimes. But the punishments inflicted in a prison are withdrawn from the senses of the public, and seem as if they were intended to make the smallest possible, not the greatest possible, impression upon the imaginations of those who are to be deterred from crime. They are defective, therefore, in the most essential quality of a punishment, and can always be supplied by better means of attaining the same end.

The proper idea of a prison is that of a place of custody, and that alone. This idea ought to be clearly, and distinctly, and steadily preserved in the mind, in all disquisitions respecting prison discipline. Punishment and reformatory discipline may be annexed to safe custody; and in as far as they consist of a series of operations, requiring time for their performance, it is essential to them. As reformatory discipline consists wholly in such a series, imprisonment is a necessary condition of it. Since many, also, of the best kinds of punishment are not such as can be executed all at once, but require a period of time, imprisonment is equally necessary for these punishments. But though you must have safe-custody to enable you to execute certain punishments, and also to enable you to carry into effect a course of reformatory discipline, safe-custody is not the same thing with punishment, nor the same thing with reformatory discipline; and no conclusions can be depended upon, in which ideas so distinct are confounded.

## IV.

*Reformatory Discipline.*

III. Having thus considered prisons, as instruments of safe-custody, and as instruments of punishment; two of the purposes to which they have been applied as means; it remains, that we consider them, as instruments of reformatory discipline, the third of the purposes to which they have been applied.

It is necessary, first of all, to state a clear idea of reformatory discipline.

When offences, against which it is necessary that society should have protection, are committed, it is desirable that the punishment of the offender should have three properties; 1st, That it should deter all other persons from committing a similar offence, which is its most important property. 2dly, That it should have the effect of deterring the man himself from a repetition of the offence. 3dly, That it should have the effect of removing his former bad habits, and planting useful habits in their stead. It is this last property which is sought to be communicated to his punishment by reformatory discipline.

As the creating and destroying of habits is the work of time, and as safe-custody, and restraint from all indulgences, except under certain conditions, is necessary to reformatory discipline, whatever punishment is involved in such protracted coercion, is a necessary part of reformatory discipline.

What is desired is, to create a habit of doing useful acts, break the habit of doing hurtful acts. To accomplish this, means must be obtained of making the individual in question perform certain acts, abstain from the performance of certain other acts.

The means to be employed for producing performance cannot be of more than two sorts; the pleasurable, and the painful. A man may be induced to perform certain acts, either by punishment, or reward. He may be made to abstain from performing certain acts by an additional means, by withholding the power of performing them.

The latter is the means chiefly applicable for preventing the performance of hurtful acts in prisons; not only crimes, but acts of intemperance, gaming, or any others, the tendency of which is towards crimes. As this is nearly the universal practice, the reasons of it must be so generally known, as not to need repetition.

The inquiry which chiefly calls for our attention is, What are the best means of producing the performance of those acts, the habit of performing which we desire to render so perfect, that it may be relied upon for the effect, even in a state of freedom?

The persons on whom reformatory discipline is intended to operate, belong to the class of those who depend upon their industry for their support. So nearly, at least, do they belong to this class exclusively, that the immaterial exceptions may, in this general inquiry, be omitted.

The necessary foundation, in the case of such persons, not only for all

virtues, but for abstinence from crime, is the habit of performing some one of those series of acts, which are denominated lawful industry, and for which the performers obtain payment or reward.

Labour, therefore, in some of its useful branches, is to be regarded as the foundation of all reformatory discipline. But as the object of this discipline is to train the man to love, not to hate labour, we must not render the labour in such a case any part of his punishment. The labour must, for this important purpose, be a source of pleasure, not of pain.

The way in which labour becomes agreeable to men out of a prison, is the way in which it can be made agreeable to them in a prison; and there is no other. Advantages must accrue from the performing of it.

The way of attaching to it advantages the most intensely persuasive, in a reformatory prison or penitentiary, is exceedingly obvious.

There, it is easy to prevent the attaining of any pleasure, except through the medium of labour.

