

Departed this life on Thursday the 13th instant, at Pleasant Plains, his late residence, on the north side of Severn, Mr. FREDERICK GRAMM...

THE PENITENTIARY SYSTEM.

[This System has been established in the United States of America longer than in any other country. The following Document throws more light on the result, than any other publication which we have seen.]

We have heard that this System has some advocates in this country. We should be glad to see them answer, satisfactorily, the American Report and subjoined Statement.]

LEGISLATURE OF SOUTH CAROLINA

The Committee appointed at the close of the last session—"To enquire if it be expedient to alter the Penal Code of this State; and if expedient, what alterations were required, beg leave to

REPORT:

That they were prevented, by circumstances, from assembling during the recess of the legislature, and have therefore not given to the subject that protracted consideration which its importance would seem to require.

An alteration of the Penal Code of the State appears, from reiterated executive recommendations, to have been much desired, and long expected;—as yet, legislative caution has not yielded to executive importunity.

For these evils, two remedies have been suggested. The adoption of the penitentiary system, or only so to alter our present laws, as to increase or diminish the quantum of punishment now apportioned.

Each of these remedies has its advocates, both in the opinion of your committee are entitled to consideration. The penitentiary system will be first examined.

Before, however, we proceed to this examination, a few observations will be suggested, intended to establish certain propositions, which without pretending to axiomatic truth, are supposed sufficiently correct to induce general acquiescence.

Although the novel situation in which the people of the U. States have been placed, has rendered the lessons of experience of less universal importance here than elsewhere, it is nevertheless believed that experience here, as elsewhere, will ever prove the best source of wisdom, and surest foundation of policy.

With these observations, your committee will proceed to the consideration of the penitentiary system. The reluctance with which this subject has always been considered by the legislature when pressed upon their attention by executive recommendations was the effect it is believed (as before stated) of great doubts as to the practical effects of a theory, which though brilliant had not been fully tried, and upon which the growing experience of other states, would in no protracted length of time, shed a light which would dissipate all doubt, and procure a decision in every respect satisfactory.

In Pennsylvania, where the first American Penitentiary House was erected, it appears from a recent publication entitled, "A Statistical View of the Operations of the Penal Code of Pennsylvania."

At that period it appears further, that the number of convicts was so small in proportion to the building, that the apartments in the prison and the prison yard afforded convenient and ample room for the separation of the convicts.

Retributive justice is regarded as fanciful, not practical; society cannot be compensated for a crime: felony cannot be worked out—nor if felony could be worked out, it must always cost more labour, or what is equivalent to labour, to secure the labour of a criminal, than his labour can be worth.

Any other proportion between punishment and crime, than that which effects the suppression of the crime, is regarded as visionary. Could the smallest offence be suppressed by the greatest punishment, it ought to be attached. If the greatest crimes could be prevented by the smallest punishment they ought to be apportioned; would the same penalty prevent every crime, there should be but one penalty.

To proportion the punishments with any degree of precision to the crime, would appear to involve the following difficulties: In the first place, the sensibility of the criminal ought to be ascertained; for the same punishment would affect very differently persons of different degrees of sensibility; to one, that punishment might be torture, which to another would be little more than unpleasant.

2dly. The effect of each crime on society ought to be ascertained; and this, it is apprehended, can only be approached in a very remote degree. To kill A, who is a virtuous, intelligent, and active member of society, is much more injurious than to kill B, who is a worthless vagrant; on the life of the first the happiness of society materially depends—the death of the last may be so far beneficial, as to disburden society of a drone.

3dly. Difficult as it is to ascertain with any precision the sensibility of the criminal and the effect of the crime, more difficult must it be to penetrate the motives of the criminal. Man is seldom influenced by a simple motive, and yet when so influenced it is difficult of detection. The more complex his motives, the more difficult is the task of fixing his criminality, and yet if proportion between punishment and crime mean any thing more than the quantum of punishment necessary to the suppression of the crime, it would seem to refer to the sensibility of the criminal, the effect of the crime, and the motives with which it was perpetrated.

4thly. The protection afforded the community against the criminals during their confinement. 2dly. The value of the earnings of the convicts, which may be supposed to be so much gain, since the greater part of this class of men when at large, were at the expense of the community without labour.

But there appears," says these commissioners, "great reason to suppose that the advantage first mentioned is more than counterbalanced by the greater hardihood and more settled corruption which a promiscuous association among the convicts must produce, particularly the young."

It is thought unnecessary to make further quotations from these publications, as they are in the possession of the legislature, and can be procured by all. The most attentive examination of these documents, on the part of the committee, has been followed by a thorough conviction that the penitentiary system, as far as it has been yet tried, has failed. It is not however to be concealed, that some hope yet exists, that solitary confinement

may be so apportioned, as to restore to the system the confidence which it once possessed, but of which, for some time past it has been deprived.

