

with great caution. One criminal will not see why he should not obtain pardon as well as another for the same or a similar reason." After reading this over, we were astonished to find that of the 30 pardons granted during the year ending on the 30th of November, 1836, fifteen had been granted upon recommendation of the directors themselves, (see pages 49, 50 of testimony) and we were still further astonished to find, on examining the records of pardons in the Council Chamber, that one of these fifteen had *twice before received Executive clemency!*

The executive in most governments is properly clothed with the pardoning power. Policy forbids any interference with the existence of the prerogative although too much care and caution cannot be used in its exercise. We deem it not within the scope of our duties to propose any alteration of the penal code, except so far as the management of the penitentiary, and its effects on convicts may be concerned, else we would make some specific recommendation to carry out the views expressed in the following extracts, to which the attention of the Legislature and the Governor is most earnestly invited. It needs no legal enactment, if the power be exercised only in the cases here mentioned.

In Beccaria on crimes we read, "as punishments become more mild, clemency and pardon become less necessary. To show mankind that crimes may be pardoned, or that punishment is not the certain necessary consequence, is to nourish the flattering hope of impunity. Let the *Executive* be inexorable, but let the *law* be tender, indulgent, and humane."

To the same point we may quote Dr. Rush who says, "where punishments are excessive in degree, or infamous from being public, a pardoning power is absolutely necessary. Remove the severity and public infamy, and a pardoning power ceases to be necessary in a code of criminal jurisprudence; nay, further, it is such a defect in penal laws as in some degree defeats every invention to prevent crimes, or to cure habits of vice."

To these authorities may be added the opinion of Dr. Mease, of Philadelphia, who has devoted much time to the subject of prisons and prison discipline, and may be relied on for his correct judgment, and in his words we recommend that "no pardon be granted except in the following cases—proofs of irregularity of conviction or deficient testimony; the occurrence of circumstances tending to diminish the enormity, or lessen the probability of the crime for which the conviction had taken place, and mere circumstantial evidence." Except in these cases a pardon should not be granted on any terms. They are never granted at the Philadelphia prison, because of the injurious consequences to correct discipline, and to the prevention of crime.

The sale of articles of provisions by the institution to the officers, as detailed on pages 369, 370, 371, 372, was improper and ought not to be allowed.