What is provided in the prison, according to the principles already explained, is lodging, food, and clothing, all of the very cheapest kind not producing injury to health. In the monotony of a prison, there is no one who will not intensely desire pleasure in addition to this.

In the sentence of a criminal, who is subjected to reformatory discipline, it may, and as often as the case requires, it ought, to be rendered a part, that he shall not be permitted to make any additions to this hard fare from any source belonging either to himself or others, except his labour; but that what he earns by his labour he may, in a certain way, lay out to procure to himself better food, or any other indulgence (certain hurtful ones excepted) which he may desire. Few cases, indeed, will be found in which this simple contrivance will not produce steadiness of application.

We have now then attained what is of principal importance. For if we have got the inmates of a prison to labour steadily in some useful branch of industry, to look to labour as the great or only source of their enjoyments, and to form habits of so doing, sufficiently confirmed to be depended upon for governing their conduct in a state of freedom, we have prepared them for being useful members of society, and our purpose is accomplished.

Here, then, comes the question, By what arrangements, in detail, can the business of confining, maintaining, and setting offenders to work, be most advantageously performed?

In other words, In what hands should the government of penitentiaries be placed, and under what rules should it be ordained for them to act?

It is an universal axiom in morals, that no security is equally to be depended upon for any desirable result, as the interest of those upon whom its accomplishment depends. If, in devolving upon a man the task of bringing about a particular end, we make it his interest to bring it about in the best possible manner, especially if we make it his interest in any high degree, we can hardly be disappointed in counting upon his most strenuous exertions. On the other hand, if he has no interest, or a very inconsiderable interest, in the end which he is intrusted to bring about;

if little cognizance will be taken of his proceedings, whether good or bad; if to attend to the business would be exceedingly troublesome, to neglect it will produce little inconvenience; we may be very sure that, by a great majority of men, the business of the task devolved upon them will be very imperfectly performed. If they can make a profit out of oppression, or if, as is the case to so great a degree in prisons, they can consult their ease by imposing additional and mischievous restraints upon the prisoners, their interests are strongly set against their duties, and ill conduct is still more perfectly secured.

This last, how deplorable soever the confession, is the state of management of all British prisons, with hardly any exception. There is a jailor, who receives a salary and power; and is told to manage the prison well; and there is a number of justices, that is, gentlemen of the neighbourhood, who obtain not a little power, and a great deal of praise, for undertaking to do certain public duties of a local nature, with little interest in doing them well, and no little interest in doing them in many respects exceedingly ill, who have the charge of looking after him. Varieties we cannot afford to particularize. This is the general description.

The management, then, of the prison, is the joint concern of the jailor and the justices, or magistrates, including sheriffs, who, jointly or severally, have no such interest, as can be expected generally to produce any considerable effect, in any thing more than such a kind of management as will not excite attention and indignation by its badness. All the degrees of bad management, which are within those limits, they, having little or no interest to prevent, have abundant interest to permit.

It is surely not necessary, that we should go far into the detail of this case, to show the causes which it places in operation, and their natural effects.

First of all, it is sufficiently evident, that the jailor has an interest in obtaining his salary, and other emoluments, with as little trouble to himself as possible.

It is not less evident, that the magistrates have an interest in getting the power and credit, attached to their office, with as little trouble to themselves as possible.

This is enough. The book of human nature is clear upon the subject. This principle, at uncontrolled work in a prison, is perfectly sufficient to generate all the evils which those abodes of misery can be made to contain.

It is undeniable, that so far as those, who thus have the superintendance of jailors, are disposed to consult their ease, and to perform negligently a troublesome duty, which they may perform well or ill, just as they please, so far they will be indisposed to listen to any complaints against the jailor. It saves them a good deal of trouble to confide in the jailor. They speedily come, therefore, to look upon confidence in the jailor, and to speak of it, as a good thing, a duty. "Has not the jailor been most carefully and judiciously selected for his office, by wise and good men? (viz. ourselves). Would it not be an injury to a man of his

character to distrust him? And to distrust him—for what? For the complaints of prisoners. But prisoners are always complaining, always giving trouble. Jailors are a good set of men. Prisoners are a bad set of men; especially complaining prisoners. They are the very worst kind of men;—they are, therefore, to be silenced; and it is often very difficult to silence them; nothing but harsh measures will do it; when harsh measures, however, are absolutely necessary, it is the duty of jailors to use them, and the duty of magistrates to protect such men in the discharge of so important a duty.”

