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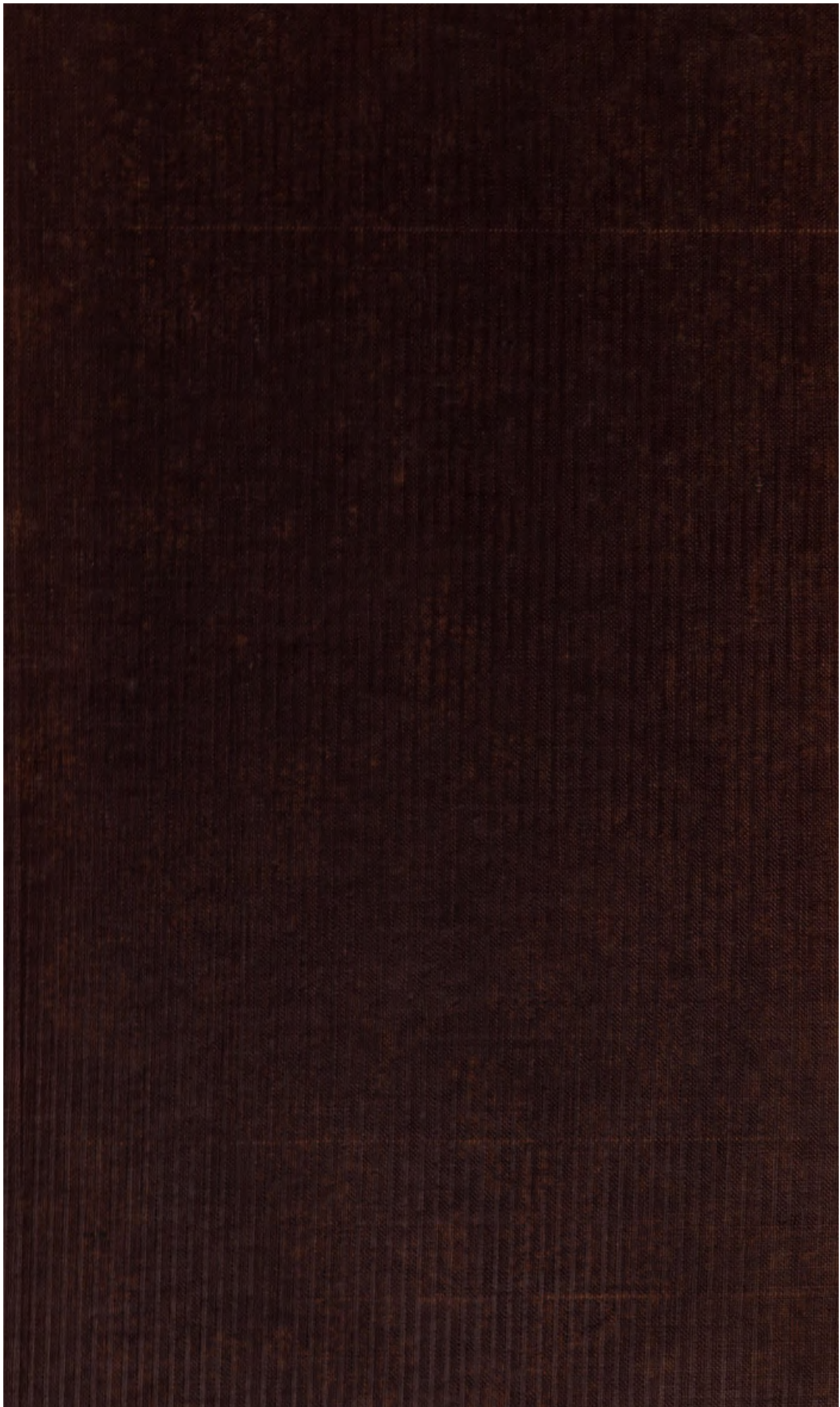
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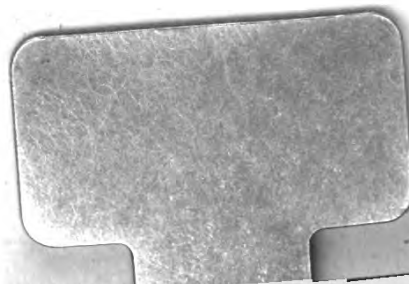


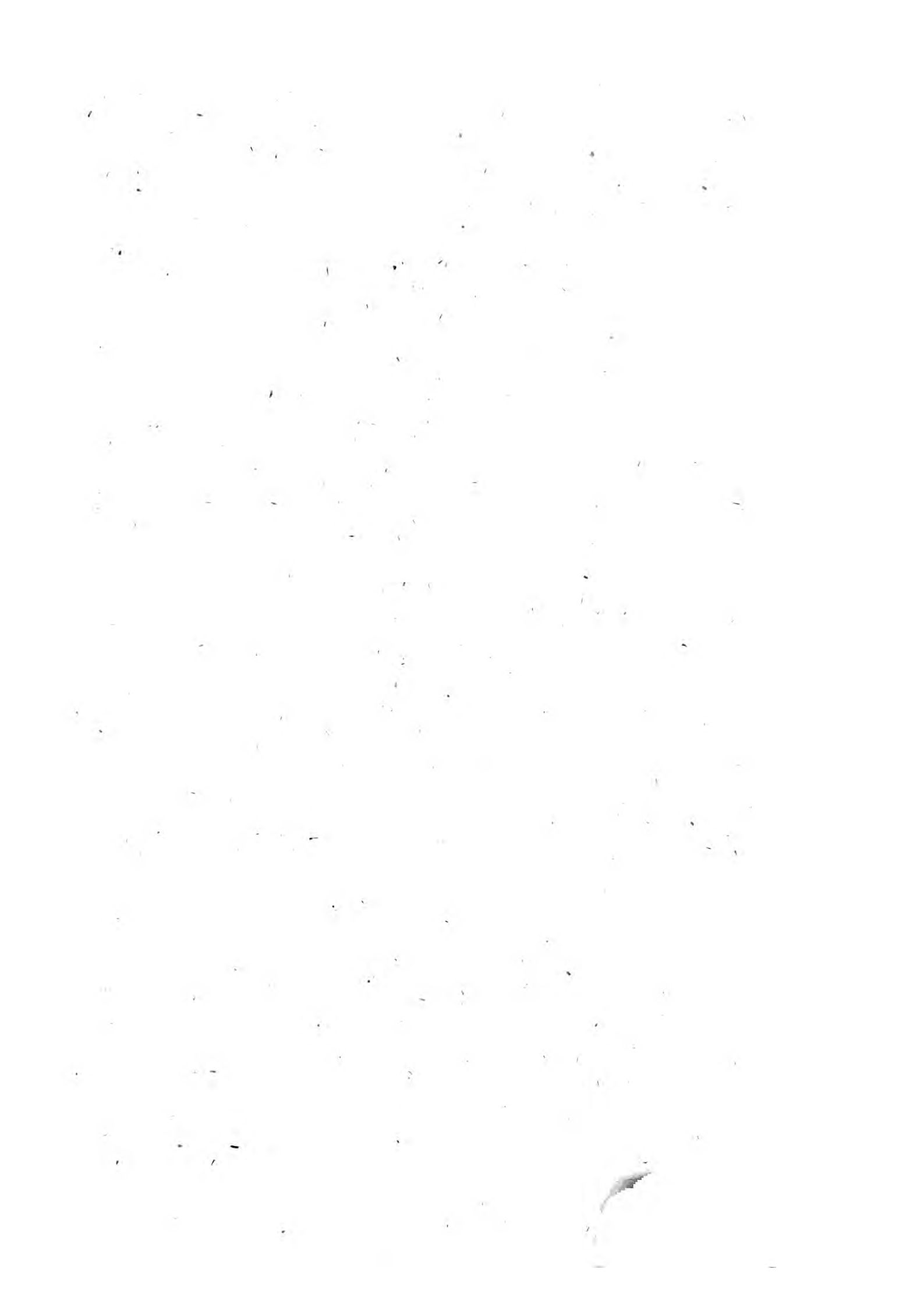


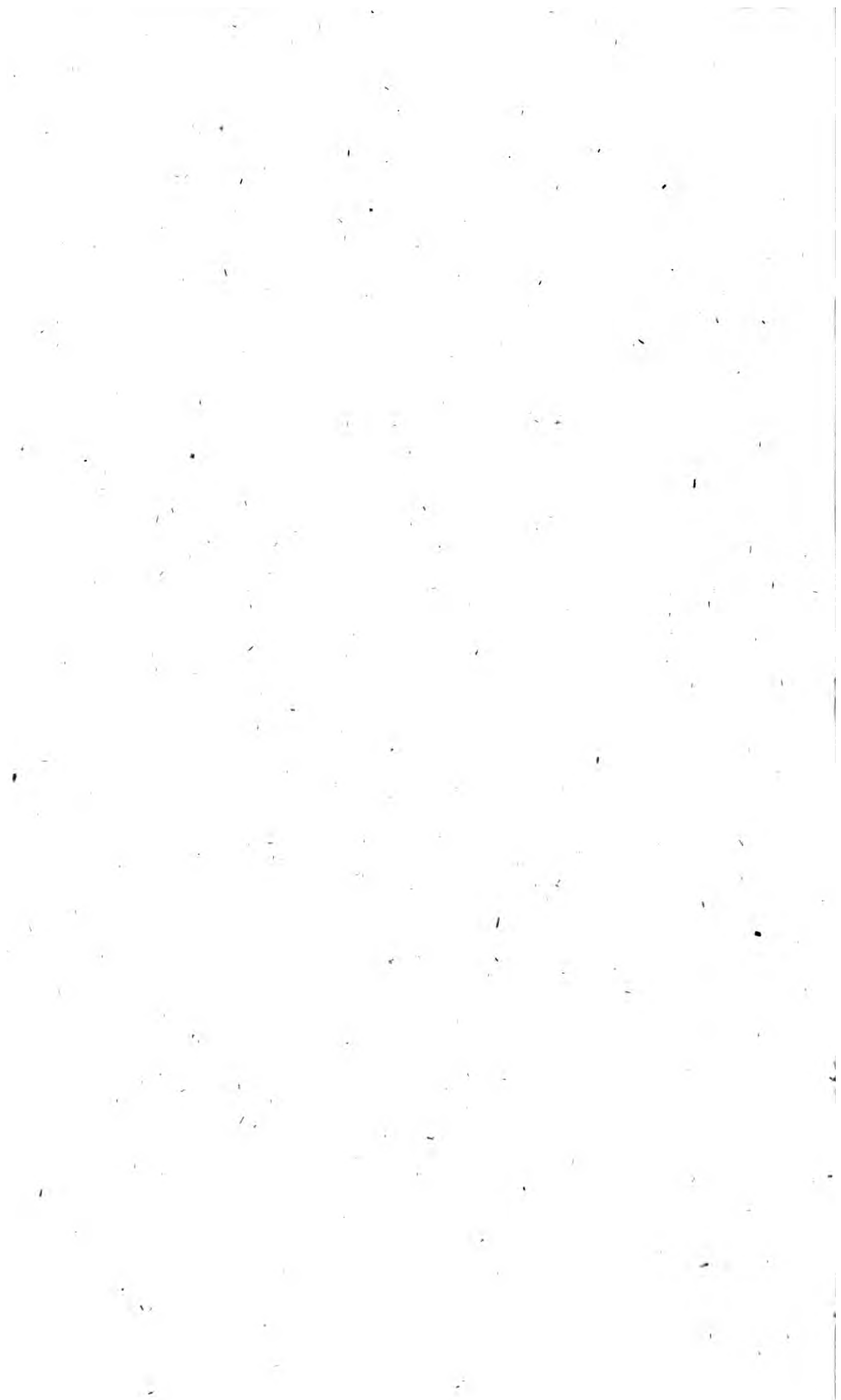
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628.







ON
PUNISHMENTS
AND
PRISONS.

BY
HIS ROYAL HIGHNESS
OSCAR,
CROWN PRINCE OF SWEDEN AND NORWAY.



TRANSLATED FROM THE SECOND SWEDISH EDITION,

by

A. MAY.



LONDON, SMITH, ELDER & Co. STOCKHOLM, A. BONNIER.

1842.



628.

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ADVERTISEMENT.

In presenting the following translation to the English philanthropist, I trust that the sound views, liberal sentiments and unaffected benevolence, so clearly and beautifully expressed by the Royal Author, may not have suffered so much from their change of dress, as to render them less evident to the English than they are to the Swedish reader. A translation can scarcely be expected to retain the same degree of pureness and ease as the original; but in the present case I feel assured, that the comprehensive and clear flow of the amiable Author's style, will strike the mind of every one, even through the disadvantages of a translation. It will probably be thought, that this work should not have been kept so long from the English public *), and had I not hoped, that some one, better capable than myself of doing justice to the original, would have undertaken it, I should certainly long since have entered upon the pleasing

*) There are two German translations, two French and one Norwegian.

task. It is, however, never too late to be instrumental in the diffusion of sentiments so full of real humanity and true Christian feeling, and, therefore, assured that the soundness of the principles will compensate for any deficiencies in the translation, I now, with pleasure and the hope of indulgence, present them to my countrymen.

I cannot finish these few introductory lines better than in the words of the talented reviewer (see *Foreign Quarterly* N:o 54 p. 296). "Sentiments such as these," he says, "do Prince OSCAR honour; they will flourish when thrones are forgotten and empty titles shall be no more. They will smooth the pillow of disease and death in this world, and will "go before" to brighter realms, to welcome him to laurels which will never fade, to a crown which shall never be removed from the immortal temples it wreathes and enfolds. "*I was sick, and ye visited me; I was in prison and ye came unto me!*"



P R E F A C E.

Certain social questions are of so great importance and so extensive an influence, that they may be considered as at once encouraging and deterring to any one who, penetrated by their deep signification, wishes to assist in their discussion and promotion. If, in the eyes of many, such an attempt bear its own condemnation, I trust, nevertheless, that with others the importance of the subject and the pureness of intention will be taken both as an explanation and excuse.

The Criminal-legislation and the Penal-institutions of a country, involve questions of great extent; they enter deeply into the moral life of the state, and form essential conditions for its order and peace. They belong as well to the jurisdiction of religion as to those of justice and politics, and begin in most countries to be considered with increasing interest.

Since the discontinuance of the long wars which for about a quarter of a century claimed the public attention, both Governments and People have again directed their efforts to domestic affairs. The duties of peace, although less brilliant

than the exploits of war, have borne rich harvests, not only in scientific improvement and the development of trade, but also in raising a feeling of greater respect for the dignity of man, by a more careful attention to the enlightenment and welfare of the lower classes.

Noble exertions have been made even for such as have gone astray in the paths of vice, whom we have begun to consider less as outlaws or as beings for ever expelled from society, than as misled, fallen fellow-creatures, for whose reclamation and improvement we feel ourselves called on to think and to act. It has been seen, that the duty of society is not only to resent and punish the crimes committed, but also carefully to seek out their causes, and, so far as it is in human power, to remove them. It was found that, as crime and moral depravity generally rise in the footsteps of ignorance and poverty, the public security ought, in the first place, to be sought in a more religious and intellectual education, and in well directed endeavours to obtain for the working poor, instead of the cloister alms before applied to, means of getting work and advantageous employment. In the same proportion the idea of the true nature of punishment became clearer, and attempts were made, to remove its debasing effects, without weakening its warning power, and to make it at once admonishing and improving.

These exalted views of humanity and society, these noble exertions, to realise by actions the eternal truths of Christianity, form one of the most beautiful signs of the times. But there still remain in this field many hindrances to remove, many prejudices to conquer, many blessings to reap.

In order not to be misunderstood, and to shield the new theory of punishment against a reproach which it is often obliged to bear, viz: that it takes care of the criminal at the expense of those who obey the laws, I must state, that its tendency is, on the contrary, to render the law more sacred, and to increase the effect of punishment, by founding them on reason and justice. It ought not, therefore, to be mistaken for that false philanthropy, which has sometimes pretended to plead its cause. The latter ought to be considered only as a sickly excrescence on the healthy stem of the former.

An enlightened and well ordered state should regulate its penal-laws according to the demands of humanity and reason, it should apply them impartially, and enforce them with earnestness, justice and inflexibility.

The criminal-legislature and the penitentiary system have evidently a uniting link; they afford each other mutual support, and the latter can be considered as the completion of the former. Professor Mittermeyer, one of the greatest lawyers

of the present day in Germany, speaking on this subject, says: "All that is done with regard to the penal laws, is but half finished labour, if the attention be not also directed to the foundation itself — *the improvement of the prisons.*" This principle is particularly applicable in our own country, where imprisonment and punishment in houses of correction, are still at a very low point and are but little developed.

The present work, intended to throw, in some degree at least, a light upon some of these important questions, during the present meeting of the Diet *), is divided into four chapters, the first containing: *General views of punishment*; the second: *The origin and successive development of the Penitentiary system*; the third: *A comparison between the two systems, on which the public attention is at present fixed*; and finally the fourth: *The application of the Penitentiary-system in Sweden.*

*) 1840—1841.

I. CHAPTER.

ON PUNISHMENTS.

The legislation of a country may reasonably be considered, as a sure standard of the degree of intelligence and morality, at which that country has arrived. This is particularly the case with regard to the penal-laws, which may more easily be accommodated to the increasing demands of humanity and justice, than the civil-law; the latter being in some respects, more dependent on peculiar national customs and views, and often on local circumstances. It must not, however, be overlooked, that a civil-legislation, raised upon reasonable and natural foundations, is one of the most efficacious means of eradicating old abuses and rooted prejudices; it also forms an important condition, for the development of an enlightened national-spirit, and a truly patriotic disposition.

In order to proceed uninterruptedly towards its great object, moral and intellectual improvement, and general happiness, the state must be founded on a rational basis; and be so arranged,

as to afford protection against every thing that can disturb the public security, or infringe on private right.

The outward independence, and inward legal stability of the state, must be secured against treacherous conspiracies, the life and welfare of the individual, against violence and persecution; and property, against unlawful seizure. From these necessary conditions for the existence and progress of society, which is God's will revealed in the inward propensities and outward necessities of man, arises, then, the real right of punishment in the state, resting on reason and on justice.

But the carrying out of an acknowledged idea of justice, must be in perfect agreement with that idea, that it may retain its property of legal right. The form it takes must be supported on the approved foundation, and must as conscientiously as consequentially fulfil all its demands; for otherwise this form denies its own archetype, and finally degenerates to its opposite.

Thence it follows, that the choice of the punishments themselves, must be made under a religious acknowledgment of a higher organization of the universe, and an enlightened attention to the value of man; they must be perfectly just, as well with regard to their *quality*, or nature, as to their *quantity*, or amount answering to the greatness of the crime. They must also be rational, that is to say, in a psychological respect so calculated, as to

conduce to the improvement of the guilty, and thus tend to prevent a renewed interruption of the system of law instituted for the public welfare.

Such appears to be the nature of punishments in their most perfect state; such the object to be aimed at in their organization. That it cannot in reality be perfectly attained, is to be accounted for, partly from the imperfection inseparable from all human productions; partly in those outward circumstances which often exert so powerful an influence, that they form a kind of *relative* system of law. This explains, and may even in some degree excuse, those false directions which criminal legislation has so often taken, and in which it is still, in a great degree, proceeding; but it must by no means be cited, either for its historical foundation, or its existence as a fact, to the hindrance of a useful progressing towards a theory of punishment more suited to the advancement of knowledge, and the demands of human nature; for the continued striving to approach *perfection*, is one of the signs of the divine origin of man.

To listen without prejudice to the often dear-bought experience of former times, and thence to draw knowledge and guidance how to judge, and correctly answer the demands of the present; and thus to prepare the possibility of a rational understanding of that problem, which the future must in its turn solve, forms the proper continuity of the advancing cultivation of the human race. The

real value of every foundation, as well within the jurisdiction of thought as of matter, depends on the building that can be raised upon it; for evident as it is, that the latter cannot support itself without the aid of the former, it is equally incontestable, that the foundation, of itself, does not form any thing whole and complete.

Heathenism had its views of right, which were obliged to give way before the doctrines of Christianity, breathing heavenly love and justice. Ignorance and darkness long concealed its eternal all-enlivening light; but its mild spirit conquered exterior hindrances and worldly resistance, and taught man, even in punishing his fallen brother, to endeavour to fulfil the demands of Christian love. To apply these sentiments, as well to the penal-laws as to prisons, forms a subject of competition, worthy the most enlightened nations of Europe and the New World.

Among the numerous and important subjects which belong to the criminal-legislature, the nature of the punishments themselves is, without doubt, one which demands the strictest attention. From the kind of punishments employed by the law, we may form our judgment, as to the degree of respect entertained by the legislator, for the value of man.