Should it succeed it will be gratifying to humanity to see its benefits extended to every portion of the habitable world; and it is not doubted that in such an event, the legislature of this state will avail itself of the earliest opportunity of adopting the system; but until it has been well tried and has fully answered, your committee cannot but believe, it would be unwise in the legislature to attempt it.

It may not be unimportant, even on the present occasion, to contrast the operations and effects of the penitentiary system, with the operations and effects of the system of criminal law now of force in this state. To effect this object, returns of the convicts which have taken place since 1799, have been procured from most of the clerks of the district courts.

The Grand Jury of Philadelphia, in a recent presentation say that while they note with pleasure, the high degree of order and cleanliness, they are compelled by a sense of duty to present as an evil of considerable magnitude, the present very crowded state of the penitentiary; the number of prisoners of all classes, continues to increase, so that from 20 to 40 are lodged in rooms of 18 feet square; so many are thus crowded together, that the institution already begins to assume the character of an European prison and a seminary for every vice, in which the unfortunate being who commits a first offence and knows none of the arts of methodized villainy, can scarcely avoid the contamination which leads to extreme depravity."

It appears further, from the same publication, "that of 451 convicts now in the penitentiary of Pennsylvania, 161 have been confined there before."

The commissioners appointed to examine into the state of the New-York prison in their report observe, "it has for some time past not only failed of effecting the object chiefly in view, but has subjected the treasury to a series of disbursements, too oppressive to be continued if they can in any way be prevented."

The cause of this failure is said to be the crowding together of the prisoners, and a relaxation of discipline. It appears further, that a very large proportion of those who have been committed for the last five or six years had been confined there before.

The commissioners appointed to examine the state prison of Massachusetts, in their report complain "that the prison is so crowded as to defeat the object for which the institution was erected." They state further, "that the only advantages which the commonwealth appears to derive from the establishment, are—

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But there appears," says these commissioners, "great reason to suppose that the advantage first mentioned is more than counterbalanced by the greater hardihood and more settled corruption which a promiscuous association among the convicts must produce, particularly the young."

It is stated in the publication above alluded to, that the number of convicts from 1779 to 1786, both inclusive, were greater than from 1787 to 1793; and that the penitentiary system was not commenced before

1786. This statement is made to show that convictions diminished under the penitentiary system. This effect, however, may have been produced by other adequate causes which existed at the time. From 1779 to 1784, the United States were engaged in a bloody civil war the most prolific parent of crimes and although we were enjoying many of the blessings of peace from 1785 to 1786, yet it cannot be supposed that during this period society did not continue to feel many of the evils which the licentious habits of a civil war are calculated to engender. To compare these two periods then in aid of the penitentiary system with all the advantages of peace, order and good government, and to close the former penal code of Pennsylvania with all the crimes of a civil war.—Our object, however, is not to compare the penitentiary system of Pennsylvania with the former penal code of that state, but to compare it with the penal code of this state.

By the returns of convictions from 1800 to 1810 both inclusive, it appears there were in this state 13,100 convictions for penitentiary offences, which gives an average of 12 per year.

From 1800 to 1815, the convictions were 62, which gives an average 12 per year.

The population of this state in the year 1800 was 199,440; in 1810 the population had increased to 218,750, which affords a small annual increase.

From this statement it appears that convictions have not only increased in a ratio with the population, but have numerically diminished.

As we are unacquainted with every circumstance peculiar to the state, which were calculated to lessen crimes, or with any circumstances peculiar to Pennsylvania, which were calculated to increase them, we are induced to conclude that the penal code of this state, imperfect as it is, has been productive of more benefit than that of Pennsylvania.

Your committee are therefore induced to recommend, that the penitentiary system be not adopted, and that the penal code of this state amended, as the bill herewith reported provides for.

DANIEL F. HUGER, Chairman of Committee on Penitentiary Code.

From the National Advocate. COM. PERRY & CAPT. HEATH Statement of the proceedings growing out of the altercation between Commodore Perry and Captain Heath.

Commodore Perry, in consequence of having received a communication from Captain Heath in Rhode Island on which the civil authorities of the state prevented him from acting, induced to go on to Washington, the 10th of October for the purpose of giving to Captain Heath the satisfaction which he had demanded.

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The absence of his previously engaged friend, Commodore Decatur, whom he had passed on the shore rendered it necessary that he should resort to the intervention of another friend for a time, that the intention of his visit might be communicated to Captain Heath. This was accordingly done, and the following preliminary arrangements were agreed upon between Major Hamilton, the part of Commodore Perry, and Lieut. Desha, on the part of Captain Heath:

1st. It is understood that Commodore Perry is to proceed to Philadelphia or its vicinity, by the route of Baltimore, where he is to remain until the arrival of Capt. Heath's friend.