Such are the feelings and conclusions which are undeniably prompted, by the mere love of ease, in the bosoms of such men as English magistrates.

So far as the magistrates consult their ease (men generally do consult their ease when they have not a preponderating motive to the contrary), the jailor is at liberty to consult his ease.

In the jailor's consulting his ease, every thing that is horrid in a prison finds its producing cause.

What the jailor has chiefly to guard against is, the escape of his prisoners, because that is a result which cannot be hidden, and will not escape animadversion. But the love of ease prompts him to take the easiest means for this purpose, locking up in dungeons, loading with irons, and prohibiting communication from without: in other words, all the measures which are the most tormenting to the prisoner. If the prisoner, confiding in his ingenuity or his strength, makes any attempts to free himself from this misery, by escaping, the disturbance which is thus given to the ease of the jailor is a cause of pain, proportional to the love with which he cherishes his ease; this pain, excites resentment, resentment calls for vengeance, and the prisoner is cruelly punished. The demon despotism reigns in his most terrific form.

This is only one half of the evil. The servants of the jailor, the turn-keys, as they are called, and others who wait upon the prisoners, are as fond of their ease as the jailor is of his. If the jailor has not adequate motives to make him take care that the business of the prison is well done, he will repose the same confidence in his servants, which the magistrates so liberally exercise towards him. He will leave them to indulge their ease, as he could not do otherwise without disturbing his own.

From the servants of the prison indulging their ease, neglect of the prisoners is the immediate and unavoidable consequence. From neglect of prisoners, that is, of men placed in a situation destitute of all the means of helping themselves, all those evils, which, in another situation, could be produced only by the most direful oppression, immediately ensue.

By the servants of a gaol, cherishing their ease, and left by their superintendents, to do so, every call of a prisoner for help, for relief from any annoyance, is felt as an injury, and resented as such. Cruelty speedily comes, as a co-operator with neglect, to fill up the measure of the prisoner's calamity.



The prisoner, finding himself destitute of all remedy, except he can prevail upon the people who approach him to remove some of the causes of the misery which he endures, has recourse to bribery, when he can possibly command the means; and then pillage, without limit and without mercy, is added to all the evils of this den of horrors.

If such are the consequences of entrusting the management of prisons to persons who have no interest, or not a sufficiency of interest, in good management, we have next to consider the important question, By what means a sufficiency of interest in good management can be created? We need not have any doubt, that if a sufficiency of good accrues to the managers from every particle of good management, and a sufficiency of evil from every particle of bad, we shall have as much as possible of the good, and as little as possible of the evil.

1. The grand object, as we have stated, of reformatory discipline is, to create habits of useful industry.

2. A second object is, to preserve the health of the prisoners, and impose upon them no suffering, not implied in the conditions of their confinement, or prescribed by the judge.

3. A third is, by moral and religious tuition, to generate and strengthen good dispositions.

4. A fourth is, to attain those ends at the smallest possible expense.

It is not difficult to give the manager or keeper of a reformatory prison or penitentiary, a very strong interest in all these important results.

We have already seen, that the mode of giving to the prisoner a motive to labour, is, by giving him a share in the produce of his labour.

It is evident that an equally certain mode of giving to the jailor a motive for obtaining as much of that labour as possible, that is, for doing all that depends upon him to make the prisoners labour as much as possible, and as productively as possible, is by giving him also a share in the produce of their labour.

It may be said, however, that if the jailor receives a share of the labour of the prisoners, he will have a motive for making them labour too much: labour may be so excessive as to equal the severest torture.