Punishments may be divided into two great heads, viz:

a) Those which, in the first place, consider the afflicting and martyring of the outer senses; conse-

quently *Physically afflictive*, commonly called *corporal-punishments*.

b) *Psychologically afflictive*, commonly called *mental punishments*.

The former, or corporal-punishments, may be said to have descended from the most ancient times. They had their foundation in that feeling of revenge, which in former ages was predominant in the exercise of the right of punishment in the state, and in the ignorance which then prevailed. It requires indeed no trifling degree of enlightenment to judge of the importance of mental punishments, and to consider them sufficiently expiatory. Private hate, or the violated instinctive feeling of right, long prompted the human power of invention, to vary, under a thousand forms, the cruelty of corporal punishments. They were employed not only in the chastisement of the criminal, but also to force confessions where it was wished the trespass might be found. It was necessary for Christianity to wrestle for centuries against the power of passion and prejudice; before it could mitigate this barbarism, and clothe the remains of heathen ignorance in forms more in accordance with justice.

The principle of the application of physically afflictive punishments reaches its height and its extreme application, in capital-punishment; for beyond this limit it cannot extend its power.

As capital-punishment is still considered by many, nay perhaps by the majority of the inhabitants of Europe, as a necessary, unavoidable evil, for which one can certainly entertain both disgust and horror, but which no one dares to redress; it will perhaps be desirable, in the first place, to examine more closely its real nature.

The justice of capital-punishment has, especially in later times, been denied by several lawyers and statesmen, and this important question indeed merits serious consideration. It is undoubtedly, both the right and the duty of society, to punish every action which can disturb the public system of justice; it can even, if the offender has, by a relapse, shown himself incorrigible, or his offence is of a nature to endanger the public safety, render him incapable of again injuring the other members of the community. But does this right extend farther than to the loss of liberty, by which the object is gained? Every punishment, which goes beyond the limit of *necessity*, enters the jurisdiction of despotism and revenge.

To this it will certainly be objected, that capital-punishment, with its dreadful preparations, and the terrible ceremony of the execution itself, must be retained, less for the punishment of the criminal himself, than as a warning to others not to follow his example. Without attempting to enter into a closer examination, as to whether society has the right of torturing, and finally putting to death one

of its members, in order to excite fear and horror in the rest; it is probably very doubtful, whether the greater or less amount of crime depends exclusively on a greater or less application of the warning theory. Experience seems, on the contrary, to prove, that crime is more effectually prevented by a more general enlightenment, a steady and liberal organisation of society, and easier means of gaining a livelihood. These expedients ought, consequently, in the first place, to be applied both from a feeling of humanity and policy. What value the following statement may be allowed to possess, as a proof, may also, perhaps, be cited against such as defend the utility of laws severe as those of Draco.

Spain	one execution yearly in	122,000	Inhabitants.	
Sweden	one — —	172,000		—
Norway	from 1832 to 1834 in-			
	clusive, one execution			
	yearly in	720,000		—
—	from 1835 to 1837	<i>none.</i>		
Ireland	one execution yearly in	200,000		—
England	one — —	250,000		—
France	one — —	447,000		—
Baden	one — —	400,000		—
—	during the year 1834			
	only one in . . .	1,230,000		—
Austria in Germany	one execution			
	yearly in	840,000		—
Württemberg	one — —	750,000		—

Pensylvania	one execution yearly	in 829,000 Inhabitants.
Bavaria	one — —	2,000,000 —
Prussia	one — —	1,700,000 —
Vermont	since 1814	<i>none.</i>
Belgium	since 1830	<i>none.</i>

Notwithstanding the number of executions, in proportion to the population, is greatest in Spain, and next in Sweden and Ireland, it is well known, that the amount of crime is not less there; but on the contrary, greater than in many other countries, where capital punishment is not at all, or at least very sparingly used. It is also found that capital-punishment is least necessary in those states, where most attention is paid to the diffusion of knowledge, and the abolishment of those bonds which fetter individual industry; the example of Prussia is in these respects very remarkable.

Capital-punishment must farther be considered in some other important points of view. It does not admit of improvement, because it annihilates, at once, both the good intentions and the evil propensities. It is generally believed, that but little hope can be entertained, of the improvement of such as have merited the severest punishment the law can inflict. Both judges and jailers acknowledge, however, that they, who are condemned to death, frequently appear less hardened or morally fallen, than other delinquents, whose renewed offences are,

nevertheless, only visited with some trifling corporal punishment, or imprisonment. To allow the latter the possibility of improvement and correction, but to refuse it to the former, seems to be neither rational nor just.

The punishment of death admits of no restitution, even should the innocence of the person executed be afterwards acknowledged. Instances of this nature are certainly very uncommon; examples are, however, to be found, which proves that such unhappy mistakes may be committed; and from these we may infer, that there are still more, respecting which, the truth has never been unveiled to the eye of man. Nor must it be forgotten, that the first examination, where the cause is to be explained and the real state of the case found out, from complicated and often contradictory statements, is sometimes entrusted to young magistrates, who, although they possess both learning and ability, and are animated by the noblest feelings, nevertheless, still want that sure eye and penetrating judgment, which nothing but long experience and practice in the conducting of judicial questions can give. The case is certainly referred, afterwards, to higher courts for trial; but in general they have for their direction, principally those explanations which the documents contain; and the final decision of the judgment depends more or less upon them. This circumstance, which conscientious judges will certainly testify, must be taken into considera-

tion, when we consider impartially the applicability of a punishment which excludes all possibility of restitution or correction.

But, it will be observed, it would be hazardous to abolish capital-punishment; for should a criminal, who is imprisoned for life, escape, it would be exceedingly dangerous, as he could not be corrected by any higher punishment, than that to which he is already condemned. To this it may be answered, that the fault here must be ascribed to the state, for not having secured the prisoner better. A raving madman, who has escaped from confinement, may also be very dangerous to all he meets; yet no one would probably ever think of the necessity of his losing his life, to prevent his committing injuries. This view of prevention cannot, then, as a principle of justice, be admitted.

One of the arguments, with which capital punishment is often defended, is, that it should be retained, in order to enable us to observe, within the prescriptions of the law, the right of retaliation, *jus talionis*, which rests on the principle, that the criminal shall undergo the same suffering he has occasioned others. This idea is, certainly, both beautiful and of deep signification; but it forms only an *abstraction*, and is in fact inapplicable. If, for instance, the criminal has inflicted on his victim a deep wound, ought he to be punished by a similar one; if he has burnt him and his house, must he himself be consumed

by fire? No, it will be answered, that would be cruel and inhuman; justice should be appeased by some other serious punishment. But then we are immediately brought upon quite other grounds, viz, that the punishment can not *absolutely* correspond to the crime, but must become a kind of *conventional approximation*; and in that case the principles of justice, founded on strict retaliation, must fall to the ground.

Another difficulty, and a no less dangerous one, attached to punishments so repulsive to humanity, is, that if they are applied without mercy, the highest power must bear the reproach of extreme severity; should pardon often be granted, disrespect for the law and a less degree of fear for its precepts are encouraged. We have seen, that Sweden is, next to Spain, the country in which capital-punishment has been most common, and, nevertheless, during the last seven years, of the criminals condemned to death, a medium of 43 annually have been pardoned.

The right of pardon rests upon a great and sacred thought, and forms the last refuge of persecuted innocence here on earth; it can also be considered as the perfecting of the law, when the letter is not satisfactory. The law interprets the inflexible demands of justice, and the cold calculations of the understanding; pardon, on the contrary, is a voice raised from the inmost feelings of society; it is the inspiration of the heart. But this

prerogative, the most pleasing of all those attached to the crown, must be used sparingly; it is depressing, in proportion to the responsibility, to pronounce that word which irrevocably decides the death of a human being. Before the decision is formed, the mind is painfully engaged in seeking that which is most in accordance with justice; and afterwards the remembrance of the sorrowful object lies heavily on the mind. The judge is not exposed to this trying uncertainty; for he is only the interpreter of the law, and applies its precepts without either power or compassion; but the limits of pardon are not so precisely laid down: how far should it be carried, where is the proper boundary for its kindly interposition? This question is difficult to decide, and requires a length of time and a degree of activity, which, by the abolition of capital punishments, might be spared for the advancement of other subjects, important to the welfare of the state. In order fully to understand the importance of this remark, it would be necessary to imagine one's self in the Monarch's place; and to consider how great a portion of his time must be taken up, when an average of 61 cases of capital-punishment are brought forward yearly in Sweden, consequently more than one every week; for the nature of these cases prevents their being compared with usual administrative questions.

Many men, distinguished for learning and noble minds, found their conviction of the justice of ca-

capital-punishment on a religious view, and on the explanation of certain passages in the Old Testament. Without entering into a casuistical examination of the real meaning of these passages, I will merely state, that I support the views, I here conscientiously endeavour to develop, on the spirit of Christianity. This divine doctrine does not represent life as the greatest good, as the end of all agency and being; but rather as a time of trial, a preparation for another and more blissful life, which forms the true goal and proper home of man. How can one then, from a religious point of view, defend a punishment, which shortens this time of trial, which breaks off this preparation? Is it not, in short, to try to penetrate into the unfathomable decrees of Providence?

But, it will be objected, the warrior ought, then, also to be condemned, when he draws his sword in defence of his native country; to this it may be answered, that war cannot be compared with the usual state of society under a system of law; but should be considered as a violent eruption, necessary for the recovery of that state; and during which, the same views of right cannot prevail, as when society proceeds undisturbed. I see perfectly well, that a feeling of dread will be experienced, at the mere thought of all those crimes and horrors, with which it is supposed the world will be overwhelmed, if capital-punishment be abolished; it will be thought, that a new Pandora's

box has been opened, from which innumerable misfortunes and sufferings will stream forth. The same was feared when torture, the rack and other abominations were abolished; and nevertheless the progress of justice has been, since then, as undisturbed as before, and crime has found its well deserved punishment.

I respect, for the rest, every one's opinion on this difficult subject, which I have unwillingly touched. But as the question has so close a connection with the present work, and contains so deep a moral signification, I have considered it a sacred duty to present it for a more general consideration.

Since enlightenment, in its increasingly rapid progress, has driven from our criminal legislation, the most barbarous corporal punishments, as mutilation, branding &c. *), there remain in our present code, whipping and scourging, as the last traces of the views of justice entertained in past times.

Flogging, which is accompanied with indelible dishonour, is perhaps still more unreasonable than even capital-punishment; in the latter case the physical existence of the criminal is destroyed; by flogging, on the other hand, the possibility, almost, of his future improvement. The right of punishment in the state, whose object is, to restore, by the very application of punishment, violated justice, and to warn and improve, has, then, wandered so

*) To the honour of our native country it may be observed, that they have never been used in Sweden.

widely from its original idea, that it disgraces, renders the return from the path of crime, when once entered upon, almost impossible, and leaves, as a choice, only misery and the scaffold. How many examples of this state of things, as grievous for humanity, as it is dangerous for the public safety, has not our country to produce.

But, it is objected, corporal punishments are closely united with our habits, our manners, our traditional customs! This assertion is founded, in my opinion, on a misunderstanding, a confounding of the views of a past time, with those of the present. Corporal punishments were incorporated with the general opinion, so long as they agreed with the prevailing ideas of religion. The church itself pointed them out as a means of obtaining eternal bliss, and the penitent sinner imagined, that by flagellation, bodily suffering and severe fasts, his lost peace of conscience might be regained. Far from being disgraceful, corporal punishments were then considered as a means of atonement; and the only right way by which the offender could again be restored to the bosom of the church. Hence they are found united with confession and penance, through which the person purified by punishment was readmitted into the church. But this belief, these ideas have long since disappeared. The public opinion in our days stamps the punished offender with a disgrace almost indelible, and thrusts him back with disgust. Is there a single person,

among the advocates for the application of flogging, who would take into his service one who had been so punished? Is there not, then, formed a class of *Parias*, or moral outlaws, who are obliged to consider themselves as being in a continued state of warfare with society?

Disgraceful corporal punishments also lead the mind into a bad course, that namely, of considering less the nature of the crime, than of the punishment, as causing disgrace and general contempt. Thence often arises the idea among the more ignorant, that the error is less gisgraceful, if they can but succeed by fraud, or by obstinate denial, in avoiding the humiliating consequences of punishment.

The punishment of flogging, which has been common in other countries, in Germany (ruthenstreich), in France (les verges), has nevertheless been abolished there without danger, without any increase of crime having followed. Can it be possible, that the Swedish nation, which is distinguished by its deep feeling for religion, which has from the earliest ages possessed a free constitution, should be so far inferior to these nations, that it could not bear a legislation equally rational and humane? The public voice will certainly reject this assertion, and motions have already, during the present Diet, been brought forward, respecting the abolition of flogging.

It

It is an important support to my opinion, that the statements of the Justices of Districts (Häradshöfdingar) called for by the Minister of justice, respecting flogging and penance, the latter of which is as destructive as it is degenerate from its original meaning, have given the following result:

For the abolition of flogging	48.
For its being retained	13.
Conditionally	12.
For the abolition of penance	44.
For its being retained	21.
Conditionally	12.

It is besides very probable that many among those who have entertained doubts as to the propriety of abolishing flogging, have been induced to do so by the very little confidence they entertain for our prison regulations and houses of correction, and that this so well grounded fear has affected their judgment considerably.

A praiseworthy opposition against flogging, and a grievous experience of the highly imperfect state of our present houses of correction, have more and more directed the public attention to the system of transportation, the introduction of which has, during the present Diet, been urged by several respectable members. At the first view it seems as if this system ought to be accompanied by the important advantage of freeing the country of

all dangerous criminals, without silencing the voice of humanity, and should thus fulfil the demands as well of justice as of prudence. A closer examination, however, soon shows the faults in a judicial point of view, and the great difficulties with which the idea of transportation is encumbered. I will endeavour briefly to represent the most important.

What class of criminals ought to be subjected to transportation? They who are condemned to lose their freedom for life; but then their number will be trifling. They who are condemned for a certain number of years; but how will they be able to return from a distant part of the world to their native country; and if they succeed in doing so, they are by no means improved from having, in company with numerous fellow criminals, sailed over the ocean and visited foreign lands. It is then indeed less expensive to send them, as hitherto, by prison-conveyance to Långholmen or Malmö, in order, at the expiration of the term of imprisonment, to cast them, as little corrected, again into society.

It will probably be objected, that it is just this fiction of condemning criminals to transportation for a certain given time, when in fact they are subjected to an eternal banishment, which forms the real security of the state. But then, surely, the legislature has grievously committed itself against the acknowledged principle of justice, that the

quantity of the punishment shall be in just proportion to the extent of the offence itself; and as in general every violation of the idea of justice contains its own punishment, so the state has encouraged the criminal to commit the greatest of those crimes which are punished with transportation, the responsibility being at all events the same, and thus made him still more dangerous to the public security. Hence it is seen, that the system of transportation does not admit of that various gradation which is necessary, to correspond to the various nature of crime.

But if transportation acts unjustly through its invariableness, it does not appear less unreasonable with regard to its great differences when considered as a *punishment*. For one who has broken all the bands which united him with family and society, exile is but a trifling punishment; his attention is fixed on new, strange objects, which prevent all self-examination, and by degrees smother the reproving voice of conscience. For him, on the other hand, who is separated from tender relations, a dear home and a beloved native country, probably for ever, transportation is perhaps the most cruel of all punishments. But which of these two is the most dangerous to the public safety? He, who, egotistically locked up in himself, possesses no feeling but for his own gain; or he, who, although weak and erring, is nevertheless held to society by so many close ties? Has not the punishment then

a wrong effect; acting most severely on the least dangerous, and least deterring those who are most to be feared?

These views of the inapplicability of the system of transportation, are not only approved in theory; they are also confirmed by the experience of that country, which has applied it on the largest scale, namely Great Britain. It was towards the end of the last century, that England, giving up the successful attempts already made with regard to places of correction, began to transport her criminals, first to her American colonies, and, after they had rendered themselves independent of the mother country, to Botany-Bay, which has since then become so renowned. This measure has not, however, answered the great hopes that were founded on it; for since that time, crimes, especially against *property*, or those which are principally punished with transportation, have increased to such an alarming degree, that they have, according to Beaumont and Tocqueville, been nearly tripled within about twenty years.

This deplorable state of things attracted the public attention about ten years since, to the inapplicability of the punishment of transportation. But the return from the path commenced is met by great hindrances on account of the immense sums already laid out, and of the need of workmen in the colonies founded in Australia. It was tried at first, to make transportation more deterring, by

means of increased severity of treatment, and the transports were divided into three classes. The first were subjected, on their arrival, to penitentiary treatment in a separate house of correction on the island of Norfolk; thence arose a double punishment and double expenses. The second class were fettered with iron chains, and worked in the open air; the third was divided among the colonists. But this was not enough; certain officers were commanded to be present, from the 1:st to the 30:th September 1833, at all punishments with the lash or whip, on which occasions a separate protocoll should be kept, stating with terrible accuracy, at which stroke blood appeared, whether it flowed plentifully or not, whether the person punished showed by his groans extreme pain &c.

Such cruelty was, however, soon obliged to give way before the enlightenment and humanity of the English Parliament; transportation becomes daily less common, and the correction-system may be considered as perfectly established in Great Britain, where it goes forward with rapid steps towards its object.

Without entering into a tedious examination, as to whether a proper place for the transportation of Swedish criminals can be arranged or not, there can be no doubt that the conveyance and support of the persons transported would be so exceedingly expensive, that if the system is deficient in its power of alarming those against whom it is

directed, it possesses this power in so much greater a degree, with regard to those who pay taxes, who must bear the burden.

The committee, appointed by the English house of Commons in 1838, for the examination of the subject of transportation, say in their report page 39: "the number of criminals sent to South-Wales and Van-Diemens land up to the year 1836, amount to 96,558. Their transport has on an average cost 28 £; other expenses for their living and punishment 54 £; or together 82 £ for each transported criminal." In a letter attached to the above report, from the Archbishop of Dublin, the writer says of the system of transportation, "that it has been adopted contrary to all sound reason, and continued in spite of all experience." In a debate which lately took place in the English house of commons respecting the transportation of criminals, Sir William Molesworth said, among other things, that each criminal in Australia costs 8 £ a year according to the lowest calculation, besides the transport.

In the same proportion as enlightenment and humanity have moderated the prevailing views of justice, the physically afflictive punishments have been abolished, and the criminal legislation has in all countries assumed a nobler and more christian-like character. We have seen, that those states, which have endeavoured to root out crimes by force, through the death or torturing of the cri-

minals, or have believed that they could, by an expensive transportation to distant countries, free themselves from all care for their moral improvement, have by degrees been brought back to a purer comprehension of their duties, and have been obliged to have recourse to punishments acting more directly on the inward being, consequently really *psychological*.

We have already in Sweden an excellent project for a new criminal law, published in 1832, where a noble spirit evinces itself in deeply scientific views and judicial forms systematically arranged. This work, which reflects as great honour on the legal knowledge of the authors as on their humane principles, takes up only such punishments as are in accordance with the demands of justice and reason.

In the so called *motives*, which are attached to the project, the committee explain their views of the different kinds of punishment. Among other things, it is there said: "How different soever the various theories for the manner of punishment, arranged in later times by scientific men, may be, the positive legislation can nevertheless with safety adopt the principle so strongly confirmed by reason, that the law threatens the criminal with punishment, principally in order to prevent crime by its warning effects. Those punishments, which are most efficacious for this purpose, ought consequently to be chosen. But the legislation cannot possibly

depend on obtaining obedience to the laws, or on being able to eradicate every crime through the mere threatening of punishment, so that all application of the penal-laws should as a natural consequence cease; it must therefore, in the choice of punishments, particularly consider the improvement of such criminals, as are, through the execution of the punishment, separated for some time from society, and afterwards return to it again. The improvement of criminals is consequently another important aim which the legislation ought to promote through punishment."

"They who, in considering the first mentioned object of punishment, could imagine that all were helped by severe punishments, and consequently wish the introduction of terrorism into the legislature, mistake not only human nature, but also the demands of justice and the duties of humanity. The experience of all periods and of all countries shows, that extremely severe punishments harden instead of deterring."

In accordance with this noble view of the nature and object of punishment, the committee have abolished flogging, which "as being of short duration is, for the individual already morally corrupted, less deterring than other kinds of punishment. In him, on the other hand, whose feeling of human dignity is not already smothered, this debasing punishment crushes those dispositions for improvement founded in human nature, brings him

to despair, or makes him a sworn enemy to that state, whose laws have placed him in so degrading a position, that the hope or possibility of raising himself from it has been cut off, all means of obtaining a living and regaining the respect and confidence of his fellow creatures being to him closed."