2d. That Capt. Heath is to proceed by the way of Frederick's town to Philadelphia, and to remain in the suburbs until the arrangements are made for a meeting between himself and Commodore Perry.

3d. Lieut. Desha and Major Hamilton are to meet at Rensselaer's Wednesday after the arrival of the Newcastle boat.

4th. That the meeting between Commodore Perry and Capt. Heath is to take place on Saturday morning as soon after as practicable.

Washington City, Oct. 15, 1818. Endorsed on this preliminary arrangement was the following: Commodore Perry desires it to be expressly understood, that in proceeding to Philadelphia he has demanded satisfaction he has demanded, has been influenced entirely by a sense of what he considers due to him as an atonement to the rules of the service, and not by considerations of the claims of Capt. Heath may have for making such a demand, which he totally

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as such claims have been forfeited by the measures of a public character which Capt. Heath has adopted towards him. If, therefore, the civil authority should produce the impossibility of a meeting at the time and place designated, which he will take every precaution to prevent, he will consider himself absolved from any responsibility touching the present cause of difference.

J. HAMILTON, Jun. (Signed) (for Captain Perry.)

R. M. DESHA. In consequence of the foregoing the parties assembled at Philadelphia, and Major Hamilton there transferred the above memorandum to Commodore Decatur, introducing to him, at the same time, Lieut. Desha as the friend of Captain Heath, when the following arrangements were made by them:

Philadelphia, 14th Oct. 1818. Memorandum of the preliminary arrangements between Commodore Decatur, on the part of Captain Perry, and Lieut. Desha, on the part of Captain Heath.

1st. That it is understood that Captain Perry and his friend are to proceed to New-York, or its vicinity, where he is to remain until the arrival of Captain Heath, or until the period which is named in this paper for their meeting.

2d. That Captain Heath, with his friend are to follow and remain at the most convenient point on the Jersey shore, near the city of New-York, and to give information after their arrival to Captain Perry's friend where such arrangements will be made as may be deemed necessary.

The parties to be on the point specified, and the notification required by the 2d article given prior to approaching Monday, the 19th. The parties accordingly met on Monday, the 19th inst. at 12 o'clock, on the Jersey shore of the Hudson, where Capt. Perry received the fire of Captain Heath without returning fire, when Commodore Decatur immediately stepped forward and declared, that Commodore Perry had come to the ground with a determination not to return the fire of Captain Heath, in proof of which he read a letter from Commodore Perry to him, which he had written (and which is herewith subjoined) soliciting him to become his friend; and therefore, he presumed the party aggrieved was satisfied. Captain Heath having expressed his acquiescence in this opinion, and that the injury he had received from Captain Perry was atoned for, the parties returned to the city.

We do hereby certify that the foregoing is a correct statement. (Signed) STEPHEN DECATUR, R. M. DESHA.

Letter from Commodore Perry, referred to in the foregoing, to Commodore Decatur.

Washington, January 18, 1818. My Dear Commodore—

You are already acquainted with the unfortunate affair which has taken place between Capt. Heath and myself. Although I consider, from the course he has thought proper to pursue, that I am absolved from all accountability to him, yet, as I did, in a moment of irritation, produced by strong provocation, raise my hand against a person honoured with a commission, I have determined, upon mature reflection, to give him a meeting, should he call on me; declaring, at the same time, that I cannot consent to return his fire, as the meeting, on my part, will be entirely as an atonement for the violated rules of the service. I request, therefore, my dear sir, that you will act as my friend on this occasion.

Very truly, your friend, O. H. PERRY.

Com. Stephen Decatur. Thus has terminated this unpleasant difference; and, as it has created considerable sensation throughout the union, the publication of the foregoing documents are deemed necessary.

Presentment of the Grand Jury respecting Lotteries.

Several contradictory representations having been made respecting the substance of the presentment made by the grand jury at the late sitting of the sessions, we avail ourselves of the following summary of its contents, taken from the Daily Advertiser; which we give without a word of comment.

N. Y. E. Post. From the New-York Daily Advertiser. LOTTERIES.

When the grand jury were about closing their business, they drew up

and presentment of their general proceedings, drawing up a bill that should have been drawn up by the grand jury, and by the newspapers, and been made thought it substance statements we do for venting without the forestalling on in any. After grand jury received no lent conducted to the any of the Medical S could not law, have blanks and acted as sers in drawing tickets app in an irreg chiefly in a number at them to a previously them; that at the prizes—the whe I have on the floo letteries w mer class as ten crack of drawing—been the rics, to co drawing, prizes ren to supply be disco that the their duty for the p tickets co They t on the ev insurance that to it be ascrib pauperism their feat are insuff carried pectful to legisla

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