Effectual expedients, however, for the prevention of this evil, are easy and obvious. In the first place, it does not seem necessary that the labour should be in any degree compulsory. If a prisoner is, according to the rule above laid down with respect to the cheapest fare, confined to the coarsest kind of bread, and to water, if he does not labour, but has it in his power to add to his enjoyments by labouring, more especially if he may labour in company, but if he will not labour, must remain in solitude, the cases will be exceedingly few in which compulsion will be needful; and these might, if it were deemed of sufficient importance, be specially provided for by the legislature.

If a man may work, or not work, as he pleases, and much or little as he pleases, there is no need of any farther security against excessive labour. If there were, it would be afforded by the interest which it is easy to give to the jailor in the health of the prisoner.

Giving to the jailor a share in the produce of the labour of a prisoner has two happy effects; not only that of giving him an interest in rendering the value of that produce as great as possible, but that, also, of giving him an interest in the health of the prisoner, because the produce of a man's labour is greater when he is in health than when he is not.

This may be increased by giving to the jailor, through a very obvious channel, an interest, and an interest to any amount, in the life of each prisoner. It being ascertained what is the proportion of persons of a similar age that die annually, when not confined in a prison, all that is necessary is, to entitle the jailor to a sum of money for each of the individuals above that proportion whom he preserves alive, and to make him forfeit a sum for each individual above that proportion who dies. This sum, it is evident, may be sufficiently high, to ensure, on the part of the jailor, a strong desire for the life, and thence a proper attention to the health of the prisoners.

Another particular in this case requires attention. It is obvious, that the motive of the prisoner to render the quantity or value of his labour the greatest, is, when the share which he enjoys of it is the greatest. It is equally obvious, that the motive of the jailor to promote the augmentation of this quantity or value is the greatest when his share is the greatest.

If the whole of the produce of the labour of each of the prisoners were left to be divided between himself and the jailor, the motives of the two parties, taken jointly, would be at the highest. And the question then would be, according to what proportion should the division be made?

The peculiar circumstances of this case permit the most decisive answer to be returned. No evil can accrue, and every good purpose is best gained, by allowing the jailor to take as much as he pleases. It being first established that he can employ no compulsory methods, that the prisoner must have as much of the coarsest fare and accommodation as he needs, whether he works or not, and that work can thus be obtained from him only by the operation of reward, it will be the interest of the jailor to make his reward sufficiently high to obtain from him all the work which he can perform, and, in his situation as a criminal, he ought, generally speaking, to receive no more. The propriety of this regulation, therefore, rests on conclusive evidence.

Here, however, an objection, worthy of attention, occurs. If the jailor receives so great a proportion of the produce of the labour of the prisoners, he may receive a much higher remuneration than the nature of his duties requires; and so far the public is deprived of a fund which ought to be available for the public service.

This observation is true; and the question is, in what manner can the separation of what is necessary in remuneration of the jailor, and what should be detached for the benefit of the public, be most advantageously made?

If the situation of the jailor affords more than an adequate reward, he will be willing to give something annually in order to retain that situation.

And for measuring exactly what he ought to give, there is a sure and a well tried expedient: it is, to lay the thing open to competition.

By this expedient, a double advantage is gained: for both the public receives as great a share of the produce of the labour of the prison, as is compatible with the due remuneration of the jailor; and the jailor, he being entitled, in the first instance, to share the whole of the produce with the labourers, having both to pay what he owes to the government, and obtain his own remuneration out of his share, has a motive as strong as if the whole were his own, to render the produce as great as possible.

It will easily be seen that this contract between the public and the jailor, if sufficient securities can be taken for its being cancelled, as soon as misconduct on his part should render it desirable that it should be so, ought, for important reasons, to be concluded for a considerable number of years, or for his life. It is of importance that those individuals, who are to undergo the reformatory discipline, and who are unacquainted with any trade, should, especially if they are young, be taught the trade in which their labours can be turned to the greatest account: and, to make it the interest of the jailor to have them taught, it is evident that he must have the prospect of enjoying the benefit of their skilled labour for a sufficient length of time. This short illustration we hope will suggest to the reader sufficient reflections, for evidence on this point; and we must hasten to the remainder.