All other degrading punishments as penance, pillory and the stocks, are also excluded from the project "as not conducive to the improvement of the criminal, and likewise failing to awake in others a warning, and an aversion for crime."

With regard to capital-punishment, the committee has made two propositions; one in which it is retained, but for more limited cases; the other with the introduction of imprisonment for life in its place. The committee, however, consider that capital-punishment "cannot be defended, before the tribunal of reason and justice, on any other ground, than its being found necessary for, and conducive to the existence and objects of the state. But this necessity and applicability are doubtful."

The new project adopts two kinds of punishment attended with loss of freedom, namely: penal-labour and imprisonment, on the ground "that the loss of liberty for a considerable time, with obligation to labour, is a means of punishment which, when we consider the rational nature of man, may be regarded as the most applicable for the advancement of the object of punishment. Experience

has also, in all parts where it has been properly employed, testified its efficacy.”

Penal-labour is divided into five degrees, and the grounds of division are, the difference in the periods of punishment.

Imprisonment may be applied in three different ways, the first *simple* imprisonment, the second *solitary* confinement, and the third imprisonment *with bread and water*.

In order to obtain a thorough conviction of the correctness and value of the project, one ought to read the answer of the committee to those remarks which have been made against the theory of punishment supported by them.

Sweden seems in all respects ripe for the appropriation of an improved criminal legislation. A dear-bought experience of the insufficiency of the old punishments, and of the distressing consequences of their debasing nature, has enlightened the public mind, and prepared the transition to a better legal doctrine. A happy peace gives us an opportunity of improving our inward condition, and a considerable pecuniary surplus, now ready to be employed, affords means of introducing improved houses of correction. The law adopted in 1734 and in force from 1736, was certainly excellent for that period, and proved that our native country then stood high in legal science. But during these hundred years European culture has advanced with giant strides. Cultivation, which

was then almost exclusively reserved for the higher classes, begins to be more and more considered as national-property, of which every member of society is entitled to receive his proper share; a more general acknowledgement of the value of man has dispersed many prejudices, and unfolded the ideas of constitutional relations. Ought not these causes to have some effect on our judicial forms and our theories of punishment?

But, it will be asked, cannot the acknowledged faults be corrected, and improvements made where they may be considered necessary, without changing the whole criminal code? To this it is answered, that to adopt partial adjustments of a code, where the whole must be developed in systematic order and logical consequence from certain principles of justice, would be to deprive one's self of the good which the old when complete might possibly contain, without gaining those advantages one expects from the new. The evil has already spread so widely, and threatens so fearfully to extend its contagious ravages, that patchwork is not sufficient for its cure.

This important reform must compose a whole system, executed with energy and according to a given plan, and taking up all those subjects which are connected with it. These may be divided into two leading heads, namely:

a) Those whose object is properly to prevent crime by the removal of its most common causes;

to these belong all that can promote true religion, general enlightenment, domestic activity and greater prosperity.

b) Those which regard the punishment of the crime already committed, and the possible improvement of the criminal; among these may be reckoned criminal legislation and the penitentiary system. As the object of this treatise is properly to consider the latter, which stands in such inseparable connection with the definitions of punishment in the new project, that these neither can nor ought to be applied before our institutions for punishment have been brought into a state more suitable for the purpose intended, I pass over to the penitentiary system itself, which has of late years made great progress, both in the free states of America and in several European countries. This advancement will require some changes in the prescriptions of the new law-project, with regard as well to the time of imprisonment for certain degrees of penal-labour, as to the treatment of the prisoners; these changes will, however, be easily accomplished.

II. CHAPTER.

THE RISE AND DEVELOPMENT OF THE CORRECTION-SYSTEM.

Although the Penitentiary- or Correction-system has still, in general, so low a position in Europe, that a prison, well arranged according to its spirit, may be considered in most countries as an uncommon exception, above six decennia have nevertheless passed, since the first attempts were made in this way. It was in 1772 that the Diet in Flanders established a house of correction in Ghent. Count Vilain XIV says in his memorial to the assembly: that those bandits, who alarmed the husbandman, were such criminals as had been condemned to exile, whipping or branding; that these punishments did not improve, and *were to no purpose*. This distinguished man paid a degree of attention, before unknown, to the care and improvement of the prisoners, and that with so much success, that when the renowned Howard visited this prison in 1776, he gave the most advantageous testimony of the order, industry and cleanliness, which prevailed there. This establishment declined afterwards under the Emperor Joseph II, who thoughtlessly enough paid attention to the petitions of some interested persons, who considered that their trade suffered through the manufactures carried on in the house of correction.

The noble count's example was not, however, lost, but the exertions of other equally estimable philanthropists could only produce isolated improvements, so long as the legislation itself had not adopted a milder and more humane disposition. This great philanthropic reform was reserved for the religious zeal of the Quakers. They succeeded in 1786 in introducing their views into the National-assembly of Pennsylvania; capital-punishment, before frequently applied, was limited to very few crimes, and in 1790 imprisonment with compulsory labour was appointed, instead of the corporal punishments before used, as flogging, branding, cutting off the ears, the pillory &c.

This measure was a signal step towards the grand object — to make the law synonymous with justice and humanity. But if we often discover in the depth of human thought, traces of its divine origin not easily to be mistaken, human weakness also appears as clearly, when this thought is to be embodied and put into action. Then are discovered unforeseen difficulties; then mistakes crowd upon each other, and the only clue which can lead from this maze, is an enlightened and firm will. Such was the case here.

The prison, which was erected at Philadelphia in Walnut Street, did not answer the great expectations that had been formed of it; the number of cells was insufficient, and when numerous delinquents from the different county-jails were col-

lected in the new house of correction, it became impossible to exclude the less criminal from the circles of the more hardened, whence arose a greater corruption among the former, but no improvement in the latter.

Similar houses of correction were, nevertheless, by degrees introduced into the other states of the Union, and since then in our quarter of the world also *), but without greater success, for they were all burdened with a vital fault — the mingling of the prisoners. Under such circumstances no improvement could be gained, humanity was disappointed in its hopes, the state loaded with considerable expenses without corresponding advantages, and this mutual instruction in vice and crime, as expensive as it was destructive, only gave new nourishment to the evil, and soon spread its consequences in a manner highly dangerous to the public safety.

It was certainly considered possible to stop the destructive contagion of the prisons, by a kind of classification of the prisoners according to the nature of the offence; but experience soon dispersed this error. As this opinion has had, and still possesses among us, many advocates, I will endeavour to show its deficiencies and the impossibility of its *actual* application.

*) In the Swedish periodical, *Läsning i blandade ämnen*, (Reading in miscellaneous subjects) there is for the year 1797, a detailed account of the prison in Philadelphia, and in 1799, two articles worthy attention respecting *Penal-laws*.

Can it really be imagined, that certain decided categories can be arranged, to which degrees of moral-debasement and criminality, supposed to be equal, could be fitted? Are not these as numerous, as varying as the individuality of the human soul? Is it not one of the greatest wonders of the wonderful creation, that of the innumerable multitudes of human beings, that have already gone to their last resting place, of those that now live, and of those that are to come, no two individuals can be found perfectly alike either in appearance or in their mental capacities?

A great difference must be made between the commission of crime and its cause. The former is an occurrence, an action, and can as such be understood and judged, the latter is for the human eye almost inscrutable. It is necessary to classify the crimes themselves, in order to determine the letter of the law accordingly, it can also be of great utility in a statistic point of view, and farther than this human justice can not go; to classify, on the other hand, the different shades of vice itself and its inward nature, belongs to God alone.

But let us even admit, that a peculiar kind of scale had been found, by which the inward viciousness of man could be so precisely graduated, that each class might be composed of offenders who were exactly alike in crime; what should we have gained by it? It cannot surely be seriously asserted,

asserted, that the improvement of the fallen being, fallen generally in consequence of evil example and bad advice, has been attended to, by placing him in daily contact with others equally vicious, equally criminal. This mutual effect of feelings and impressions, where the evil will always retain the superiority; these relations of exciting adventures, of successfully accomplished robberies, or cleverly calculated thefts, with which the long, wearisome prison-hours are dissipated, will they not still more increase the corruption, and by degrees carry vice to the utmost degree of enormity? But, it is answered, a negative advantage is at least gained; that namely: that the prisoner has not had an opportunity of learning other crimes than those he himself had committed, and thus had not at least become worse. This gain is only imaginary, for in the same proportion as demoralisation increases, in the same degree are the limits of crime extended; and what had society gained by each separate kind of vice and crime being, as it were in corporations, both developed and studied in the so called houses of correction.

There is also another ground for the classification of prisoners, namely the different degrees of improvement or obduracy they have shown during their period of imprisonment. At the first glance this idea seems easy to put in practice, and appears to contain a just punishment and a reason-

able reward. It does not, however, bear a closer examination, for besides that corruption which arises from the prisoners being together, two new vices are produced: falsehood and hypocrisy. Far from being roused to a wholesome self examination, the offender is induced to show a contrition he does not feel, an improvement which is not real. The farther he can carry dissimulation and deceit, the more certain he is of gaining his point; he puts on only a deceptive exterior, but his inward man remains equally corrupted, the soul equally vicious.

Enlightened men, who have carefully studied the theory of the administration of prisons, as also those who have attentively followed it practically, agree perfectly as to the inapplicability of the idea of classification and its unavoidable disadvantages. In Messrs Beaumont and Tocqueville's work on the "Penitentiary-system in the United States," (a work of great merit, to which I shall often refer), it is said: "The impossibility of arranging a correct classification of the guilty, is proved with such mathematical certainty, that it ought to form the starting-point for all reform with regard to the administration of prisons."

The absence of all real improvement within the houses of correction, and the frequent return, in consequence of new mis-demeanours, of those who had been liberated, showed at last a mournful and undeniable certainty, that the system, applied with so much expense, was built upon a

false foundation, and took a false direction, which, the longer it was followed, the farther it conducted from the true object. It was determined to make a new attempt to find a more rational solution of a problem so important to the public peace and comfort; but in order to avoid the faults already committed, they cast themselves, as is often the case, into the contrary extreme. It had been found, that the prisoners' being together had caused an increasing corruption, which the strictest labour could not prevent, and the thought presented itself, that only their perfect separation could remedy the evil. Here also the original idea was right, but it failed in the execution.

The National-assembly in New-York directed, in 1821, that 80 individuals, chosen among the most hardened criminals, should be shut up each in his cell, there to be kept in *perfect solitude*, without permission to work, or means of obtaining any kind of employment. This measure was too much opposed to the necessity man feels for activity and for the society of his fellow creatures, and its consequences were not long in showing themselves in all their horror. "The unhappy prisoners," so say Beaumont and Tocqueville, "fell into such an evident debility, that their keepers began to fear for their lives; five fell a sacrifice within a year, one became mad, and the moral condition of the rest appeared no less alarming." It was necessary to discontinue this inhuman experiment; 26 of those remaining

were pardoned, and the rest received permission to work in the common workshops.

This sorrowful result of an attempt, on which such great hopes had been placed, depressed many minds, shook the conviction of others, and the philanthropic idea, of endeavouring to unite the criminal's improvement as far as possible with his punishment, ran the danger of being considered as an empty and childish vision. But a great and true idea, once uttered, is immortal; the development of the good it aims at, can certainly be delayed for some time by exterior circumstances, but it can never be smothered or annihilated.

In the mean time a new system arose in the prison at Auburn, in the State of New-York, in which it was attempted, by a more enlightened, middle course, to avoid the numerous faults in the classification plan, and that according to which the prisoners were together. The prisoners were shut up at night in separate cells; but by day they laboured in common workshops, under perfect silence; the least whisper, the most trifling sign was punished, immediately, with extreme severity. Through this arrangement they endeavoured to put a stop to the injurious effect which the prisoners exert upon each other, by the communication of thoughts and impressions, without depriving themselves of the possibility of letting them be together, and thus retain the great advantages arising to the work itself, when a greater power is employed to a common

end. The leading idea was to collect men, as physical beings, but to exclude all moral commune among them; the body was condemned to severe labour, and the soul to a painful solitude, even within the circle of its equals.

This system, which received the name of the Auburn-system, because it was first applied at the prison bearing that name, was greatly developed under the direction of the superintendent M:r Elam Lynds. In order to be able to apply it on a greater scale, it was determined, in 1825, that a new house of correction should be erected at Sing Sing.

M:r Elam Lynds, who received this commission, chose a hundred prisoners, with whom he went to the place appointed on the banks of the Hudson. He there succeeded, through the confidence with which he had inspired these criminals, and the power which his firmness of will exerted over them, in awakening their industry and developing their powers of labour. They became, by degrees, bricklayers, carpenters, smiths, and with one reinforcement of workmen, all taken from the institutions for correction, he built, in the course of a few years, those extensive buildings which contain 1000 cells. This example shows, partly how great an influence an energetic man can possess even over corrupted minds, partly what results may be gained by a wise employment of that human power, which is generally idly thrown away in our prisons.

About this period (1822) Geneva commenced a reform in its prisons in the same philanthropic spirit, to which North America had given a praiseworthy example. No expense was spared for the erection of buildings necessary for the reception of the prisoners, and in 1825 the regulations were issued, by which the interior discipline should be directed. The prisoners should be divided into three different categories: according to their age, sex and the nature of their offences; every class worked in common workshops, ate and spent their leisure time together. Thus we again find here the unhappy idea of classification, and shall soon perceive its dreadful effects. In vain did they try to counteract these by shutting up the prisoners at night in cells, and by the observance of silence during the hours of work; the conversations and communications, which were, between whiles, unavoidable, were sufficient to render improvement impossible. Not enough that the object aimed at was thus missed: punishment lost even its deterring power, and ceased to act as a warning element in the state. This is shown clearly by the inspection, which was undertaken in 1832, of the house of correction at Geneva, in order to examine the state of the prisoners. "The prisoners," it is said, "had cheerful countenances, and their appearance bore the stamp of health and happiness. They had no complaints to make, and in truth, what should they find fault with? They are well fed, well clothed,

lie on good beds, in well warmed rooms; they work much less than their free brethren are obliged to do, in order to earn a support for themselves and their families, and have besides, as an amusement, the pleasure of gaining a number of ideas, which were before quite unknown to them."

The consequences of these important mistakes became evident within a few years: transgressions were constantly increasing, and of the 121 liberated, from 1825 to 1833, 34 or about $\frac{1}{3}$, returned to the prison, in consequence of new offences.

In 1833 new regulations were issued, in which the discipline was rendered severer; the prisoners were subjected to a new classification, according to which the severity of the treatment was determined; their right of employing the surplus of their earnings was limited in a considerable degree, and silence was enjoined on all those who did not belong to the, so called, improved division. This was to approach the Auburn system. Nor was this beneficent severity long in producing greater order within the institution; and relapses are said, since then, to have been constantly decreasing.

Nor had England been inactive with regard to this great national affair. The renowned Howard had, already in the latter part of the last century, directed the public attention to it. Together with two other distinguished men, Mr George Paul and Sir William Blackstone, he formed the plan for a house of correction. The prison for the county

of Gloucester was built in 1790 according to their plan. This was supplied with separate cells, in which the prisoners were shut up night and day, and kept completely from each other during the whole period of imprisonment. This system was continued for 17 years. It was afterwards deviated from only on account of the increase in the number of inmates; there was not sufficient room in the prison, so that by degrees several prisoners were placed in the same cell. In 1820 they were obliged to crowd 352 prisoners into 180 cells. Thus it became impossible to maintain the required discipline. Mr George Paul, in 1819, delivered the following report to the committee appointed by the house of Commons: "Although I must allow, with several other theorists, that I, on the whole, expected more than has been gained, this has, nevertheless, not been the case with the institution in question. It has, during its first years of trial, given results far exceeding the hopes entertained by either the founders or myself. I know that many, who have left this prison, have succeeded in gaining their living by honest labour. I have paid particular attention to this institution during the last seventeen years of its existence, and have always found its inmates orderly, obedient and submitting patiently to their fate. I have, consequently, every reason to believe, that their morals have been improved by the discipline observed, and during the above mentioned period, very few

have returned, after liberation, to renewed punishment."

These words, uttered by an enlightened philanthropist at the close of a long and virtuous course of life, are a comfort, which the friend of humanity needs, in order not to become weary in his noble exertions, when he so often sees his hopes disappointed; they form a valuable encouragement to those who are trying to remove the hindrances to a thorough reform in the houses of correction.

According to the same principles that have been followed in Gloucester, the prison or so called Bridewell, with 265 separate cells, was built in Glasgow in 1824. Here also the happiest results have been obtained, with regard to the prisoners' health, industry and determent from new crimes. The same cause of ruin, however, threatens this prison as in Gloucester; for although the number of cells has been increased to 274, they have sometimes been obliged, within the last few years, to place 400 prisoners there. According to the report delivered to the Minister for the home department, by Mr Frederick Hill, Inspector General of the Scottish prisons, they had, already in 1838, began to think seriously of enlarging the prison.

But we return to North America. The Auburn system soon attracted the public attention, and the discipline calculated on separate sleeping cells, and work in common under perfect silence, was by degrees introduced into most prisons.

Pensylvania did not, however, give up the idea, on which its first reform in prison discipline rested, although it had, in practice, been omitted, namely: the perfect separation of the prisoner from other criminals. This question, so important to the State and to humanity, was examined in every point of view, by the most distinguished writers, and found in Mr Edward Livingston of Boston, a most zealous and enlightened advocate. A new prison, calculated for the cell-system, was erected at Pittsburg, and when it was found, that through a fault in the manner of building, which gave the prisoners an opportunity of communication, it did not answer the purpose intended, another house of correction was built at Cherry-Hill, which is considered as the model for the new Philadelphian or Pensylvanian system, the rise of which may properly be reckoned from 1829.

This system rests on four leading principles:

- a) The perfect separation of the prisoners, as well by day as by night.
- b) The abolition of all corporal punishments.
- c) Religious instruction and severe labour.
- d) The absence of all conversation with any but the inspectors, the overseer, the clergyman, the teacher, the doctor and the keeper.

Consequently, not only is the honour of having first applied the elevated principle, of uniting improvement with punishment, due to the legislators of Pensylvania; they have also, by a praise-

worthy perseverance, which has not allowed itself to be cast down either by difficulties or sacrifices, laid the surest foundation hitherto known, on which the correction system may reach its grand object.

Of 27 among the greater prisons in North America 17 are (according to Dr Julius, whose profound work is as honourable to the author, as it is instructive to the reader) arranged on the Auburn, and 9 on the Philadelphian system. Only one has remained on the old principles, that, namely, at Richmond in Virginia. But it is very remarkable, that the Philadelphian principle has been both admired and applied in all new prisons established since 1834, not less than five in number, of which one is in the State of New York, the place where the Auburn discipline was first thought of.

During the last few years, several prisons have been erected in Europe, according to the new principles; among which may be mentioned those of Aberdeen, Paisley, Ayr, Dundee, Montrose and Lewick in Scotland; those of Ghent and Luttich in Belgium; and Warsaw in Poland, according to the Philadelphian system; that at Millbank near London, approaching the last mentioned system; and that of Coldbathfields in London, with some few French and Swiss, according to the Auburn plan. The Prussian government, which, with its enlightened care, embraces every thing that can promote the National prosperity, has also extended

its attention to the Penitentiary system. In 1830 the erection of a prison was commenced at Insterberg, on the principle of solitary confinement.

Having thus given a general view of the developement of prison discipline, I will, in the following chapter, endeavour to unfold more fully the leading characters of the two principal systems, with the results already gained, and cite the opinions of the most distinguished authors, on their advantages and disadvantages, as well in a moral as in an economical point of view.

III. CHAPTER.

COMPARISON BETWEEN THE AUBURN AND PHILADELPHIAN PENITENTIARY SYSTEMS.

In order to form a correct judgment of the different correction systems followed at Auburn and Philadelphia, it is necessary to be acquainted with their inward arrangement and outward discipline, even in the smallest details. I will therefore give a particular account of these, and in so doing shall follow, principally, M:r Demetz's excellent report, dated 1837, to the Count Montalivet, then Minister of France for the home department.

The prison at Auburn has 770 cells, a chapel, several workshops and refectories, and rooms necessary for the economy and attendants.

On the arrival of the prisoner, his hair is cut off, a particular dress put on, and a certain cell is appointed for him.

The hours of labour vary according to the season. During the summer they begin at half past six in the morning, and finish at six in the evening. In the winter work commences at daylight, and ceases at dusk.

A quarter of an hour after the work-bell has rung, and after the guard has been arranged, all the cells are opened, from which the prisoners come out and march in close files to the workshops.

At seven or eight o'clock, according to the season, they eat breakfast, immediately after which work is recommenced. The dinner hour is twelve. For each meal 30 minutes at most are allowed.

