

til they were detected in some one of the vices to which they owed their subsistence. On this class of offenders, hard labor with coarse diet is the severest punishment, less than capital, which can possibly be inflicted.

From the first of December 1822, to the 30th of November 1823, inclusive, one hundred and thirteen convicts were received into the Penitentiary, only one of whom was sentenced to confinement for a greater term than ten months. This fact alone, in the opinion of your committee, will account in a great measure for the enormous expenditure of the public money upon the Penitentiary, and its total inefficiency as an institution for the reformation of offenders. Their term of confinement is too short to inure them to labor, to instruct them in some active trade, by which to gain an honest subsistence when discharged, but yet is sufficiently long, thoroughly to initiate them in the arts of villainy, and to destroy all remaining sensibility to shame. It may be remarked, that unless previous to their confinement, they had been instructed in some mechanic art, or accustomed to hard labor, (which is rarely the case) they cannot by their work repay to the institution the expense of their maintenance. It is obvious then that all such prisoners must be a source of loss to the state, as beside the expense of their subsistence; they return to society with habits unchanged, and principles unreformed. As a practical illustration of the truth of this opinion, your committee will observe, that of upwards of fourteen hundred criminals who have been confined in the Penitentiary, since its establishment, more than one hundred have been sent there twice, some three and four times, which incontrovertibly demonstrates that as a place of punishment it has no terrors. Indeed so lax is its discipline, so mild its punishments, and so comfortable its diet, that in severe and scarce seasons, it has become the winter quarters of the thieving, vagrant and gypsey population of the state. All those who by idleness are in want of bread, look to it as a state pauper house supported out of the public treasury.

During the same period, one hundred and sixteen were discharged, fifteen by pardon. Your committee will remark that the power of discharging prisoners from the Penitentiary, by granting them a pardon, can but have a pernicious tendency. The convict when he enters his cell, instead of reflecting that all intercourse between society and himself is cut off as a penalty for his crimes, that he has nothing more to do with the "world and the world's law," begins to plot and scheme how he can obtain a pardon or a commutation of his term of confinement for a shorter one than that adjudged by the court. It can scarcely be conceived that a convict while animated by the hope of a speedy exit from the Penitentiary, will very diligently attend to his work, or think very seriously of any amendment in his conduct or reformation of his principles and dispositions. On the contrary, and especially if sentenced for a long term and for a crime of a heinous description, he should be taught to believe that his return to mankind is hopeless forever, that society and himself are separated by an insuperable barrier which no authority in the state can remove, but that his only refuge is to that being, whose laws in common with those of his fellow man he had trampled under foot.

Your committee wish in the most emphatic manner to call the attention of the house to one fact which has existed from the first organization of the Penitentiary, and which alone is sufficient to defeat the great objects of its institution. In no case, however, enormous may have been the crime committed by the prisoner, has the sentence of the court, relative to solitary confinement upon the low and coarse diet been carried into complete effect; it ought not then to excite the astonishment of the public, if the Penitentiary has failed to accomplish the main purpose of its institution. It has been asked, have violations of our laws diminished? have offenders been reformed by the Penitentiary, and as they have not, but rather as offences have augmented, and the vicious part of the population become emboldened in the commission of crimes since its establishment, to the supposed inherent and incurable defects of the system itself, such effects have unhesitatingly been ascribed. The Penitentiary system has as yet never been fairly tested neither in this state, nor in this country. Unless the sentence of the court, which commands the prisoner to be confined a part of his time in solitary confinement on low and coarse diet, be rigorously enforced—the Penitentiary is nothing more than an ordinary, well regulated manufacturing establishment. In confirmation of the fact that the judgments of our courts in criminal cases, are entirely disregarded, your committee will refer to a letter from the directors of the Penitentiary, dated January 28, 1823, and contained in the votes and proceedings of last session of the house of delegates, pages 141 & 2. In the letter referred to, the directors expressly declare, "That the subject of confinement as part of the sentence of the law had been early investigated by the present board for their own satisfaction and justification; when it appeared the non execution of that part of the sentence of the court, was founded on uninterrupted usage since the establishment of the house, and considered only as authority to inflict solitary confinement to the extent prescribed in the sentence; as offences given in the institution might require; and to dispense with it so far as no such occurrences in the conduct of the prisoner would admit, or his good conduct merit an exemption from it altogether—in fine as an affair belonging to the police of the house. On this construction they present board might not have rested themselves in the first instance but as uniform usage, they have felt unwilling to disturb it for the following reasons: That the most powerful influence of the house over the conduct of the prisoners consists in the punishment by solitary confinement, which of course would be weakened, if not obviated entirely by the sentences which would comprehend as much of such confinement as the prisoner's health could well bear, and which if added to by similar police punishments also, would cripple his utility and acquirement of mechanical knowledge to an extent undermining those leading objects of the institution."

Thus it is manifest, the directors of the Penitentiary have erected themselves into a court of revision, not only to decide upon the intentions of the legislature in the establishment of