We have now shown, to how great an extent, upon the plan which we have thus briefly sketched, the interest of the jailor is rendered co-incident with the ends which are in view, and the most effectual of all securities is obtained for the goodness of his management. We proceed to show what additional securities this plan enables us to provide.

Let us, first of all, attend to the power of inspection, which may be afforded in a degree altogether unparalleled. By the admirable properties of the building which we have recommended, not only is the conduct of the prisoners rendered wholly transparent to the jailor, but the conduct of the jailor may be rendered equally transparent to his inspectors. And as the central lodge, or tower of inspection, may be entered by any number, without giving the least disturbance to the prisoners, without their even knowing that any body is there, the public may be admitted on such terms, as to afford the full benefit of public inspection,—the most efficient of all inspections,—over the whole economy of the prison. By means of whispering tubes, oral communication might be permitted with the prisoners, at such times, and under such regulations, as would prevent it from interfering with the working hours, or other parts of the discipline, to all persons who might have a wish to hear if they had any complaints.

Another very simple expedient would make an important addition to the list of securities. It ought to be an obligation on the jailor to keep a book, in which all complaints of the prisoners should be entered, and, as often as they could write, signed with their names. Along with the complaint should be entered a statement of what had been done for removing the ground of the complaint, or of the reasons for doing nothing. And

this book should be open to the perusal of the public, and should lie in a place convenient for the inspection of all the visitors of the prison.

A still more important and indispensable security would be, the obligation of the jailor to present, annually, to the principal court of justice, such as the Court of King's Bench in England, a report on the management and state of the prison during the preceding year, containing, with all other points of useful information, exact accounts of the receipts and disbursements; to verify those statements by his oath; to print and publish them at his own expense; and to answer, upon oath, all interrogatories, made to him, in open court, by the judge, or by any other person, how much soever the answer might tend to his own crimination; and this as often as the judge might call upon him for such a purpose. By this means, with the obvious security afforded for other still more important ends, so perfect a knowledge would be communicated of the gains of the jailor, and the mode of obtaining them, as would ensure an accurate bargain, rigidly proportioned to the amount of them, as often as the contract came to be renewed.

The last thing which we think it necessary to recommend in the shape of a security, would operate as a test of the efficacy of the management in its character of a reformatory discipline. The jailor should be held bound to pay a certain sum, varying in proportion to the length of time during which the prisoner had been subject to his discipline, for each of the prisoners who, after liberation, should be convicted of a crime.

Connected with the important part of the subject relating to the labour of the prisoners, it is proper to bring to view the advantage of a subsidiary establishment for receiving and employing those who might be liberated from the prison. It is a well known ground of lamentation, that persons liberated from a prison, find often great difficulty in obtaining employment, and are constrained, by a kind of necessity, to betake themselves to their former evil courses, though with the inclination to have devoted themselves to honest industry, had the means not been denied them. The best mode of obviating this great evil would be, to have a subsidiary establishment, the architectural form the same as that of the prison, in which the jailor should be obliged to receive all persons who have been liberated from the prison, and who make application for admittance, and to employ them on the same terms as the prisoners, with the single exception of its being in their power to remove when they please, and to make, in respect to terms, all such stipulations with the jailor as may be for their mutual advantage.

The next part of the subject to which we proceed, is the plan according to which the prison shall be supplied with the articles which the prisoners are enabled by their labour to purchase.

As there are certain articles, such as intoxicating liquors, which ought to be altogether withheld, unless for special reason permitted, and as the jailor could not have a sufficient command over the articles conveyed into the prison, unless he had, in his own hands, the power of supply; as the intercourse, also, which would be created with strangers, if the prisoners

were at liberty to purchase of whom they pleased, would be incompatible with the discipline of the prison, the power of supplying articles of purchase to the prisoners ought to be confined to the jailor.