When the prisoners go to or from the refectory, they are arranged in separate divisions, and march or halt by word of command; each one holds his hand on the shoulder of the man who goes before him, with his head turned towards the keeper who gives the command.

At Singing the prisoners eat all their meals in their cells, which certainly seems, in many respects preferable, but of course causes much trouble and loss of time, as the prisoners must first be shut up in their cells, and afterwards be arranged and divided in order to repair again to the workshops. In the evening, when the work is finished, the prisoners are conducted back in the same order. On the way a mug of water, and a basin containing their supper, are given to each.

As soon as the prisoner has come to his cell, he enters immediately and closes the door *after* him; the keepers then lock the cells in a certain order, and to ascertain that no one has escaped, each prisoner is obliged to put two fingers through the grating of his door. It requires about 20 minutes to open or shut the cells allotted to each keeper.

At night the passages are lighted, and four keepers are responsible for the observance of order.

Two of these must always be in motion in the passages, having socks on their feet that they may not be heard by the prisoners.

During the performance of every duty the most perfect silence is observed, an instantaneous execution of orders given exacted, and every thing that can cause noise or other confusion carefully avoided. The least neglect, the most trifling attempt to communicate their thoughts either by whispering or signs, is immediately punished without indulgence by repeated blows of a whip on the naked shoulders of the offender. The right of punishing is extended to all the keepers; the number of blows is not determined.

The women are not subjected to corporal punishment, but arrest in cells, decrease in the allowance of food &c.

On Sunday the cells are cleaned, and the prisoners receive clean linen and sheets. After breakfast they go to the chapel and thence to the Sunday-school, after which they are shut up in their cells till the following day. Dinner is eaten in the cells.

With some few exceptions the discipline is the same in all the other houses of correction arranged according to the Auburn system.

At Cherry-hill in Philadelphia the following order is observed:

On the arrival of the criminal at the prison, his state of health is examined by the doctor, after which he receives a separate dress.

He is then conducted, blindfold, to the cell appointed for him, which he does not then leave till the time, for which he is condemned, is expired. He is designated only by the number of the cell. In his roomy but solitary prison the delinquent is left to sorrowful remembrances and bitter reflections. Neither work nor any other employment is given to him before he asks for it himself, and two days and nights seldom pass before he most urgently begs for it.

If the prisoner is acquainted with any kind of trade, every thing that is necessary to work at it is given to him; otherwise he receives instruction in some useful manufacture.

The inspectors, clergymen, overseers, doctor, and keepers, are the only persons allowed to visit the prisoners in their solitary dwellings.

The prisoners get up at 5 in the morning, and go to rest at 9 in the evening. In the winter-evenings, the cells of those prisoners, whose ability in working can answer such an expense, are lighted with a lamp.

Three meals a day are allowed: breakfast at 7 or 8, dinner at 12 or 1, supper at 6 or 7, according to the season. When a prisoner is ill, he is taken immediately to the hospital, where, in
order

order to continue the solitary principle undisturbed, separate cells are arranged for the reception of the sick, who are attended to by keepers appointed for that purpose.

All corporal punishments are banished from the prison. The delinquents are corrected by decreasing the prison allowance, dark cells, and the loss of permission to work.

The leading features of the inward arrangements and discipline having thus been drawn, it remains to compare the efficacy of the two systems, as institutions for punishment and improvement, from the following points of view, viz:

a) Their powers of punishment, for the just chastisement of the criminal, and useful warning to others.

b) Their influence on the moral improvement and health of the prisoner.

c) Possibility of continuing the proper observance of the order prescribed.

d) The expense of the prisoners' dwelling, support and guarding.

e) Whether the system promotes or hinders the possibility of a compensation, by means of the prisoners' labour, either for the whole or at least a part of the expenses of the state.

f) The effects of the system on the future prospects in society of those liberated.

a) *The systems' power of punishment.*

The loss of freedom forms the real punishment, on which the Pennsylvanian criminal legislation, and those houses of correction established in its spirit, are principally founded. Next to this is *labour*, which, according to the Auburn system, is *forced upon* the criminal by outward means, but in the Philadelphian, is *granted* him as a consolation, an employment for which he longs; which material difference shall be considered further on, in its moral point of view.

Labour, considered of itself, does not constitute any punishment, but is, on the contrary, necessary for the inward and outward health of man. It is, whether mental or corporal, the most efficacious means of improvement, and ought not, therefore, to be represented in deterring colours, or mingled with the idea of *punishment*. *Labour* ought decidedly to form a part of all systems of correction, but more as an improving, than as a really punishing element.

The Auburn discipline certainly admits also of corporal punishment, though not as an atonement for the real crime, but as a means of supporting the prescribed regulations; which important difference ought not to be forgotten. The greatest malefactor is not subjected to it, if he carefully observes the appointed discipline, while on the other hand, one less criminal sinks under the

strokes of the keeper's whip, if he break the silence enjoined.

The penitentiary system ought, consequently, to be considered, principally, as *a punishment by loss of liberty.*

In the Auburn system, where the prisoners are together the whole day in the work-shops or refectories, the loss of liberty will of course be much less felt. The criminal finds the same vicious company, as in his free state, and his humiliating situation will be much less depressing, when he sees it shared by so many. Separation from relations and friends is certainly painful; but this feeling is often so deadened in him, that it can scarcely be taken into consideration. We must not forget the experience gained at Geneva in this respect.

According to the Philadelphian system, on the contrary, the punishment is of a deeper nature. During the dismal, uniform and slowly creeping hours of solitary imprisonment, the offender is left to the avenging voice of conscience. There are no exterior enticing objects around him, which can divert self-examination, or dissipate his depressed mind. Sorrowful remembrances and disappointed hopes, make up the picture of his past life, and show him the evil he has committed, and the good he has neglected. The greater the offence, the more sanguinary the crime has been, so much the more painful is, also, this terrible solitude, from

which he cannot escape; for it is the stamp of every punishment that acts upon the soul, without debasing it, that its severity is in just proportion to the really moral guilt, and to the intention itself which gave rise to it.

This view of the excruciating effects of solitude is confirmed by the prisoners themselves, and as their own expressions portray their feelings most correctly, I will cite some among those of most consequence, taken from Mess:rs Beaumont and Tocqueville's interesting report of the complete examination made by them of the penitentiary-institution at Philadelphia, during which they visited the prisoners for a fortnight in their cells, and conversed with most of them.

"No 41 *). The prisoner was a young man who acknowledged his crime. During the whole conversation tears stood in his eyes.

Question. Do you find it difficult to bear solitary confinement? *Answer.* It is the most dreadful punishment that could be invented. *Ques.* But your health has not suffered from it? *Ans.* No, my health is good but my soul is sick. *Ques.* What do you think of most during your long solitude? *Ans.* Of religion. That is my only comfort. *Ques.* Do you consider work a relief? *Ans.* Without it I could not live; Sunday is long, I assure you. *Ques.* What is your opinion of the punishment

*) The prisoners are designated, as mentioned above, by the number of their cell.

you are going through? *Ans.* If any punishment can force a man to self-examination and improvement, it is without doubt this.

N:o 22. A negro, 32 years old; condemned the second time for theft. Had sat eighteen months in a cell; good health. *Question.* Do you find this imprisonment as difficult to bear, as it is said to be? *Ans.* It depends on the prisoner's state of mind. If he does not properly comprehend solitude, he will fall into a state of melancholy; if, on the other hand, he knows how to value its advantages, it will no longer be so unbearable. *Ques.* You have been confined once before in Walnut Street? *Ans.* Yes, and one cannot imagine a more dreadful hotbed for vice and crime. A few days there, are sufficient to change a moderate delinquent to a hardened villain.

N:o 52. Thirty nine years old; condemned for the second time; had been in prison one year; good health. The prison in Walnut Street is a terrible place, said he, one cannot leave it improved. Had I come here immediately, I should certainly never have committed the second crime. *Ques.* How do you find solitude? *Ans.* It appeared dreadful to me at first, though I have by degrees accustomed myself to it. Without work, however, I could not bear this punishment; for without labour there is no sleep.

N:o 110. Twenty five years old; belonged to the more respectable class; condemned for forg-

ery; had been imprisoned a year; health good. This young man showed much pleasure at seeing us. It could be seen that solitude was for him a dreadful punishment, and that he, more than the others, felt the necessity of communicating his thoughts and impressions. He could not restrain his tears, when he spoke to us of his parents.

Ques. I see that this punishment has had a great effect upon you. Do you think that it is at least improving? *Ans.* Yes, sir; and I find this prison much better than others. It would be more terrible for me, to live in company with other offenders, than to be alone. It is impossible to be here, without being brought to reflection.

Beaumont and Tocqueville observe, that the minds of the prisoners have in general taken a deeply religious turn, and that most of them shed tears, when they spoke of their position and their guilt. At the house of correction in Westminster the prisoners said, they preferred being a quarter of a year in a prison where they worked together, even with the strictest silence, to one month in solitude.

Imprisonment in solitary cells has also been tried in England as a military punishment, and has given very satisfactory results. The chief of the King's regiment wrote, in 1827, the following letter to the superintendent of the house of correction at Glasgow, arranged according to the Philadelphia system.

“Being about to leave Glasgow with my regiment, I am glad to be able to tell you, that your penitentiary institution has been particularly useful in improving those among my people, who have trespassed in any way. The effect has been so great, that I have not had occasion to apply corporal punishment once during the course of nine months. It is impossible to show a more certain proof of the advantages of the system adopted by you.”

Some men from the 10:th hussar-regiment, who, in 1835, had sat a month in solitary cells, declared they would rather choose 200 lashes, than go through the same punishment again.

The answers of the prisoners at Philadelphia, of which only a part has been cited, in order to avoid tediousness, and the experience gained in England, show, that solitary confinement is a severe manner of punishment. Although the Auburn system, with its strict discipline and its arbitrary corporal punishment, may, at first view, appear sharper, the Philadelphian penetrates, nevertheless, more deeply, with less violence, but without interruption and unsparingly. We have seen, that it has also proved equally efficacious in deterring and warning, and that it consequently seems to fulfil those conditions, which the state aims at in *punishment*.

b) The influence of the systems on the prisoner's moral improvement, and on his state of health.

The possibility of the prisoners' improvement is an object of as great consideration for the philanthropist, as it is important in a political point of view. It is a noble endeavour, and worthy a state, to try to improve those among its members that have fallen into the paths of perdition, frequently enough in consequence of faulty legislation or prevailing prejudices. It is of importance to try, by preventing relapses, to decrease the constantly augmenting expenses to the state, for the conveyance and care of prisoners, and the no trifling loss of so many days' work, either thrown away or employed to little purpose.

Both the American systems have in view the prisoner's improvement, although they proceed on different grounds and employ different means.

The Auburn acts properly through the outer discipline, and has its support in an instantaneous punishment for the least fault against that discipline. The Philadelphian, on the other hand, leaves to the conscience both the punishment and the improvement.

The Auburn system surrounds the prisoner with a variety of objects, which turn his attention to the outer world, and give constant nourishment to his evil inclinations. He is induced to deceive

the strictness of his keepers, to impart his thoughts to his fellow prisoners by whispers or by signs, and when he succeeds, his cunning insolence is encouraged by their approving glance. The Philadelphian on the other hand, removes from the prisoner all dissipation, all support from injurious example, and leaves him helpless to his inward consciousness.

Both the systems endeavour to accustom the prisoner to work and industry. But in the Auburn, labour presents itself in a repulsive form, as a punishment, an unavoidable constraint; in the solitary cell, on the contrary, it forms the unhappy being's consolation and only diversion. A natural consequence of this will be, that it is embraced by the prisoner willingly and with interest.

From this comparison it seems, that the following conclusions may be drawn, viz:

That the Auburn system certainly accustoms the criminal to an instantaneous obedience, a punctual performance of the work appointed, and to the observance of the prescribed discipline; but that his seeming improvement rests only on the fear of punishment, wherefore there is a danger of his relapsing into his former guilty way of life, so soon as he feels himself free from the keeper's lash.

That the Philadelphian solitude acts more immediately on the mind, or on the origin itself of good or evil, and that the liberated prisoner takes with him the fruit of a useful self-examination and

of that inward warning voice, to whose correcting severity he has been left.

M. Ducpetiaux, Inspector-general of the Belgium prisons, speaks as follows of the Pennsylvanian correction-system, "Solitude produces an almost instantaneous change in the most stubborn mind. The dull and idle are prompted to activity and industry; insolence is changed to a calm submission, and the most hardened feelings cannot long withstand the voice of benevolence and religion."

The effect of the discipline on the health of the prisoners deserves next a careful examination.

There can be no doubt, that the great change, which occurs in the prisoner's way of life, when he, after having been at liberty, is shut up in a prison, must act powerfully both on his temper and his health. It remains then only to inquire whether perfect solitude has produced more injurious consequences to the health, than common imprisonment.

Dr Julius gives several accounts, respecting the state of health in many prisons in Europe and the United States, which are exceedingly instructive, and from which I will cite a few of those that are in this respect most interesting.

During the years 1834 and 1835, of 100 prisoners a yearly average was calculated of

	Cases of sickness.	
at Sing-sing	77	} Auburn system.
at Auburn	59	
at Baltimore	217	
at Philadelphia	77	

As the sickliness in the Pennsylvania house of correction has thus, on an average, been less than in those arranged according to the Auburn system, it seems we may conclude, that the cause of the difference in the amount of sickness should be sought in other circumstances than in the cell-life.

That the sickliness observed at Philadelphia ought not to be considered particularly great, is shown by its being the same as that generally prevailing in the town of Manchester, but less than in the Prussian army, where during the year 1836, the cases of sickness amounted to 113 to every 100 men.

With regard to deaths the proportion has been as follows:

Sing-sing . . .	12, %	} Auburn system,
Auburn . . .	5,5%	
Boston . . .	5, %	
Philadelphia . . .	3,8%	} Pennsylvania system,
Pittsburg . . .	3,3%	

At the prison at Richmond (Virginia), arranged according to the old system, from 1800 to 1835 every 5:th prisoner has died.

The medium of deaths at Glasgow (cell-system), is under 2 per cent, or every 50:th prisoner. At the prison in Ayer, also arranged according to the Philadelphia principle, none of the prisoners, an average of 29 persons imprisoned there, died during the first two years.

Among the French galley-slaves, who work constantly in the open air, the mortality, from 1830 to 1833 inclusive, amounted to an average of 5%.

At Milbank, near London, the average amount of deaths during five years, or from 1830 to 1834 inclusive, was $7\frac{1}{3}\%$ yearly, or about $\frac{1}{13}$.

At Långholmen *) the mortality has, during the last five years, been about $3\frac{1}{2}\%$ yearly.

M:r Crawford, Inspector General of all the houses of correction in the middle counties of England, says, in his report respecting the Philadelphian penitentiaries: "Having experienced those fears which are generally entertained for a long solitary imprisonment, I have endeavoured to examine, with the greatest attention, its effect upon the temper and health of the prisoner. Most of those with whom I spoke, had been shut up four years. Neither in their appearance nor answers could I discover the least sign of the long solitude having injured their health or weakened their mental powers. Although serious, they were not cast down; some were even in better spirits than could have been expected."

M. Demetz, who has since examined the American prisons, agrees in all respects with this opinion, and adds: "I may safely declare, that the discipline founded on the perfect separation of the prisoners, can, even in this respect, bear a comparison with any correction system soever.

*) Långholmen is a prison near Stockholm.

The distinguished Dr Franklin Bach, grandson of the renowned Benjamin Franklin, states in his official report, that during the seven years he has been physician at Cherry-hill, the mortality has on an average amounted to 3% annually, while in the town of Philadelphia it was $2\frac{3}{4}$ %. At the old prison in Walnut Street it had, during 12 years, risen to 6% yearly.

The opposers of the Philadelphian system have accused it of having an injurious effect upon the spirits of the prisoner. We have, however, seen, that Beaumont, Tocqueville, Julius, Crawford and Demetz, testify the contrary. The circumstance which has probably given rise to this apprehension, is satisfactorily shown by the above mentioned Dr Franklin's report, stating: that of 697 prisoners, who had, during 7 years, been confined at Cherry-hill, sixteen had shown signs of weakness of intellect; but that it is officially proved, that ten of these had before been disturbed in their minds, and that there are strong reasons to believe, that four had shown signs of melancholy before they were condemned. This state of things is easily explained by there being no madhouse in the counties of Pennsylvania, so that the judges are often obliged to send to the penitentiaries, those who in other countries are delivered over to the care of the physician, as suffering under mental derangement.

c) Possibility of continuing the proper observance of the order prescribed.

In this respect the superiority of the Philadelphian system is evident. The prisoner, shut up in his solitary cell, is left entirely to himself; the keeper has only to see that he is properly supplied with food, materials for work &c.

The Auburn system on the other hand requires a constant watchfulness, in order to maintain among the prisoners that complete silence, on which the whole discipline and the security of the keepers themselves depend. But when we consider the almost irresistible necessity of man, to communicate his thoughts and impressions, and the numerous opportunities which offer themselves during a long continued and often noisy employment, as also during the meals, it will easily be seen, that only the fear of severe corporal punishments, can possibly deter the prisoners from exchanging words or signs with each other. The despotic right, given to every keeper, of immediately striking the refractory, — for the punishment must follow the offence closely, — gives rise to many abuses, and awakes in the prisoner ill will and discontent towards those who speak for law and for order, which feelings exercise an injurious influence on his inward improvement.

Beaumont and Tocqueville relate, that they have seen at Sing-sing 900 criminals at work in

the open air, under a guard of only 30 men. If this example on the one side is a new and a surprising proof of what silence and order can, in this respect, accomplish; it is nevertheless, on the other hand, evident, that this arrangement can produce the most dangerous consequences to the public safety.

d) The expense of the prisoners' support, dwelling and guarding.

The expense of the prisoner's food and clothing will be about the same in both the systems; rather less in the Philadelphian, as the prisoner who is always in a warm cell naturally requires less warm clothing, and wears out less shoes than if he worked out of doors.

The buildings, which form the most expensive part of prison discipline, are, according to both systems, much dearer than they have been hitherto, according to the inhuman custom of inclosing in small, dark rooms, a number of individuals, many of whom are afterwards found to be innocent.

In the Auburn prisons, the cells are arranged in two lines, with a common party-wall. As they are only intended for the night, they are lighted only by a grated window in the door, looking to the passage where the keeper is stationed. They are generally 7 feet long, 4½ feet broad and 7 or 7½ feet high; they contain a bed and a chair. Besides these they require workshops where the pri-

soners are in the day time, refectories and a chapel. Round the workshops runs a passage, from which one can watch the prisoners without being seen by them. A high wall, along which a gallery is placed for the centinels, surrounds the whole.

The Pensylvanian prisons consist of separate buildings, issuing from a common centre, where the keepers' room is situated, and from which all the separate passages can be seen. The cells are also here arranged in two rows, but separated by a gallery and supplied with windows towards the outside, to afford sufficient light for the prisoner while working in his cell. Their size is as follows: length $13\frac{1}{2}$ feet; breadth 9 feet; height about $10\frac{1}{2}$ feet.

In Philadelphia to every cell on the ground-floor is attached a little yard, 9 feet broad and 15 feet long, where the prisoner is allowed, occasionally, to breathe the fresh air. It is, however, considered, that this might be avoided, at least when the time of imprisonment is not calculated to last more than three years.

As the prisoner is constantly in his cell, neither workshop, refectory nor chapel is necessary.

When divine service is performed, the clergyman places himself in the passage and the doors are placed ajar; every cell has, besides, a grating which remains locked. It is said to be as melancholy as it is solemn, to hear the preacher's warning voice address the invisible congregation, whose
numerous

numerous members, perfectly separated from each other, nevertheless unite in common repentance and in common prayers.

The whole establishment is surrounded by a high wall.

It is difficult to state, with exactness, the expense of building, for that depends on the greater or less degree of ornament used, the price of materials, wages &c.

If, however, in order to obtain some scale to calculate by, we divide the whole expense of the building of the penitentiary among the number of cells, we find, that each cell, according to the Auburn system, cost in the beginning 584 Dollars (1,460 R:dr 40 sk. B:co), but that the expense, in consequence of experience and the observance of economy, was lowered at Wethersfield to 150 Dollars (345 R:dr B:co) M:r Wells, one of the inspectors, says, that it may be still farther decreased to 180 Dollars (200 R:dr B:co).

In the splendid prison built in the gothic style at Cherry-hill, according to the Philadelphian system, the expense of every cell amounted to 1,624 Dollars (4,069 R:dr B:co); but it has since been decreased to 735 Dollars (1,837 R:dr B:co).

When, again, it is considered, that a day's work is paid with 1 Dollar, or 2 R:dr 24 sk. B:co: it will be found that no proper comparison can be instituted with those countries where wages are

lower. Very different calculations have also been made. In France M. Berenger calculates the Auburn cell at 500, and M. Aylies reckons it at 600 francs. Dr Julius states the expense of the Philadelphian cell at the Prussian house of correction Insterburg, at 387 Prussian Dollars (677 R:dr 12 sk. B:co), while the French architect Blouet, who was sent to America, states, the Auburn cell, in his proposition, at 1,165 Francs 50 c. (560 R:dr 29 sk. B:co) but the Philadelphian at 2,136 Francs 75 c. (1,027 R:dr 37 sk.). In old buildings which are arranged for the cell system, the expense will, of course, be much less; at the palace of St Germain, not far from Paris, where a military house of correction on a great scale is now being erected, each cell is reckoned at 650 Francs; the cells are to be 7 feet long, 5 feet broad and 8 feet high.

With regard to the expense of watching, the Philadelphian system offers an opportunity for considerable saving. According to the Auburn discipline, a keeper is necessary for every 19 prisoners, while according to the solitary system, one for 30 is sufficient. At the house of correction at Långholmen there is a keeper or soldier to every 5 or 6 prisoners.

In the next chapter, on the possible application of the Penitentiary system in Sweden, this important part of the question will be more particularly entered into.

A possibility, as important in a financial point of view, as it is happy when considered by the eye of humanity, of decreasing the period of imprisonment through the deeply efficacious severity of the Philadelphian system, ought not to be forgotten here, and Dr Julius founds, on this, the following remarkable calculation: "A house of correction according to the Auburn system," he says, "costs $\frac{2}{3}$ the sum which one, built according to the Pensylvanian plan, would cost; I take for instance 200 Auburn cells at 100 Thaler each, or together 20,000 Th:lr, and the same number of Philadelphian at 150 Th:lr making 30,000 Th:lr. In these 200 Auburn cells only 600 criminals can, in the course of 15 years, undergo a punishment of five years; but in the 200 Pensylvanian cells, which admit of a decrease in the time of punishment of from 5 to 3 years *), 1000 prisoners may be placed during the same 15 years. The interest of the original capital amounts yearly at Auburn to 1000, at Philadelphia to 1,500 Th:lr or, during 15 years, to 15000 and 22,500 Th:lr, which sum divided by the number of prisoners confined during the time mentioned, makes for each at Auburn 25, but at

*) In support of this supposition, which is rather less than more than the truth, I must cite the following testimony of Senator Hudtwalker, under whose direction the Hamburg police is placed: "According to my experience, two months solitary imprisonment, with bread and water during the first and last fortnight, are quite as effective as 6 months bridewell, even with the observance of strict silence."

Philadelphia only 22½ Th:lr; that is to say, the real expense of the two systems for the cells, is in the proportion of 9 to 10, to the advantage of the Pennsylvanian."

e) Whether the Penitentiary system promotes or hinders the possibility of a compensation, by means of the prisoners' labour, either of the whole or at least a part of the expenses of the state.

That idleness is the mother of all evil, is a truth acknowledged at all periods and expressed in all languages, and labour, being its opposite, is considered to form its most certain cure. This view is indisputably correct, but in applying it, as an element of correction at a penitentiary institution, it ought first to be considered, whether it acts advantageously on the inward improvement of the prisoner, and prepares for him the possibility of gaining his living in an honest way, when he regains his freedom.

It has already been observed, that employment presents itself to the prisoner languishing in solitude, as a consolation sincerely longed for, a welcome diversion; while on the other hand, the Auburn discipline renders work, in itself difficult and heavy, hateful in the eyes of the prisoner, through the application of punishment and force. The moral effect of this will be easily perceived.

On account of the difficulty which the prisoner has to support himself after having gained his liberty, it is important that an opportunity should be given him of either learning a new trade during his imprisonment, or of improving himself in that he had before followed. In the Auburn houses of correction the work is carried on more as in manufactories, and in many different branches; while in the Philadelphian, the employment is limited to certain trades, as of tailors, shoemakers, carpenters, weavers, in a word, to such work as can, by a single person, be accomplished without the assistance of others. M. Pradier of Paris has, however, in a statement dated July 15:th 1837, to Mess:rs Blouet and Demetz, enumerated 48 different trades for prisoners working alone in cells. This kind of employment is undoubtedly more useful for the prisoner himself, who thus gains the possibility of earning his living alone, and that under any circumstances; but work carried on by the prisoners in common on a greater scale, certainly produces a larger income for the support of the institution itself.

At Auburn, Mess:rs Beaumont and Tocqueville mention, that the income, already during the first two years, covered the expenses; and at the penitentiary in Wethersfield, the nett gain had, during two years, amounted to 17,139 Dollars or in Swedish money 42,897½ R:dr B:co. It must not, however, be forgotten here, that the want of a sufficient

number of workmen in North America, and the exceedingly high wages arising from that circumstance, render such a gain possible, which cannot be calculated on under other circumstances. Besides which it must also be recollected, that it is unjust towards free tradesmen, that the state itself establishes extensive manufactories, carried on with a labour which costs but little, and where the selling price of the article produced can be so considerably decreased, when every income, how little soever it may be, is nevertheless a gain, as the criminals condemned by the law must, at all events, be supported at the public expense.

At Cherry-hill, on the contrary, the expenses have exceeded the income :

1834 by	6,524	Doll.	Expense of each prisoner	37,91	Doll.
1835 —	10,968	—	—	—	41,06 —
1836 —	8,165	—	—	—	27,01 —

That the proportion between the expenses is not always in favour of the Auburn system, but depends on different circumstances, is seen by observing, for instance, that at the Auburn prison at Coldbath-fields, in 1836 each prisoner cost 8 pence a day, or nearly 12 £ 4 s. a year; while at the Philadelphian institution at Ayr, the prisoner cost only 8 £ yearly; at Glasgow in 1837, 3 £ 17 s.; in 1838, 2 £.

The prisoners ought in the first place to be employed in making what is necessary for their

own dress, articles for the establishment &c. Where labour in common, according to the Auburn system, can be calculated on, it should be employed in the construction of public buildings, such as prisons, docks, fortifications &c. In this way the labouring power of the prisoner may be applied in a manner useful, as well to himself as to the state, and the above mentioned inconveniences are avoided.

There have also been different opinions on the subject of the application of the prisoner's earnings, and M. Aylies, who has treated the question with attention, considers, that the prisoner ought not to have any part of it, but that the whole gain belongs to the state. His opinion, however, seems to be founded, in a great measure, on the state of things prevailing in the French houses of correction, where the contractors, who have farmed the prisoners' labour, not only appoint high wages, but even give the prisoner an opportunity of obtaining both food and wine, in order thus to increase his power of labour as much as possible. As a proof of the excess of these abuses, so injurious for the inner discipline, and the prisoner's possible improvement, may be cited the circular from the Board of Trade in 1834, which forbids the selling of game or other uncommon articles of food, that may be considered as *luxuries*, at the sutlers (cantines) in the French houses of correction. Hence it may be seen, how much the idea,

in itself so important, of inducing the prisoner to labour, may be misunderstood and become injurious.

It appears to me, that it would be both unreasonable and unwise to refuse the prisoner all share in the gain, for by that means the industrious man would lose an encouraging reward, and the work itself a great part of its interest. The right of applying the acquired gain, ought not on the other hand, to be given to the prisoner, before his time of imprisonment is finished and he is again set at liberty. Then is this support, which should be given to him in proportion to his need, of the greatest importance till he has been able to obtain some situation or other lawful employment, so that necessity and misery may not soon cause a relapse. The state ought, then, first to be compensated for the prisoner's support from the returns of his labour, but all that may be over, should be placed in the savings-bank in the prisoner's name and put to interest for his advantage.

f) The effects of the systems on the future prospects in society of those liberated.

After the houses of correction have completed what was entrusted to them, viz: during the period appointed by law, punished and improved so far as the imperfection attached to human institutions permit it, there still remains an important object, that of preparing the reception into society of those who are liberated. Without this, both

the trouble taken and the money laid out are thrown away, the demands of humanity only half satisfied, and the public safety as dangerously threatened as before.

Those noble philanthropists, who began to pay attention to the unhappy condition of their fallen brethren, at first applied their zealous exertions in mitigating their sufferings, supplying their physical wants, and attending to their health, which was destroyed in consequence of their wretchedness and the unwholesome prisons. When the demands of compassion had been satisfied, attention was given to their moral improvement; there still remains one step in order to gain the object aimed at: the care of the prisoner's first faltering steps on the path of honesty and duty.

Private societies have already been formed in several countries for obtaining, for liberated prisoners, not alms, but work, service, in a word the possibility of supporting themselves honestly.

If we consider the immediate effect of the correction systems on the condition of the liberated prisoner, we shall find, that the Pensylvanian discipline possesses a decided advantage over the Auburn.

That, which is most to be feared for him who leaves the prison after having gone through his punishment, is, next to reprobateness and poverty, the dangerous acquaintances he has formed among his unhappy comrades. They generally betray his former disgrace, and often induce him, either by

threats or bad advice, to commit new crimes. Experience offers proofs of this, as numerous as they are lamentable. By means of separate cells, this great difficulty is completely obviated: at Cherry-hill a prisoner inquired, whether his accomplice had been taken, when they had lived in adjoining cells for two years.

It is common in the jails, for the prisoners to form plans and agreements respecting new crimes, and to enter into engagements to assist each other, when they obtain their freedom. The strict silence observed in the Auburn discipline certainly forms a check, to some extent, against these dangerous unions, but it cannot, nevertheless, be so perfect a security against them, as solitude and the prisoners' utter ignorance of each other.

If we compare the number of relapses, we obtain an instructive view of the effect of the different systems on the prisoners' moral improvement.

When the classification system prevailed, the proportion was as follows:

At the old prison in New York the number of relapses was 11 pr:ct; in Connecticut 25 pr:ct; in Boston 16 pr:ct.

The Auburn system.

At Wethersfield about 9 pr:ct; at Sing-sing $8\frac{1}{2}$ pr:ct; at Auburn $6\frac{3}{4}$ pr:ct.

The Philadelphian system.

At Cherry-hill out of 278 liberated only 15 relapses, or not quite $5\frac{1}{2}$ pr:ct.

And it must not be forgotten, that among these 15, four had been imprisoned before in jails where the criminals were mixed, and were consequently exposed to that corruption, which is an unavoidable consequence of the effect many delinquents, when together, must have upon each other. As this difficulty is overcome in the Pennsylvanian system by the complete separation of the prisoners, it seems to be scarcely just to take these four relapses into the account. If we except them we have the cheering result, that of those prisoners who have in all respects been submitted to the Philadelphian penitentiary system, scarcely 4 per cent have returned to the institution.

From the above comparison it appears, that the following opinions may be formed.

That the Auburn system, which at night perfectly separates the prisoners, and during the arduous labour of the day, does not permit any communication among them, contains already an important improvement upon the common jail-punishments, with or without classification.

That it, however, gives occasion to dangerous abuses; that it is exceedingly difficult to keep up the discipline for any length of time, and requires a severe and despotic application of corporal punishment, which both exasperates and debases the prisoner.

That with regard to the erection of the prisons, it is less expensive; unless it be admitted, that the period of confinement may, in consequence of the severity of the punishment, be considerably diminished; in which case the calculation by Dr Julius, before referred to, shows, that the expenses of building are then as 9 to 10, in favour of the Pensylvanian system.

That the Auburn system requires a much stronger guard than the Pensylvanian.

That the factory-work, performed in common, and forced by outward means, certainly gives greater profits, but acts less advantageously on the prisoner's inclination for employment and on his real power of supporting himself in future.

That the Philadelphian system acts more deeply and more directly on the prisoner's moral improvement. That, by means of self-examination and an afflictive though beneficial solitude, it subdues his temper and stifles his evil dispositions. That it represents work as a wished for and consoling employment, and promotes an increase of skill in the workman.

That it completely prevents injurious acquaintances and dangerous communications among the prisoners.

Hence may again be drawn the following conclusions:

That the Philadelphian system ought to be applied in the first instance in order to separate

those unhappy beings who are just entering the path of vice, from old and hardened offenders; because the contagious interchange of ideas, which produces, within our prisons, a continued and increasing corruption, can only in this way be efficiently prevented.

That this system is in the highest degree applicable for those individuals, whose improvement is considered possible, and who, after having gone through their punishment, are again to enter society.

That all district, county and other places of confinement during trial, houses of correction and jails, within which prisoners condemned for a certain period are shut up, ought to be supplied with cells, and arranged according to the Pennsylvanian solitary principle.

That the Auburn system seems on the contrary to be applicable only in proportion as the prisoner's improvement is despaired of (for instance such as have returned several times, or have already been exposed, for a considerable time, to the deep demoralisation of our present prisons), and for those, who are condemned for a longer period than that for which it is at present considered the solitary principle can be applied, without endangering the prisoner's health.

The possibility of applying these principles within our own country, will be the subject of the next chapter.

IV. CHAPTER.

ON THE APPLICATION OF THE PENITENTIARY SYSTEM IN SWEDEN.

In order to be able to form a correct judgment of the necessity and possibility of the application of the Penitentiary system in Sweden, it will be necessary to examine the present state of our prisons. A short account of them will, then, probably be acceptable.

Already at the diet of 1815 there was a question of building houses of correction, in order that these institutions might be ready when the new law should be adopted. The states in 1817 appointed money for this purpose, and two years afterwards the institution for labour and correction was established at Wadstena. Money was collected in several counties for the building of houses of correction, the necessity of a careful inspection of all the prisons in the kingdom was perceived, and in 1825 a separate administration was formed for the direction of those questions which belonged to their organisation and management. This measure was, without doubt, quite correct, for it is an indispensable condition in this important branch of government, that system and activity should be introduced; but that is nevertheless only a part of the whole, only one of those pillars on which the building is to rest.

So long as the criminal legislation favours chiefly the principle of *corporal-punishment*, the possibility of improving the offender is scarcely to be thought of. To erect houses of correction and retain ignominious public punishments, is about the same as building hospitals at a great expense for those on whom we have first inflicted incurable wounds.

More rigid regulations respecting the want of protection (*försvarslöshet*) and vagrancy, have created a new kind of prisoners, who — not to atone for crimes committed, but for the prevention of those it was feared they might commit, — have been sent to the houses of correction, the numerous inmates of which, crowded into common bedrooms and workshops, it has been impossible to subject to classification, much less to any efficacious penitentiary treatment.

This mixing of degenerate idlers with hardened criminals, of individuals condemned for a certain number of years, or given up to public works for an undecided period, must cause a dangerous reciprocal effect of vicious examples and criminal doctrines, to which might be applied the renowned J. Bentham's eloquent description of the deep destruction that is produced within those prisons, the arrangement and organisation of which do not admit of a strict but improving discipline. "Such a prison," says he, "forms a school, where crime is taught by means far more efficacious than

those which ever can be used for the teaching of virtue and good principles. Weariness and revenge lead this destructive education, and all competition has but one object: the development of crime. The less hardened strives to overtake the most criminal; the most savage imparts to the others his ferocity, the most false his cunning, and the most immoral his dissoluteness. That which most defiles the heart and the feelings, is considered as the only consolation of despair. United by one common interest, the prisoners assist each other in obliterating every trace of repentance or shame. On the ruins of true honour rises a new kind of reputation, consisting of perjury and dissimulation, of boldness in the exercise of crime, of indifference for the future, and of enmity towards society. It is thus these unhappy beings, who under another treatment might have been led back to virtue and comfort, by degrees reach the greatest possible height in obdurateness, and supposed heroism in crime."

The consequences of this mutual instruction on a great scale have shown themselves not only in the increasing amount of crime, but also in its intenseness, if we may so call the cunning shown in the formation of their plans and the cruelty in the execution of them. It is within the prison-walls, where repentance and sorrow ought to prevail, that the prisoner develops his dexterity in
committing

committing new crimes, and enters into engagements which render him more than ever dangerous to the public security.

The following statements, partly taken from a report delivered in 1839, by the Chief inspector of prison discipline in Sweden, afford subjects for serious consideration.

The number of criminals admitted into the county-jails and town-prisons, amounted

	Males.	Females.	Total.
in 1835 to	10,500.	1,931.	12,431.
— 1838 —	12,488.	2,784.	15,272.

The increase of this kind of prisoner has thus been in 3 years:

1,988.	853.	2,841.
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In this number the so called transport prisoners *) have not been included, but as possibly under this head, such prisoners might be reckoned several times, as for the sake of farther examination have been removed from one prison to another, about a sixth part may be deducted, which then leaves the following results:

In 1835	10,368 persons.
— 1838	12,727 —

*) Namely, such as have been received, while under transport, in the county-jails lying on the route, and consequently ought to be reckoned only at one place.

Should this increase of 2,359 prisoners in 3 years, or on the average 7,58 p.c. yearly, be allowed to continue unchecked, the Swedish county- and town-prisons would in the course of 1848 receive 20,589 persons, which shows that the number of prisoners would, in 13 years, be nearly doubled.

If we compare the number of prisoners with that of the inhabitants of Sweden, we find the following proportion:

	Inhabitants.	Prisoners.			
In 1835	— 3,025,439.	— 10,368	which makes	1	in 291. = 0,34 p. c.
— 1838	— 3,100,439.	— 12,727	—	—	1 — 243. = 0,41 —
— 1848	— 3,345,439.	— 20,589	—	—	1 — 162. = 0,62 —

The increase of population is taken at 25,000 annually, which, when the statements of the Table-commission for the last 20 years are compared, is probably a correct average.

Hence we learn, that when the population increases only 0,83 p.c. but the number of prisoners (according to the experience of the three years above mentioned) 7,58 p.c. yearly, the latter increase in a proportion, which is about 9 times greater than that of the population.

Within the capital, especially, this state of things appears indeed melancholy in the highest degree; for if we compare the population (82,625 inhabitants) with the number of prisoners, we find:

In 1835	— 2,611	prisoners,	or	1	in 31,65.
— 1836	— 3,135	—	—	1	— 26,36.
— 1837	— 4,285	—	—	1	— 19,29.
— 1838	— 5,404	—	—	1	— 15,29.

Hence it is seen that the number of prisoners in the capital has been more than doubled in the 3 years which have passed from 1835 to 1838.

If we examine separately the increase among the inmates of the penal institutions and the houses of correction, we find the following results.

Prisoners for Life.

In 1834, 561.

— 1838, 654. consequently +93, or 4,46 p. c. annually.

Prisoners condemned to a certain period of labour.

In 1834 . . . 556.

— 1838 . . . 745 + 189 or 8,45 p. c. annually.

Pioneers.

In 1834 307.

— 1838 307.

In 1838, 103 pioneers remained in the county-jails, for want of room at Carlsborg.

Prisoners condemned to an indefinite period of labour.

In 1834 . . . 1523.

— 1838 . . . 1699 + 176, or 2,89 p. c. annually.

Besides these 144 were remaining in the jails in 1838, for want of room in the houses of correction.

Prisoners on Confession.

In 1834 12.

— 1838 13.

Total amount of the above mentioned prisoners:

In 1834 2959.

— 1838 3665 + 706, or 5,95 p.c. annually.

If this number of 3665 be added to the 2016 prisoners in the county- and town-jails on the 1 January 1839, we have a sum of 5681, or 1 in 546 inhabitants. (When the population is calculated at 3,100,439).

The expenses have increased in proportion to the increase of prisoners.

The expenses were,

in 1824	153,934	R:dr	B:co.
— 1829	270,390	—	—
— 1837	464,478	—	—

Besides this the expenses for the prison discipline in Stockholm amounted,

in 1834	to 6,769	R:dr	B:co.
— 1838	11,364	—	—
— 1839 the first half year	9,485	—	—

These sums include neither what is taken from the grant for public buildings, nor those sums given by the third and fourth heads, under the name of work-money, nor do they take up the separate sums paid by the towns for prisoners confined in their jails.

If we add to these expenses the value of the number of days' labour which are lost, amounting, only within the houses of correction, in 1838 to, 110,000 although opportunities for labour on a

tolerably large scale are provided, one easily sees how considerable these expenses are, and in what proportion they annually increase with the increase of prisoners.

This picture, which represents faithfully a state of things as melancholy for humanity as it is dangerous for the peace and comfort of society, shows decidedly how important it is to endeavour, by means of penetrating and extensive measures, to root out the evil, before it has had time to carry its destructive contagion into the vital principle of the organization of the state. I have already in the first chapter, page 27, pointed out those subjects which ought, in such a case, to be brought under consideration. The necessity of a more general enlightenment occupies the first place, and the surest means of promoting this object of public concern, is the establishment of national schools, where not merely a certain measure of sound knowledge is obtained, but a deep and truly religious feeling; for without this harmonious development of the understanding and of feeling, the learning of the catechism soon becomes an empty and a meaningless act of the memory, and knowledge a dangerous instrument for the advancement of corrupt purposes. Education, which forms the most efficacious counterpoise against prejudice and distrust, is one great condition for the possibility of a more general introduction of a rational agriculture. It will also have great influence on the im-

provement and extension of those trades and employments which are carried on within doors.