If it be objected that the jailor would thus have the power of oppressing the prisoners, by selling bad articles, or good articles too dear, the answer is, That he could not. We have already seen, that in order to derive from the prisoners the greatest quantity of profit to himself, he must give to them a reward for their labour sufficient to make them labour to the most profitable account. But if he sells articles to them at more than the usual price, this is merely a reduction of the reward left to them for their labour: this he cannot reduce beyond a certain point, without reducing the amount of his profit; and any greater reward than up to this point, the nature of the case renders undesirable.

We have now then stated all that seems necessary to be said on the three great subjects; 1st, Of the structure and form of the prison; 2dly, The securities which may be applied for obtaining good conduct on the part of the jailor; and 3dly, The first and principal part of reformatory discipline, namely, voluntary labour.

The remaining conditions of reformatory discipline will not require much explanation.

1. Separation, as far as concerns the sexes, and as far as concerns the good from the bad, is now so generally attended to as an object of importance, that the danger sometimes is of other things being too much overlooked in the comparison.

In a prison, such as we have described, in which, by means of moveable partitions, the cells may be enlarged or contracted at pleasure, and in which the prisoners are all under continual inspection, the power of separation, to any desired extent, is complete.

The two sexes, though inmates of the same prison, and simultaneously subject to the same inspection, may be as completely disjoined as if they were inhabitants of a different region. By a piece of canvas, and nothing more costly, extended in the form of a curtain, from the boundary on each side of the female cells, in the direction of a radius across the central area to the inspection lodge, the females would be as completely cut off from seeing, or being seen by the male prisoners, as if they were separated by seas and mountains; the same effect would be obtained as to hearing, by merely leaving a cell vacant between those of the males and females; and thus the space appropriated to each of the two sexes might, in the easiest manner, be diminished or enlarged, as their relative numbers might require.

A much more complete and desirable separation, than that which is aimed at as the utmost in other prisons, is easily attainable in this. The ordinary separation of young offenders from old, of the greatly corrupted from those who are presumed to be less deeply infected, is still apt to leave associations too promiscuous, and too numerous, not to be unfavourable to the progress of reformation.

The prisoners should be put together in companies of twos, and

threes, and fours, seldom more; each company occupying a separate cell. It would be the interest of the jailor to put them together in such assortments as would be most conducive to the quantity and value of work they could perform, and to the goodness of their behaviour; that is, to the most perfect operation of the reformatory discipline: and his experience of their dispositions and faculties would of course fit him beyond any one else for making the selection.

It will have been all along understood, that, to attain the ends of inspection and economy, the same rooms or cells which form the day and working rooms on our plan, form also the sleeping rooms. Not the smallest inconvenience from confusion of things in the apartment can thence be derived; because the hammocks, which would be more convenient than beds, could be stowed away in little compass during the day.

It is also to be particularly observed, that whatever degree of seclusion might either be indulged to the feelings of an individual, or might be deemed conducive to his mental improvement, might still, upon this plan, be easily secured; because, by means of screens, a portion of the cell might be formed into as many private apartments as might be desired; and where experience of good conduct had laid a foundation for confidence, periods of seclusion, even from the eye of the inspector, might be allowed.

2. Nothing of great importance to be mentioned in this summary sketch seems now to remain, except schooling, and religious instruction.

The Sunday is the appropriate period for both. Sunday-schools are found by experience to be sufficient for communicating to children the important arts of reading, writing, and accounts. It would be obligatory on the jailor to afford the means of instruction in these respects to every prisoner who might not have attained them; together with all other means, not incompatible with the case, of promoting their moral and intellectual improvement.

3. The religious services proper to the day, and such other devotional exercises as might be thought requisite on other days, would be conducted by the chaplain, the prison affording remarkable facilities for bringing all the prisoners into a situation conveniently to hear; and also, which would be a circumstance of great importance, bringing the public from without, to participate in the religious services of the prison, for whom temporary accommodation in the vacant central area might be provided, and to whom, by the charms of eloquence and music, and the power of curiosity, it would be the interest of the jailor, by letting the seats, to provide sufficient attraction.