Let it not be forgotten that 1200, or about half the number of our parishes, are still without schools, and that parental care, which has long been the only, and will always be an important, means of national education in Sweden, needs in our times the assistance of the school to retain its sacred character and its influence *).

But if it is an incontestible truth, that *raw ignorance* is the principle origin of crime, one must nevertheless allow that it is often occasioned by misery and poverty. The state ought consequently to keep a watchful eye on commerce, navigation and trade, less in the character of a guardian, than as an enlightened and attentive physician, who understands how and when to take away the hindrances to the free and strong development of the natural powers. It ought to appear less strict in demanding juridical proofs of the possibility any one may have of supporting himself, than active in preparing new and extended means for that purpose.

An improved municipal system and more efficacious poor laws, belong also to those measures, which necessity demands, in order to enable us,

*) In order to obtain a correct idea of the present state of national schools in other countries, we should read Cousins' excellent work, Michel Chevaliers Letters on the United States, and Professor Bryge's instructive report to the Norwegian government.

with any hope of success, to set a limit to the increasing poverty and immorality. It is only by these powerful and united means, that the state can radically cure the evil; but not to be led too far from the subject, I return to the more special question of the improvement of our prisons.

In order to be able to produce a thorough reform in the prison discipline, and the systematic development and regular progress of the penitentiary principle now accepted, it will be necessary to direct the attention particularly to the organic composition of this branch of government. It must possess unity and strength, in order to impart one common direction to the separate parts of the prison discipline, and belong to one of the departments of government, in order to have a person sufficiently powerful and responsible as its guardian.

Although several reasons might be produced for placing the prison discipline under the Home Department, it seems nevertheless that it ought rather to be placed under the superintendence of the Minister of Justice (Justitie-Stats-Ministern) because the subject is so nearly related to the business of the legislature and the judge. It also belongs to the duties of this officer to arrange the criminal statistics, and thence to draw such conclusions and experience as may spread a useful light over many judicial subjects united with it*).

*) Since this was written the prison discipline has been placed under the superintendence of the Minister of Justice.

The central government ought to consist of few members, but so paid, that they are not obliged, as is now the case, to undertake other employments, but may be able to direct their undivided attention to their responsible avocation. This condition is so much the more important as these officers ought not only to form an expediting and managing body, but also to pay careful attention to all the prisons in the country. Such an inspection, which ought to take place at uncertain periods and always unexpectedly, is of the greatest importance for the securing of the proper fulfilment of the prescriptions given; and this will be still more necessary when new, and generally strange views begin to prevail with regard to the manner of building the prisons, and their arrangements and discipline. In all countries where the correction-system has been embraced with interest, separate officers, called Inspectors General, have been appointed for the care of this important part of prison discipline, and several among them, as Mess.rs Lucas in France, Crawford and Russel in England, and Despetiaux in Belgium, have just claims to the respect and gratitude of their countrymen.

In Sweden a Chairman, two Members and a Secretary with necessary assistants for writing, seem to be sufficient as well for the management of the affairs as for the local control.

But the official care in the improvement of the prisons, how well soever it may be arranged, and although exercised in the most philanthropic spirit, requires nevertheless the support of society, and municipal assistance. Without these it will always be insufficient, and can possibly in time degenerate to an injurious partiality. The question of the correction and improvement of our fallen fellow creatures, touches the great branches of the state too nearly not to be embraced by all its members. It is only by this means that a beneficent link can be retained between the public and the house of correction. The criminal must be condemned to lose his freedom and to be separated from society, in order to put it out of his power to injure, and be restored, if possible, by means of a rational punishment, to reflection and to better purposes, but society must with tender sympathy and maternal care follow even its misled children. The solitary cell ought to be inaccessible to the outer world, but not to the admonishing and instructing voice of the philanthropist. *I was in prison and ye visited me*, say the Scriptures; may this heavenly doctrine not be lost, but manifest itself in action! It is not enough to complain of disorders and crimes committed, to show sometimes a childish fear for a dreaded violation of justice, but draw back from all participation when any claim is made on exertions or activity on our own part. The evil cannot be conjured away, either

by the dead letter of the author, or by the public condemnation; it must be attacked at the root with earnestness and determination.

Several Nations have, in this respect, given us noble examples worthy of imitation. Already in 1787 a society of philanthropists was formed under the name of "*The Philadelphian Society for alleviating the Miseries of Public Prisons.*" In Boston there appeared rather later a society for a similar beneficent purpose. In 1829 was founded in London "*The Society for the improvement of prison discipline.*" In 1826 a society was formed in the same spirit at Düsseldorf, which is said to contain about 4000 members, and which has served as a pattern within several German States.

By a separate statute of the 4:th December 1835, and a circular to all the governors the following year, the Belgian Government has shown an enlightened consideration for those prisoners that are liberated from the Penitentiary institutions. In France M. Demetz has lately established a separate union for the purpose of obtaining employment and pecuniary support for those prisoners who have been under examination, and after a considerable term of imprisonment have been found innocent.

In most of the North-American states there is also in every house of correction, a certain number of so called Inspectors, who are appointed by the judges for two years. Their business is of

a perfectly municipal nature, and exempts them from the duty of being jury-men, overseers of the poor &c.

The sympathy of the citizen has two particular objects for its activity, viz:

a) The care of the prisoners' treatment, and the possibility of their improvement during the period of imprisonment.

b) Consideration for the support of those that are liberated, by obtaining for them suitable situations, opportunities to work &c.

Although most of the societies, that have undertaken the cause of the prisoners, have chosen only one of these objects, it seems right that both should be embraced with equal warmth by that union which is so imperatively called for in Sweden. By this means is opened a more extensive field for their noble exertions, the care of the moral regeneration of prisoners will gain a higher signification, and the knowledge of the inward order and discipline of the house of correction, as well as of the tempers of the individuals, form a lively encouragement to prepare for those liberated, a possible return to an honest and lawful occupation.

To state the best means of forming this society is almost impossible, before the question of our municipal-arrangements have been more closely tried and had an opportunity to develop themselves. Pastors, justices and bailiffs ought to be members in virtue of their offices, for the gaining

of the object depends, in a great measure, on their zealous assistance.

The society should be formed by districts, but have a central-committee in the capital, in order to afford a common point of action and unity of exertion.

Another means of awakening more sympathy for prison discipline is, to introduce into those parts which affect its leading results a greater degree of publicity than has before been the case. An annual report ought to be made and published by the direction of every prison, stating the effects which the strict penitentiary discipline can have, as well on the prisoners' state of health, as their moral improvement, the expense of their maintenance, work done, the financial state of the establishment &c.

In this way the public will be informed of the nature and effects of the punishments adopted; clearer views will be gained, and the present, so reasonable dread of liberated prisoners, by degrees disappear. A great competition will also arise among the different local-authorities, and exertions as well official as private will by publicity gain a new encouragement and a worthy reward.

Having tried to arrange the leading grounds for the direction and general management of prisons, it remains to determine, more nearly, their division within the kingdom, and their inward organisation.

In order to gain the object intended by a rational prison discipline, to calculate the expenses, and to employ advantageously those sums which are appointed for the purpose, it is necessary to form a complete system, which more nearly determines what kind of prisons ought to be used, their object, style of building, interior arrangements &c. If even the means should not allow of the application of the whole plan, it is nevertheless important that it should be properly determined, so that every care and expense may be so calculated as to stand in immediate connection with the whole, and to lead nearer and nearer to the object aimed at.

As the prisons ought to be founded on the cell-system, I will first state more particularly those grounds, which, in my opinion, determine the different dimensions of the cells, according to the different periods of imprisonment. The cells may be divided into two different classes, viz:

a) To be inhabited only during the night, or at most for twenty four hours. For this purpose the Auburn cell seems perfectly sufficient, being $7\frac{1}{2}$ feet long, $4\frac{1}{2}$ broad and 7 high. The space in cubic feet will be $233\frac{1}{2}$. In order to distinguish them from the two others, I will call them the *small cells*.

b) To be inhabited at most one year. These ought to be so calculated with regard to size and possible ventilation, that the prisoner's health cannot

suffer any injury. As a guide for the space which is determined for each patient in the Prussian military-hospitals, the following calculation is taken.

Length of the bedstead . . . 6 feet	}	= 9 feet.
For a passage at the foot . . 3 —		
Breadth of the bedstead . . . 2½ —	}	= 5 —
Space on both sides 2½ —		
Height of the room 12 —		
Which makes 540 cubic feet.		

As the cell cannot have this height without great expense, and the prisoner requires more plain space than a sick man, the following dimensions may be taken as the most applicable:

Length 10 feet.
Breadth 6 —
Height 9 —
Making 540 cubic feet.

This kind I call the *middling cells*.

c) For the confinement of the prisoner for a longer period, even for six years.

These cells ought to be so large that they not only contain sufficient space not to endanger the prisoner's health, but also necessary room for his work and for some exercise.

According to the experience gained in other countries, the following dimensions seem to be the most applicable, viz:

Length 13 feet.
Breadth 9 —
Height 10 —

The cell will then contain 1170 cubic feet.

This kind of cell will be called *large cells*.

In the first place we must consider the prisons for detention during examination, which deserve, especially in Sweden, a particular and very necessary attention. Humanity demands this care, for among the unhappy beings inclosed within these prisons, many are really innocent, nor may the others be considered less so, till the law has pronounced their judgement. Prudence also bids us not to mix old, hardened criminals with those who have just taken the first tottering steps on the path of vice, and not to expose idleness and levity to the contagious company of deep corruption. Even for the promotion of the object of the trial, the discovery of the truth, it is important to separate the accused; for experience shows, that many an upright confession has been withdrawn in consequence of advice and example given in prison, through which the trial is delayed, the expenses increased and the demands of justice disappointed.

The prisons used before trial ought consequently to be arranged according to the Philadelphian system, with the careful separation of the prisoners from each other. With regard to the visits of relations and friends, they may depend on the nature of the accusation, and separate examination, for solitude must not here be considered as a punishment, but only as a means of preventing stubbornness and dangerous engagements.

As the period of imprisonment cannot be long, the cells need not be by any means so spacious as those, which are calculated for confinement for several years; the expense for building can also thus be considerably decreased. Prisons used before trial ought consequently to consist only of *small- and middling-cells*.

These prisons should also be supplied with an enclosed yard, where the prisoners are permitted, one at a time, to enjoy the fresh air at least every other day.

As, according to the new law-project, that change ought to be made, that every district should have but one place for the assizes, there ought also to be but one prison for confinement before trial, situated near the house where the assizes are held. This is a leading condition for a possible improvement in the manner of building, and in the inward discipline of these prisons; and this regulation ought also, in the course of time, to cause a sparing, as well in the superintendence of the prison, as in the repairs of the building.

In the *motives* of the committee for the subject of law-suits (Rättegångs-Balken), in the 10 Chap. they say: "So many places of confinement before trial, of that kind which is necessary for the execution of this project, cannot be built and kept in repair, as there are at present places for the assizes; nor can that care in the superintendence of
the

the prisoners, which security demands, as well for the sake of the public as for themselves, be fully depended on, if the inspection is to be divided among so many scattered prisons.”

Of course exceptions in this respect must be allowed in consequence of different local circumstances. If, for instance, one or two districts surround a town, where both the temporary prisons can be united in a central position, this ought to be done, for the sake of economy both in building and superintendence.

The duty of building and supporting temporary prisons has hitherto rested on the district itself, and by the law now in force it is determined, under the head building, 26 Chap., 4 §. that: “Near every place where the assizes are held there shall be a prison, where delinquents may be kept in security. No one can be exempt from contributing to this building, excepting manor-houses, farms, allodial lands, as also the residences of clergymen and parish clerks.” To lay, however, the whole weight of the expense for building the new temporary prisons, on a more expensive plan than heretofore, on those who are liable, would probably meet with difficulties. Many districts have, within the last few years, built new district-jails, and several of these prisons are in such a condition, according to the views hitherto prevailing, that the burden of building new can scarcely be laid on

the inhabitants. It would consequently be more reasonable, and would essentially promote this important National question, if the state undertook the whole, or at least the half of the expenses of building, on condition that it was executed after an approved drawing. By employing, as much as possible, the buildings already in use, and by observing strict economy in the manner of building (in several places it is probable that buildings may be erected of wood) this expense would not surely, for once, be so alarming. Without a previous local examination, any certain estimate in this respect cannot of course be made up, but as a guide, the following calculation may, however, be proposed. In 1838 the number of prisoners in the temporary prisons amounted to 15,273 (according to the criminal tables of the Minister of Justice). If we deduct from these 4,234 vagrants and 471 children that cannot be separated from the mother, we have 10,587 remaining. Calculating an average of a month's imprisonment for each individual, we find that 883 cells will be wanted. Their division within the districts should be decided according to the population, and a medium of the number of capital crimes during the preceding five years.

As the number of prisoners confined previous to trial cannot be equally divided throughout the year, the number of cells ought to be somewhat increased. If, for instance, an average of 12 cells be reckoned for each prison, there would be in

our 90 districts a number of 1080 cells. At 500 R:dr B:co for each cell the whole expense would amount to 540,000 R:dr B:co. It will probably be objected, that through this measure considerable expenses will arise to the state, which have hitherto been paid by the districts themselves. But does not this money, at all events, come from those who pay taxes; the expense will surely not be less, or the burden lighter, because it does not appear in the accounts of the government? The duty of supporting and watching should be directed in future according to the regulations heretofore followed.

After the prisons for confinement before trial have been thus put in proper order, it should be enacted, according to the proposal of the law-committee: "that every person imprisoned for crime to be examined within the district, be immediately taken to that court where the examination is to take place, and remain in prison there till the examination is finished, or till the court liberate him. The crowding together of prisoners while waiting for trial, in the county-jails, would thus be avoided; and also their conveyance backwards and forwards, in case the examinations must be conducted at different times; an opportunity is also afforded for keeping them properly separated, as these prisons cannot be so full as the county-jails."

Whether the prisoner ought to remain in the temporary prison or not, after the judgment is passed in a lower court, but where the case has

been referred to the decision of a higher, must depend on what room there may be, and on other local circumstances. It would be best, in order to avoid unnecessary transport, if the prisoner could remain within the district prison till the final judgment is determined, unless the prison, to which he should be moved, lay in the way to that house of correction where he, in case the judgment be confirmed, should go through the punishment appointed.

It would also be desirable, that fines and penalties for the benefit of the court, might be paid by labour in the district prison. By this means both loss of time would be avoided for the individual, and no inconsiderable expense for the public. It happens now, not unfrequently, that a person, condemned to pay some very trifling fine, which he is, however, unable to command, must, in consequence of the fine being changed to a few days imprisonment, travel several miles to the county jail, by which many days' labour are lost, and an expense for transport and watching arises, often many times greater than the fine adjudged.

Hence we see, that the proper enlargement and so highly necessary improvement of the temporary prisons, would have particularly beneficial consequences, not only in a moral, but also in a financial point of view. From this latter ground may also be taken another reason for the state's contributing, as proposed above, to the building and arranging of these prisons.

The inspection of the prisons for confinement before trial ought to be intrusted to a separate direction, consisting of the justice of the district, as president, the bailiff and two parishoners chosen for one year at a general meeting within the parish where the prison is situated. This direction delivers, every year to the county-prison-direction, a statement containing the number of the prisoners, the quality and cost of the food, the state of health, the number of those condemned and acquitted, &c.

Should this project be put into execution, the county-jails would not be so filled as they have hitherto been. They would then serve the following purposes: To be temporary prisons for the principal town where they are situated, and possibly for the nearest district; to lodge prisoners on their way from one place to another, and to receive the criminals of the county who are condemned to bread and water, simple imprisonment, or at most one year's hard labour. The number of cells necessary for this purpose, which must depend on a general calculation, will be stated farther on, and a plan of the building given, together with an estimate of the expenses.

They ought to be supplied with cells, tho' not of greater dimensions than those proposed for the prisons for confinement before trial. This arrangement is of consequence, in order to exclude all intercourse among the prisoners.

In some countries it has been thought that the penitentiary system ought not to be applied, unless the period of confinement exceeded two years; because the correction treatment, had not, otherwise, a sufficient opportunity of exercising its beneficial influence. This view is, in my opinion, very incorrect, for it is just on the still uncorrupted mind, that reflection and solitude ought to act most efficiently. To limit the care of the improvement of the prisoners, to those only whose criminality has already been developed, were to postpone the application of those remedies, which might possibly, in the first stage, have proved decisive, till the sickness has taken a dangerous form.

A great abuse, which now exists both in our temporary- and county-prisons, is, that the providing of the prisoners' food is left to the jailer. To tempt that person on whom the prisoners most depend, by the no trifling gain which may be obtained through the curtailing of the allowance of food, is indeed to place too much confidence in the former, and to show too little care for the latter. To this it is generally answered, that when the prison is visited by the higher authorities, the prisoners are asked whether they have received their right or not; but it is not difficult to see, that they seldom dare to speak the truth, by which they might possibly expose themselves to other disagreeables and even to ill treatment.

The furnishing of the food ought in general to be managed by contract, according to a given diet suited to the peculiar advantages of the neighbourhood. The prisoners would thus obtain a more wholesome food, and the possibility of obtaining spirits would be rendered more difficult.

This arrangement might easily be made, and would meet with difficulties only at those district-prisons, which are situated in places thinly inhabited, which, however, seldom happens, as the district-prisons are generally near inns and greater or less villages.

One difficulty, which will arise from separating the furnishing of the food from the other duties of the jailer, will be the necessity, in that case, of increasing his salary. This circumstance, the justness of which must be acknowledged, and which also forms a convincing proof of the correctness of my remark, can be overcome without any great expense, and ought to be taken into consideration in order to obtain persons who may be depended on. The under-jailers must also in this respect be remembered.

As it is reasonable that the salary of the jailers should be in proportion to their duties and responsibility, all the county-jails in the country should be divided into three classes, according to their average population during the last 5 years. The salaries for the jailers of the first class should be

fixed at 400 R:dr B:co (about 33 £), for the second at 350 R:dr and for the third at 300 R:dr, with rooms and firing.

For every 20 or 25 prisoners there ought to be an under jailer, with a salary of half a R:dr (about nine pence) a day, house-room and firing.

The local direction of the county-prison ought to consist of the Governor of the province, as president, the Secretary for the county, and two persons living in the principal town or its neighbourhood. These two members should be chosen for one year, either by the society formed in the county for the care of the prisoners, or, should our municipal-arrangements gain that degree of development so much wished for by every true Swede, according to the same ground as may be determined for them. There should be a possibility of reelecting them at least once. This direction has the management and inspection of the prison, according to the instructions given by the Justitie Departementet (Department of Justice), taking up the general grounds with regard to the treatment of the prisoners, their amount of labour, the application of the profits on their work, &c.; but leaving the details to the circumspection of the direction. Although the short period for work is not very favourable for the spirit of enterprise, the direction ought nevertheless to see, that the prisoners are kept, as much as possible, to suitable

employment. Those who understand any trade, should have means to work at it, and for the instruction of the others, agreement should, as far as possible, be entered into with one or more skilful masters who may be depended on, to give the prisoners instruction and advice in the cells on appointed days. From the profits of the prisoner's labour is taken first the expense for his food; of the remainder a part is given to him when he is sent to his home, and the rest he receives from the clergyman of the parish on his arrival.

A supply of Bibles and other religious books should be kept in the prison for the use of the prisoners. Such as wish to learn to write, are supplied with slates, pencil and necessary writing materials.

The authorities of the district collect all the reports sent from the temporary jails; from which extracts are made according to a given formule, and are delivered to the prison-direction, together with the account of the management and condition of the county-jail.

These statements should be published in the news-paper of the county.

By the new law-project penal-labour is divided into five degrees, according to different periods of punishment. The following different periods are calculated on the retaining or abolition of capital-punishment; in the former case:

First degree . . .	for life.
Second degree . . .	from 9 to 12 years inclusive.
Third degree . . .	from 6 — 9 — —
Fourth degree . . .	from 3 — 6 — —
Fifth degree . . .	from 6 months to 3 years —

In the latter case:

First degree . . .	from 15 to 20 years inclusive.
Second degree . . .	from 9 — 13 — —
Third degree . . .	from 6 — 9 — —
Fourth degree . . .	from 3 — 6 — —
Fifth degree . . .	from 6 months to 3 years —

(Imprisonment in the fortifications for life is put instead of capital punishment).

When the committee published their work in 1832, the Philadelphian system in America was not yet tried, and was almost unknown in Europe; for this reason the calculations for the periods of imprisonment, and the regulations respecting the treatment of the prisoners, are founded, exclusively, on the Auburn system. In the statement made two years after, in consequence of some remarks made against the proposition, the Philadelphian system is certainly mentioned, according to the accounts which the committee had received from the lately published works of Mess:rs Beaumont and Tocqueville; but the strict application of the solitary principle at Cherry-hill, was nevertheless as yet but too little developed to be able to effect any change in the resolutions already formed.

According to the comparison made in the third Chapter between the two penitentiary systems, we have found, that the Philadelphian possesses a decided superiority, and that this system is specially applicable for prisoners while waiting for trial, and for those whose improvement is considered possible, and who, after having gone through their punishment, are to return to society. From this point of view proceed the following propositions respecting the prisons for penal-labour.

Those criminals who are condemned to imprisonment in the fortifications (supposing the abolishment of capital-punishment) or, (if capital-punishment be retained) to penal-labour for life, ought not, consequently, to be submitted to the Philadelphian system. It would be too much opposed to the nature of man, to shut up these unhappy beings in a solitary cell for ever; that would be almost to bury them alive, and this cruelty were surely without purpose.

Those who are imprisoned for life, varying in number from 550 to 600, ought to be confined in different fortifications for which purpose Karlsten and Kungsholmen seem to be most suitable, being situated on islands in the open sea; the prisoners are supplied, as far as possible, with separate sleeping rooms, and are kept strictly at work and together. To apply the system of absolute silence were here even inhuman, but the keepers ought to see only that no unnecessary conversations take

place, and that the work is performed with order and assiduity.

The Chaplain ought to institute examinations with them at certain times, and every Sunday and Holiday they should be present at the service. Bibles and Psalmbooks should be distributed among them. If they commit disorders, become refractory or idle, they are punished with solitary confinement, dark cell and bread and water. The solitary cell can also be applied should the prisoner commit a new crime, so that the objection, which was made in the question of capital-punishment, that those condemned to imprisonment for life could not be deterred from new crimes, from a fear of a severer punishment than that to which they had already been submitted, falls to the ground.

Prisoners for life stand under the inspection of the Commandant and Town-Major, who, according to a given formule, send reports to the prison-direction.

With regard to the time within which the principle of strict solitude can and ought to be applied, there are still many different opinions. The severe effect of solitary confinement on the prisoner, which forms one of the advantages in the Pensylvanian system, (for if humanity enjoins, that punishments ought not to be humiliating, justice demands that they should be serious) has caused doubts in the minds of many as to the propriety of extending it longer than to at most three years.

We can, however, appeal to experience against this fear, for in the journal over the prisoners annexed to M. Demetz's report on the Penitentiary at Cherry-hill we find, that in 1836 thirteen individuals had already sat in cells 4 years; that 11 were in good health, and only two at all unwell; that 3 individuals had been imprisoned 5 years, and 2 six years, without having suffered in health at all. Within the Penitentiary there were criminals condemned even to 13 years' confinement in a solitary cell.

Without wishing to decide whether this period is not too long, I consider, nevertheless, that the term of imprisonment, according to the Philadelphian system, can, without danger, be extended to 6 years, especially if the prisoners have an opportunity of occasionally being out in the fresh air in separate prison-yards. This conviction is greatly supported by a letter written lately by D:r Julius to General-Auditör Netzel, in which it is stated, that according to the Doctor's opinion, the period of solitary imprisonment may be extended to seven years.

One inference, which may be drawn from the severity of the punishment, is, that the period for imprisonment, as it has been appointed in the law-project, may be considerably abridged (see 3:rd Chapter, page 51). For my part I consider it ought to be decreased to two thirds of that calculated according to the Auburn system. This considera-

tion is of the greatest importance, for the most valuable capital man possesses is time; and the expenses of the state for the support of prisons will also thus be considerably decreased.

The three lowest degrees of punishment will then be altered thus:

Third degree . . . from 4 years to 6 inclusive.

Fourth degree . . . from 2 years to 4 —

Fifth degree . . . from 6 months to 2 years —

Those criminals, who are condemned to either of these degrees, should be submitted to the Philadelphian treatment; the two higher degrees, on the other hand, are gone through under the Auburn discipline, unless experience should hereafter show, which is, with some modifications at least, probable, — that solitary confinement can, even for them, be applied without danger.

According to this view two kinds of correction-prisons are consequently first requisite, namely: *a*) for the first and second degrees of punishment (should capital-punishment be abolished), or only for the second (if capital-punishment be retained), according to the Auburn system; and *b*) for the three others, according to the Philadelphian system.

To decide as to the number of cells that will be necessary at the houses of correction, is difficult; for as the new law-project must be taken as the foundation, other relations arise than those which have hitherto prevailed, and concerning which we can, therefore, only conjecturally come to any con-

clusion. The most correct manner, however, of proceeding in this calculation seems to be, to examine more nearly what would have taken place in this respect in 1838, when the number of condemned was greatest, if the punishments appointed by the new law-project had been applied at that time. According to the table which has been drawn up for this purpose the result would have been as follows:

Crimes.	5:th degree.	4:th degree.	3:rd degree.	2:nd degree.	1:st degree.
1:st class . . .	8	14	8	12	12
2:nd class . . .	2,069	143	49	33	26
	2,077	157	57	45	38

If we then take for granted that 45 male criminals are condemned yearly to the 2:nd degree of punishment, and reckon a medium of 10 years imprisonment for each, here will be a necessity for 450 Auburn cells, which number seems to be just enough to form a separate house of correction on the Auburn plan. The choice of the place where it might be most advantageously built, depends principally on the kind of work which is intended for the prisoners. In the third chapter we have seen, that the prisoners are separated only at night, in different small sleeping rooms, but by day are together in the common workshops. Work is consequently here not only desirable, as a means of improving the prisoner and making good the

expenses of the state, but it is also a necessary condition for the support of the discipline, for one can easily imagine the disorder that would unavoidably arise from such an assemblage of unemployed criminals. When the prisoners can be employed together, there arises a great power of labour, which again gives an opportunity for entering into many useful undertakings, either in the way of manufactures or public buildings. The establishment may consequently be placed with advantage, where some considerable undertaking is to be executed, and where stone-cutting may be conducted on an extensive scale. In the latter case Borgholm would be very suitable for the purpose, also by that means to separate the criminals from the continent. Already in 1817 there was a question of this, which was submitted to the examination of a committee, in which the Minister of Justice for the time being was president; the subject was, however, afterwards forgotten, and the houses of correction in Malmö and on Långholmen were arranged instead.

A sparing in the expense of building might be calculated on if the Auburn prison were arranged in some of our present houses of correction where there are already cells, namely, at Långholmen 144 and at Malmö 28. Besides these, about 300 altogether, retaining the necessary workshops, may be arranged at Långholmen if the present lodgements, and the rooms over the church were
thrown

thrown into cells. At Malmö the number of cells could also be doubled, but as a very considerable alteration in the buildings must be made, any exact statement cannot at present be given.

For my part I think the latter measure preferable, for as the Auburn system ought to be left in proportion as experience warrants a more extensive application of solitary confinement, it were not judicious to go to great expenses for the erection of buildings, according to the New-York principle.

The superintendence of this prison ought to be given to a separate direction composed according to those grounds which I shall state farther on. For every 20 prisoners a keeper is appointed, and 4 or 5 besides as a reserve in case of sickness or other hindrance. There ought also to be two or three jailers, according to the nature of the building.

With regard to the number of Philadelphian cells, the following calculation may be made with tolerable certainty.

For the 57 persons condemned to the third degree of punishment, after a medium of 5 years for each or half the period of punishment . . . 285.

For the 157 individuals condemned to the fourth degree, according to an imprisonment calculated on this principle of 3 years for each, 471.

With regard to the fifth degree we have the following relations:

Of the 2,077 persons sentenced, 1,322 were condemned for theft for the first time, and 492 for the second.

As the fine for petty larceny has been, according to the new law, raised from 3½ R:dr B:co to 5 R:dr silver, or 13½ R:dr B:co, it may, in all probability, be taken for granted, that ¼ or 330 of the above mentioned 1322 thefts, will be placed only under the head of petty larceny, and consequently not be followed by the so called penal-labour. The number of those condemned to penal-labour for theft for the first time would then be 992.

It may also be taken for granted, that the penitentiary treatment will, by decreasing the relapses of those who are liberated, lessen considerably the number of crimes in general. If we compare the results of the Auburn and the Philadelphian systems, with those of our existing houses of correction, we find that the difference between them must have a great influence.

In 1835 out of 204 persons sent to Lång-	}	51%
holmen, 116 had before been at the for-		
tifications, or sent to the house of cor-		
rection, consequently 57%		
At Malmö of 114 — 41, or 39½ p.c.		
In 1836 at Långholmen of 248 — 123, con-	}	62,55%
sequently 49,6%		
At Malmö of 206 — 161, or 78,2 p.c.		
In 1837 at Långholmen of 281 — 133, or 47,3%	}	34,86%
At Malmö of 198 — 34, or 17 p.c.		

In 1838 at Långholmen of 292 — 118, con-	}	37,9%.
sequently 40,40%		
At Malmö of 249 — 87, or 35 p.c.		
In 1839 at Långholmen of 252 — 135, or	}	38,25%.
53,57%		
At Malmö of 229 — 49, or 21,4 p.c.		

The medium for all the five years will consequently be 44 p.c.

The number of relapses, on the other hand, under the Auburn system, is from 6 to 9 p.c. and under the Philadelphian from 4 to 5½ p.c.

In consequence of this experience, or 5 p. cts relapses, arises a decrease of 426; in the number of criminals condemned a second time for theft for instead of 492 condemned for the commission of theft a second time (see page 114) only 66 or 5 p.c. of 1322 condemned for the first offence are reckoned.

Nor must it be forgotten, that when those criminals condemned for theft are kept in confinement for any considerable time, they cannot, as is now often the case, commit new crimes after suffering the punishment of flogging, or confinement with bread and water. A decrease ought to arise from this, which is not, however, calculated here.

The calculation might then be stated in the following manner:

Fifth degree.

1:st time condemned for theft	992	individuals.
2:nd ditto	ditto	65 —
other offences	263	—

At a medium of 1 year, 1,320 cells.

Fourth degree.

— — — — — 157 ind.

At a medium of 3 years, 471 cells.

Third degree.

— — — — — 57 ind.

At a medium of 5 years, 285 cells.

2,076 cells of large dimensions.

The number of cells, for the three above named degrees of punishment, being thus discovered, it remains to determine their distribution in the houses of correction.

One principle, the correctness of which cannot be denied, is to remove those individuals condemned to the loss of their freedom, as little as possible from the neighbourhood to which they belong. The application of the idea of centralisation for correctionists and prisoners, of which we have already so melancholy an experience, is united with great and unavoidable difficulties. If the moral contagion it carries with it can be avoided by the introduction of the cell-system, there remain nevertheless long and expensive transports, the moving of the prisoners from that neighbourhood

to which they are afterwards to return, increased difficulty of there obtaining any lawful trade, &c.

In this view it were certainly desirable to be able also to receive in the county-jail all the criminals of the county condemned to penal-labour. But, on the other hand, this arrangement would cause too great an expense, as well with regard to management and superintendence, as to the buildings; for the less the prisons are, the greater will be the expense for each prisoner. In order to secure an enlightened management of an extensive prison, it is necessary that the daily superintendence should be committed to an intelligent overseer; the greater revenue and the extended labour would also require a separate accountant, all which, in 24 counties, would cause a considerable amount of salaries, besides the difficulty of finding suitable persons for so many responsible situations. It would also be necessary to increase the number of cells considerably, for, on account of the variation in the accession of prisoners, the same number of reserve cells, which, within fewer but larger establishments, may be sufficient, would not answer the purpose if they were divided among so many places.

According to the experience gained in other countries, it is considered that from 3 to 400 cells is the number most applicable for a well arranged prison. Thus a desirable economy may be united with the possibility of thoroughly inspecting the

different parts of the establishment, and of paying the necessary attention to the physical and moral care of the prisoners.

In order to take a useful medium in this respect, it appears to me that the following propositions ought to be made:

The county-prisons of Norrbotten, Westerbotten, Jemtland and Westernorrland, should be supplied with a sufficient number of both *middling*- and *large-cells*, in order to be able to receive such of their criminals, as are condemned to the two lowest degrees of punishment. Thus, on account of the extent and distance of these counties, long and to the state expensive transport to the prisons would be avoided, as well as great difficulties for the liberated, generally penniless prisoner, in returning again to his home. The county-prison in Wisby ought likewise to be so arranged, that it could also have room for those criminals of Gothland, who are condemned to the two lowest degrees of punishment.

In order to avoid transporting those who are condemned for a short period, to any considerable distance, all the county-prisons of the kingdom even, almost all of which require repairing or rebuilding, might be so enlarged, that they could hold the prisoners condemned for one year or under.

According to these views 200 large-cells ought to be calculated for the four northern counties and Gothland, and about 800 middling cells for those

condemned to penal-labour for at most one year. The cells should be divided among the county-prisons, according to the supposed medium of delinquents for each county, taken from the criminal-tables of the Minister of Justice. The following may be taken as a guide in making this calculation.

It is probable that about 4000 persons are annually condemned to *simple prison-punishment*, (which it appears ought to be limited to one kind, namely *solitary*) either immediately as punishment, or instead of unpaid fines. Supposing that each one was confined a month, a necessity arises, should the circulation be equal throughout the year, of 334 middling-cells. As, however, the removals will be very irregular, this amount ought perhaps to be raised to 480, or

a medium for each county of	20 cells.
For penal-labour	42 —
For those condemned to bread and water	4 —
	or 66 cells.

There ought to be also, for the transport prisoners, *small-cells*, which are calculated for each county-jail at a medium of 12.

Plate III represents the plan of a *County-jail* with an accompanying description and estimate of the expense. The remaining 1076 cells should be divided among three houses of correction, containing each 359 cells, or that number which is generally considered applicable for a central penitentiary-establishment.

These prisons ought to be situated near great towns, in order the more easily to obtain suitable persons for the municipal part of their management, and to be able to calculate on a more certain sale of the articles manufactured. They ought also to be so placed in the kingdom, that the transports may be shortened as much as possible.

I consider Stockholm, Gothenburg and Christianstad, as suitable places for this purpose.

The prisons for penal-labour ought to be built for the purpose, for according to experience and the testimony of skilful architects, all attempts fail to apply old buildings to this purpose, by altering the interior arrangements. The expense will be considerable and the object lost.

To determine the ground plan of the building and its careful execution, are very difficult questions. On these depends, in a great measure, the fulfilling of those expectations which have been raised, respecting the improvement of the prisoners, and the certainty of confining individuals who are likely to disturb the peace of society. This latter circumstance is in two respects important, for, besides the new crimes which prisoners, who have escaped, are obliged to commit in order to gain a livelihood, which they cannot do in a lawful way, these exciting prospects of gaining their freedom by some stratagem, weakens the deterring effect of the punishment on uneasy and unsettled tempers, who long for a dissolute life and changing adventures.

It is found also, that in other countries all radical reforms in the question of prisons have begun with the buildings themselves and their arrangement. Count Vilain XIV, and the renowned Howard, of whom it has been said with so much truth, that he lived as an apostle and died as a martyr, directed all their attention to this subject. The acute Bentham composed an extensive work on the arrangement of a model-prison, which he calls *Panoptique*, and where we find all those principles, from which, the improvements made in later years, principally take their rise.

The principal objects in a building for a prison are: the sure custody of the prisoner and the power of baffling his attempts at escape; an easily applied and at the same time secure guard; the complete separation of the prisoners and the hindering of all communication among them; the promotion of cleanliness, ventilation, in short all that refers to the preservation of the health, and finally sufficient space for the proper employment of the prisoner.

This problem has given rise to many projects, more or less approaching the solution; to enter here into a detailed account of them would lead to unnecessary diffuseness. In the plan for a prison represented in plates I and II, I have endeavoured to unite those advantages which may reasonably be expected in such a building, with that strict economy, which it is so necessary in our

country to observe on all occasions. With the above mentioned plan there is a description of all the different parts, and also an estimate of the expense.

The management of an institution for punishment and improvement, established on a large scale, demands a true and enlightened philanthropy, a noble and strong mind, an uncommon love of order and persevering exertions. As it is not easy to unite all these estimable qualities, we soon perceive what difficulties there are to conquer in this respect.

The management is properly divided into two leading parts, namely:

a) The leading direction of the affairs of the establishment, the control over the proper maintenance of order, and finally the preservation of that tie which ought never to cease between the house of punishment and society.

b) The immediate superintendence, the constant inspection, and the persons officially engaged.

The former part should be left to a separate direction where, according to the principle followed throughout this proposal, official activity is united with municipal aid. Two civil officers appointed by the government, and two persons chosen by the confidence of their fellow citizens, would probably be a proper number. The manner of choosing the latter depends, as has before been stated, on the degree of development attained here by the muni-

cial arrangements, and the union formed for the inspection of the prisoners, when these well-intentioned proposals are to be put into execution.

The latter part, on the other hand, demands the undivided attention of a superintendent, who ought to give himself up exclusively to his equally noble as responsible calling. The election of this man is of the greatest importance and presupposes a nice discernment, without any other motive than the important aim: the accomplishment of the object. This superintendent ought to have a good salary, at least a certain support for himself and family, and the prospect, if he perform his duties well, of obtaining, when age limits both strength and activity, another situation or a proper pension, in order to make way for a more vigorous successor.

The jailers ought to be trustworthy, serious and not quite without education. They ought also to have some knowledge of different trades, in order to enable them at the same time to be the guides and teachers of the prisoners in their work. This circumstance is of importance, and must not at their appointment be considered as a secondary consideration.

The under jailers should also be chosen with judgment and followed with attention, for as they form the last link in the direction they have also most to do with the prisoner, and thus possess a great influence on the condition and state of mind of the latter.

Without wishing to determine any rate of salary, I think it right nevertheless, to state, as a guide, those conditions which appear to me suitable.

The superintendent from 12 to 1500	}	house-room, candles and firing.
R:dr B:co.		
Jailers the same as the 1:st class at the county-jails.		
Under-jailers half a R:dr B:co a day.)		

After 10 years' faithful service the salary is increased with 50 p. c. and after 20 years they ought, if dismissed, to receive half of the salary for their support. The same advantages should also be granted to the prison keepers at the county-jails.

By means of these conditions, which are nevertheless not extravagant, we may hope to obtain able and trustworthy officers in our prisons, which is of great importance in a house of correction.

The domestic discipline should be strict but just, not unreasonable in its claims, but inflexible in enforcing an exact compliance with them. The prisoner must feel deeply that he is undergoing a well deserved punishment as an atonement for the crimes he has committed, he must feel the whole weight of the power of the law which he has despised and transgressed. Rudeness, sloth and insolence, these most common faults in the criminal, require this warning and deterring experience, to be brought to reflection and selfexamination. The moral and physical health of the prisoner must

both be attended to with sympathy, his repentance led to a useful improvement, not to despair, every sign of return to that which is good, be met with kindness and encouragement. But great care must be taken not to make his situation, by a foolish indulgence, better than that of his equals who have not violated the laws; by so doing an injustice is committed towards the latter, and punishment is changed to a dangerous encouragement. A decided difference must consequently be made between a christian sympathy for the possible restoration of the fallen criminal, and a mistaken zeal for his physical convenience and enjoyments. Otherwise we do homage to a deceitful chemira under the name of philanthropy.

The punishment for the violation of the prison discipline, must immediately and unavoidably follow the transgression. Corporal-punishment ought to be completely banished from a well managed prison, arranged according to the Philadelphian system. This is of importance, and its observance ought to be most strictly adhered to. The punishments should consist of a decrease in the food, bread and water, confinement in a dark cell, and the loss, for a longer or shorter period, of all employment. This latter punishment is, according to the assertions of the prisoners themselves, the most painful, for it is one among the great and invaluable consequences of solitary imprisonment, that labour, which had before been the aver-

sion and abhorrence of the criminal, then becomes his comfort and most earnestly desired recreation.

The religious instruction of the prisoner is the most certain foundation, on which all improvement must be supported, the root from which all regeneration must proceed, in order to possess freshness, and to bear good fruit. Without this all outward change in the prisoner's conduct is only hypocrisy; his mind remains as hardened as before, having made progress only in cunning and artifice. The pastoral care in a penitentiary has consequently a great effect and must be exercised with zeal and conscientiousness. I consider that it ought to be given to a clergyman who is in the full vigour of life, and who gives himself up entirely to this work of love.