It seems to be necessary, before concluding, to obviate an objection, which, though it has seldom been urged as a reason against reformatory discipline, is yet considered as requiring a great deduction to be made in the estimate formed of its advantages. The objection is, that, by affording the means of employment to prisoners, we take away those means from a corresponding number of persons who are not prisoners, and thus sacrifice the deserving to the worthless.

This objection is drawn from some of the conclusions of Political Economy. That which affords the means of employment to labour is capital; in other words, the means of subsistence to the labourer, the tools he works with, and the raw material on which he is employed. When labourers are too numerous for the means of employment, it is evident that, if any new ones are added to the number, you can give employment to them only by taking it away from the old ones. It is, therefore, said, that by giving employment to prisoners, we make an equal number of honest workmen paupers.

In this objection, however, as is generally the case with false reasoning, a part only of the essential circumstances, not the whole, is taken into the account. In the first place, with regard to the prisoners, one principal part of the capital which puts labour in motion, namely, subsistence, is afforded to them of course, whether they labour or not.

In the next place, the objection proves too much: for, if it would be better, for the sake of affording employment to others, that the man should do nothing in prison, it would equally be better that he should have done nothing out of prison; better that we should have a portion of our population useless than productive. According to this doctrine, the proper rule, whenever population exceeds the demand for labour, and wages are low, would be to give subsistence to a portion of the people, on the condition of their abstaining from labour.

Thus much of the allegation is true, namely, that when to the subsistence, which you would have given at any rate, you add tools and raw materials, you so far diminish the quantity of tools and raw materials which can be furnished to others. But, counting only this circumstance, another most important circumstance is left out of the computation. This deduction of tools and raw materials is made once for all. The productive labourer replaces the capital, which employs him, with a profit. Advance to him, for one year, the food and other articles which he needs, you never need to advance any thing more. What he produces in the course of the year, replaces the food and all other articles which he has used, with a profit. But if he has not laboured, he has produced nothing; you have to supply him, therefore, with the means of subsistence, not one year, but every year, from the produce of other men's labour. If he labours, you have to give him once, out of the general stock of means for the employment of labour, subsistence for a year, with tools and raw material, and you have no occasion to give him any more. If he is to be idle, you give him, it is true, only subsistence, without tools and raw material, the first year; but you have to give him subsistence, that is, so far to diminish the means of employing other men's labour, every year; whereas, if he is a productive labourer, for the advance which you make to him the first year, he not only exempts you from all farther deductions from the means of employing other men, but he every year adds to those means, by the whole amount of the profit made upon his labour. To make those persons, therefore, productive labourers, whom you must at

any rate subsist, is to increase, not to diminish the means of employing others.

As to another objection which is sometimes offered, that the commodities produced in a prison glut the market, and injure other manufacturers, this is still more evidently founded upon the consideration of part of the determining circumstances, without consideration of the remainder. If it is meant to apply not to one class, or two classes of commodities, but to the mass of commodities in general, it may instantly be seen to be untrue. The men who become sellers of the articles produced in a prison, become buyers to the same amount. Whenever a man sells a greater amount of articles than before, he gets the means of buying an equally greater amount. He always brings as much of a new demand into the market as he brings of a new supply. If he introduces more of some one commodity than the market requires, and reduces the profits on producing it, capital leaves that employment till the inequality is redressed. If the number of people is the same, and the quantity of commodities is increased, it is a contradiction in terms, to say that the circumstances of such a people are not improved.

Having answered these objections, it does not occur to us that there is any thing more which in this outline it is necessary for us to add. The plan, both of construction and management, appears to us simple, and easy to be understood; and to offer securities for the attainment of the end, such as the imperfection of the human powers, seldom permit to be realized. In the delineation presented, the only merit we have to claim is that (if our endeavour has been successful) of adding perspicuity to compactness. There is not, we believe, an idea which did not originate with Mr. Bentham, whose work ought to be the manual of all those who are concerned in this material department of public administration.

(F. F.)