Besides his duties as a preacher, which are performed every Sunday and holiday in each separate wing, the chaplain ought not to neglect to gain the confidence of the prisoner by private conversation in the cell, zealously to endeavour to overcome his obstinacy, and to encourage with kindness his first steps on the path of improvement. The criminal, in his solitary dwelling, delivered up to agonizing remembrances and gloomy reflections, should consider his minister as a messenger of peace, a mediator between repentance and heaven. If this beautifully Christian calling be entered into with clear views, and executed with spiritual warmth, the effects will be attended with

greater blessings than many probably imagine; if religion speak in vain, there is no longer any hope of improvement.

But the chaplain needs assistance, for if we suppose that he daily devotes 4 hours to visit the prisoners, and allow only 10 minutes for every visit, he would only have time to see each prisoner once every other week. We have a missionary society in Sweden; is it not likely that it might here find a rich field for its noble zeal for conversion; for in truth, heathenism thrives much better within our prisons, than among distant tribes who are still in a state of nature.

The clergyman appointed for the prison must live there, and receive such an income as may secure to him a frugal living without anxiety, besides which he ought to have the prospect of obtaining advancement and a more advantageous and calm sphere of activity, when he becomes tired of his wearisome duties.

Together with the spiritual care other instruction must also be given, in order that they may together release the fallen mind from the bonds of ignorance and wickedness. There ought, consequently, to be one or two schoolmasters appointed in the prison, who should instruct the prisoners. Here of course there could not be any question of other subjects than those which are appointed for the public schools, and which are repeated with the prisoner, should he have read them in

his childhood, or taught him, if his education has been entirely neglected. The instruction is given in the cells, or, to gain time, from the passage, through the opening in the cell-door. This latter method is applied with advantage at the house of correction established two years since in Paris for bad children, and criminals who are under age. The instruction is imparted by preference to the younger, and to those who show particular talent; it is calculated principally on the prisoner's own application and on reading to the teacher, in order that the latter may have only to examine, correct the errors and appoint new lessons. In this way there may be sufficient time for the instruction. It ought properly to take up the holidays and those hours that are free from labour.

The prisoners' food should be perfectly simple, but wholesome and sufficient. It should be suited to their sedentary way of life, and all spirits ought to be banished from the place. The food should be furnished by the direction in the most advantageous manner for the establishment. Neither the overseer nor any of the jailers ought, on any condition, to be allowed to interfere with it, but they should be controllers, and see that the prisoners have what is right.

Every prisoner is supplied with clothes. On his liberation he receives again those clothes which he had on his arrival, and which have been taken
care

care of for him during the time. Thus greater order and cleanliness are gained within the establishment, and the much heavier expense is spared, of supplying the prisoner with necessary clothes when he leaves. That there may be exceptions in this respect if the prisoner's clothes are too miserable, is of course taken for granted.

The dress should in the summer consist of some simple stuff which can be washed, in the winter of gray homespun cloth.

Every prisoner receives a mattress and pillow, stuffed with straw, sheets and a quilt.

One question still remains to be discussed, on which the whole inward life of the establishment depends, namely the employment of the prisoners. Without this the tenderest care of the prisoners' moral improvement is fruitless, the strictest domestic discipline insufficient, and all grants of money to be considered as a dead and useless capital. To this many will answer: "the prisoners should work of course;" but this kind wish is not so easily executed as pronounced. The subject is of importance and demands an especial examination.

In the first place must be considered the choice of the work itself. It must supply the prisoner with an employment which is constant and suited to his powers, and may at the same time exercise his abilities. This latter object may be gained, either by teaching the prisoner a simple trade, in

which the real manufacture is carried on by him alone; or by employing the labour of the prisoner in factory work, when it ought to be so culculated and changed, as to enable the prisoner to obtain a certain degree of skill which he can afterwards employ when free, in several trades connected with his former occupation.

Nor must the work require expensive materials, through the spoiling of which too great a loss might arise, for we must not at first expect any great ability for work in the prisoner. A prison has certainly so far the advantage over a common work-house, that it is seldom troubled with any inmates who are incapable of working either from sickness or age, because the criminals are generally in the prime of life, and often endowed with a lively disposition and quick apprehension. But it must not, on the other hand, be forgotten, that they loathe all steady employment, which has generally been the cause of their fall, and consequently have neither the habit of working nor the ability, which they must first obtain by degrees under the direction of a person who understands the employment, after the uniformity and weariness of solitude have exercised a wholesome preparative influence.

The choice of suitable employment is rendered more difficult even than heretofore, in consequence of the leading principle of the Pennsylvanian system, of strictly separating the prisoners from each other.

The increased power and the mutual assistance which labour in common offers, are no longer to be calculated on. When the prisoners are shut up each in his cell, more than one person's power cannot any where be developed. The individuals are here to be considered as units, which may not be added together to form a sum.

Against this indisputable difficulty there is but one counterpoise, namely, the division of labour. This method, which, even in other undertakings, ought always to be employed as far as possible, on account of the rapidity and order which are gained by it, becomes absolutely necessary in a prison arranged according to the cell-system. In this way the prisoners, separated from each other, may nevertheless work to one common end, when they are entrusted with any of the peculiar preparations, which the raw material requires in the course of its manufacture. It will also be easier to estimate the work of each prisoner separately, and to award to every one the reward he merits.

But it is not sufficient thus to prepare goods, steps must also be taken for the sale of such as are manufactured. By this means the expenses of the state may, at least to some extent, be made good, and an opportunity afforded to the prisoner during his confinement to gain something by his work, which, although but trifling in the majority of cases, is, nevertheless, if well applied, of great utility when the prisoner is liberated. Here arises,

however, another consideration, namely, that if the state appeared as competing with the public industry, it would by that means have an injurious influence in the whole on the labour of the free members of society.

These disadvantageous consequences would not be caused by the introduction of a greater number of goods at a low price into the market; it is on the contrary an acknowledged truth in our times, that the more a trade is extended, with a decrease in the cost of manufacture, and in consequence of that lower selling prices, the more is the number of consumers increased, and the profits in the same proportion. But this axiom in national economy presupposes, however, a natural state of things and a free development, which is not the case here; for when the state must, at all events, support those criminals who are confined in prison, and all revenue from their labour, how limited soever it may be, is nevertheless some amends for the money laid out, it is easily seen, that any comparison with a common workshop, or factory, cannot here be made, when the real expense of manufacture need not be taken in full into the selling price of the article.

Several persons have considered that for the removal of this difficulty, the prisoners ought to be kept to such work, as requires great exertion, without, however, producing any really useful or saleable article; but besides the immorality which

would be united with this, in thus playing with the exertions of human beings, the expense of the prisoners' support would, without any mitigation, be so much heavier for the state.

From the above mentioned various demands on the nature of the labour, it can in the mean time be concluded, that the prisoners ought, in the first place, to be employed with such things as are necessary for their own use and for the prison, by which means the state gains a no inconsiderable advantage, without any question of selling the goods; and with such manufactures as are either imported from abroad, or are produced at home in but trifling quantities.

The prisoners ought consequently to be employed chiefly in preparing what is necessary for the prison itself, as carpenter's work, spinning, weaving, and making clothes, shoes &c. These latter articles are not of trifling importance, for in 1838 the expense for the clothing of each prisoner at Långholmen amounted to 17 R:dr 15 sk. B:co (nearly 26 shillings); if to this be added the expense for beds and other necessaries, there arises a considerable field for labour.

The choice of the work intended for sale ought to be left to every local administration, to decide according to the peculiar circumstances of the place, and in agreement with the above views. If, for instance, a home manufacture supplies a certain district with employment, it would be wrong to

choose the same kind of work for the prison of that district; but the case would of course be otherwise at a prison, situated in another part of the kingdom, where the inhabitants took the same necessaries principally from abroad.

Without entering into details, the following trades may be mentioned as a guide: spinning, weaving, the making of coarse mats, straw-work, the manufacture of buttons and mountings, carpenters-work, play-things, boxes, bast-cover &c.

It should also be allowed for tradesmen to order at the prison, such work as is connected with or is necessary for their manufacture.

In several countries the prisoners are made to manufacture many things which may be necessary for the state and especially for the army. A great part of the cloth used by the Norwegian army, and which looks well, is strong and tolerably cheap, is made at the house of correction in Christiania. Several regiments have had their uniforms made at Långholmen. When such orders can take place, without injuring the sale calculated on by other manufacturers, the opportunity ought, by all means, to be taken.

A useful employment can also be supplied by means of the preparation of several things which are necessary for the public hospitals, as coarse linen for sheets, quilts, mats, bedsteads, chairs, tables &c.

There are two ways of arranging the work at a house of correction, or other public establishment for labour, namely; to prepare and lead every thing referring to it by the Administration's or Direction's own care, or also, to farm the labour of the prisoner by contract to any private person. The first way has certainly that difficulty, that the administration will have an increase in their duties, will be obliged to keep large stocks, and must often experience losses, which in the latter case can be avoided. The contract has on the other hand essential fundamental faults, which completely counterbalance its advantages. The contractor, who endeavours, in the first place, to obtain the greatest possible profits, is not very zealous with regard to the prisoner's moral improvement. In the division of labour he does not at all care about exercising the prisoner's ability, but only to take advantage of his skill in some limited part of the whole manufacture; in a word he considers the prisoner as a wheel in the machinery, from which he is endeavouring to draw the greatest possible profit. Another dangerous consequence of farming out the work to a private man is, that one is obliged to let persons into the cells, who are quite strangers to the establishment.

In most foreign prisons and houses of correction, the superintendence of the labour is managed by contract, though under different forms, in order, in some degree at least, to try to avoid the

above mentioned fundamental faults. This arrangement has also been made at Långholmen, without any great advantage either to the prisoner or the tradesmen themselves; two of the latter were, a few years since, wounded dangerously with knives.

I consider then that the management of the labour ought to be left to the care of the direction. The superintendent will be the real chief, and the instruction is given by the keepers, who, I propose, ought to possess technical skill; or by mechanics who may be depended on, and with whom a separate agreement has in this respect been made. If even a decrease of profits were the consequence of this, the loss is perfectly compensated by the advantages, for to improve the prisoner and to inspire him with both a disposition and ability to provide for himself honestly, is the principal object, as well with regard to humanity as economy.

It still remains to determine the application of the profits which may possibly arise. In the third Chapter, page 68, I have more particularly developed my views in this respect, and with that as a guide, some details must here be more particularly entered into.

The profits of the prisoner's work ought in the first place to be applied in paying for the food consumed in the prison. If this duty of compensation should be extended to the prisoner's part of the whole expense for the support of the inmates, he would never be able, even under the most ad-

vantageous circumstances, to calculate on any balance in his favour. If the state receive compensation for the prisoner's food, it seems not too much to expect, that it should bear the other expenses. The prisoner's possible gain will, at all events, be very trifling, for when the prison allowance amounts generally to 6 sk. a day, (about two pence), this makes for 365 days, 45 R:dr 30 sk. (about 3 £ 10 s.). If on the other hand we reckon 300 days' work at 8 skill. nett gain, which is probably the highest medium that can be taken, there arises a gain of 50 R:dr, which, after the value of the food is deducted, leaves an annual surplus of 4 R:dr 18 sk. (about 6 shillings).

The prisoner may not, during his confinement, dispose of any part whatever of his earnings. All encouragement to work by the promise of better food and so on, ought also to be strictly forbidden. The money is put into the savings-bank in the prisoner's name. When he is liberated he receives a part of it to enable him to return home; the rest is sent to the clergyman of his parish, to be given to him as he needs it.

One question, respecting which the learned in the law, and those who have great experience in the management of the Penitentiary system, are still undecided, is, whether the hope of an abridgement of the term of confinement ought to be placed among those spurs, which should be used for the improvement of the prisoner. The subject must

consequently be considered, not only in a juridical, but also in psychological point of view.

In the first place a nice difference must be made between the right of pardon, exercised before, or after the judgment is passed. In the former case this prerogative forms, according to what has already been expressed in the first chapter, the completion of the law, and sometimes a necessary complement to the possible insufficiency of the letter; it ought, however, to be sparingly applied, and its interference will be less frequently called for, in proportion as the punishments take a more humane and rational character. In the latter case, on the other hand, the right of pardon seems to stand in a kind of opposition to the law itself, which determined the punishment as necessary for the restoration of the violated state of justice. It is consequently to be feared that the sacredness of the law may be weakened by this arbitrary remission of its demands. It may also be taken as an indisputable principle, that the more the enlightenment of the times mitigates the theory of punishment, the more do those punishments, acknowledged by reason and justice, require to be inevitable and irremissible, in order to gain the effect calculated on.

But, it is answered, shortening of the period of punishment is an efficacious means of bringing the prisoner to improvement and reflection. He

thence learns to understand, that industry and a quiet life are followed by consequences far more advantageous to his welfare, than idleness and refractory conduct. He lays a constraint upon his evil passions, and this habit becomes by degrees a settled disposition, which he retains after his restoration to freedom. This view is favoured particularly in Geneva; and in the work published by Mr Grellet-Wammy on prison-discipline, the decrease of the punishment by a third part of the time adjudged, when the prisoner proves himself worthy of it, is defended both by general reasoning and individual examples.

Mr Aylies has devoted a separate Chapter of his meritorious work, to the examination of the influence of the right of pardon on the penitentiary treatment. He says he fears, that the effects so highly applauded, are only dissimulation, and the cunning calculations of hypocrisy. He rests his views on the testimony of several practical men, among others Captain Elam Lynds, who told Mess:rs Beaumont and Tocqueville that he had noticed, that the most corrupted prisoners were just those who most easily complied with the domestic discipline appointed, and observed the greatest order; that they consequently conducted themselves well without in fact being better. The chaplain at Auburn, Mr Smith, had said to the above mentioned gentlemen, that he could place but little confidence

in the outward signs of repentance and altered principles, for his long experience had taught him, that the only proof of a prisoner's sincerity, which could be depended on, is, that he does not long to leave the prison.

Mr Aylies proposes, as a medium, that those who are condemned for life ought not to receive any remission till after twenty years imprisonment, and that there ought not to be any question of shortening the period of confinement for those who are condemned only to five years and under.

The new law-project proceeds from about the same point of view, as it is said in the motives Chap. 2 of the Penal-division: "That, when the prisoner has gained a good character for industry and obedience to the regulations appointed at the establishment, and in other respects shown such proofs of an improved disposition of mind, that there is reason for a diminution in the time of confinement, the direction should report the same to the king, on whose pleasure the exercise of the right of pardon depends.

To prevent, however, the prisoners' being able, by a pretended improvement, to obtain too early a remission, the regulation has been considered necessary, that an application for pardon ought not to be made, before fifteen years have passed for him who has been condemned to the first degree of punishment, or three fourths of the term

of punishment for other prisoners, and that should not take place unless these three fourths amounted to one year."

Although I, for my own part, entertain much doubt as to the utility of these pardonings, as well with regard to their influence on the improvement of the prisoner, as their effects in general, after a more rational theory of punishment has been adopted, and I should consequently be inclined to limit it to the first degree of punishment, after the expiration of fifteen years, I nevertheless do not intend to oppose the above mentioned authorities, and only wish that the abridgement of the term of imprisonment may be granted as sparingly as possible, and after the most careful examination.

The directions of all the prisons for penal-labour, ought, within a given time, to deliver annually to the Department of Justice (Justitie-Departementet), a complete and detailed report on the management of the prisons, the principal results, financial position, such remarks as the penitentiary treatment may lead to, the prisoners' state of health, how they have conducted themselves, how employed &c. These reports should be arranged according to given formules, in order that a comparison may be made between them. They ought to be printed, and distributed with the news-papers.

In all the prisons of the kingdom a journal should be kept of the prisoners' age, birth-place,

crime, sentence, conduct, industry, health, the day of their liberation &c. These annotations are of the greatest importance, as well for the sake of order, as with regard to statistics, and would supply for the future a sure and instructive ground of experience. Such lists have already been kept for about two years at several of our houses of correction, through the care of the prison-direction. The one I have seen is tolerably complete and may probably, with a few additional heads, be taken hereafter as a pattern.

The transport of the prisoners deserves particular attention with regard to the criminal's treatment, and to preventing his escape. The economical part thereof must not either be forgotten, especially in a country where the distances are so considerable as in Sweden. The conveyances for prisoners go often, without any particular connection with each other, whence arise heavy charges and unnecessary travelling expenses. It is not more than a few years, since the prisoners were left to the care of the peasant who drove the cart, sometimes a boy, whence arose a dangerous insecurity to the public, and a heavy responsibility to the driver.

The conveyance of the prisoners must be arranged according to a certain system, adapted in its details to the different local peculiarities of the county. The conveyances ought to start at given

times, follow an appointed route and certain leading directions, which have as a centre that prison to which the criminals of the county are to be sent. In this way all the prisoners that are to be taken in the same direction, might meet at certain places of rendezvous, and be forward on their way under a common guard. The returning conductors should, on their way back, take up and forward to the county prison those individuals, who should there serve out the period of confinement to which they have been sentenced. By this means may be gained both security and economy.

In England a separate kind of carriage has already been used for some years for the conveyance of the prisoners. Such a carriage is divided into twelve separate cells, by which means both escape and all communication between the prisoners are prevented. In France also this idea has been adopted, and after two years' experience approved of. In our country these large carriages will meet with many difficulties, on account of the high hills and the heavy roads which we generally have in autumn and spring; but a trial ought nevertheless to be made of the model designed by Captain Modé (stationed at Långholmen), which is both less and lighter than the foreign carriages, and calculated only for 8 cells, with a driver and keeper.

Only male criminals are considered in this project, excepting at the prisons for confinement during trial. The men being the most numerous and the most dangerous to the public security, those means which can be applied to the improvement of the prisons, ought in the first place to be employed in preparing safe places of custody, and the possibility of efficiently applying in the prisons for males, a discipline which may tend both to punishment and improvement. It may also be mentioned as a farther reason, that greater order has prevailed in the prisons for females, and the expenses have generally been less. I consider, therefore, that, with the exception of some few alterations which may perhaps be necessary, the above mentioned prisons should be retained in their present condition, till the prisons for the males are completed, when the penitentiary system ought to be extended to the females also, according to the views developed in this chapter.

Respecting the above mentioned important charge, of preparing the reception of the liberated prisoners again into society, a feeling of morality degenerated to implacability ought not to repulse his contrition, or suppress his good intentions, but his return to evil must be prevented by his being enabled to obtain honest employment. Here is an extensive field for communal and private exertion.

After

After the law has executed the punishment, and the state has taken care of the inward improvement, it is the business of the citizen to offer a helping hand to the individual restored to freedom. Both charity and prudence urge this, for it is the noblest and the safest means of preventing new crimes. The subject is very extensive; it is nearly allied with the question of *the poor-laws* and *the want of legal protection* (*laga försvar*). But as the particular examination of these questions does not lie within the limits of the present work, it should form the subject of a separate treatise.

RETROSPECT.

After having stated my views respecting the management, inward discipline and building of the prisons, it remains to render, briefly, the reform in question clear, as well with regard to its leading features as to the expenses.

We suppose, as a starting point, that the Philadelphian system, calculated on the complete separation of the prisoners, ought to form the foundation for all radical improvement in prison discipline; for that system is the most efficacious means, hitherto known, of uniting the possible improvement of the prisoner with his effectual punishment.

As experience has not, however, yet determined, in a manner fully to be relied on, whether the principle of solitude can be extended above 6 years, without endangering the prisoner's health, the Philadelphian discipline ought, at first, to be applied only to those criminals who have been condemned to one of the three lowest degrees of penal-labour, supposing the proposed reduction of $\frac{2}{3}$ of the time appointed by the new criminal-law to be adopted (see page 109).

Those condemned to a longer period of labour ought, consequently, for the present, to be treated according to the Auburn system, which, notwithstanding all its deficiencies, is nevertheless far pre-

ferable to our present prison discipline. Prisoners for life are kept at labour under strict superintendence and order, but not absolute silence (see page 107).

As there is but little hope of the improvement of such as have already been for a considerable time exposed to the deep corruption of our prisons, it would be unwise to employ, generally, the absolute cell-system on these hardened beings. Considerable expenses would thus be caused, which, without any corresponding advantages, would on the contrary only lead to false results as to the moral effects of cell-life. A careful examination must consequently take place within our prisons, for the choice of those whose short period of confinement and other circumstances afford some hope of their repenting and forsaking their former conduct, and on these the penitentiary system may be applied.

From of the views stated in the fourth chapter, and according to the calculations accompanying the plates, the number and cost of the cells will be as follows:

Small-cells. For the second degree of penal-labour 450 small-cells are necessary, (see page 111). As the Auburn system should be considered only as a transition, the expenses necessary for its arrangement ought, of course, to be as limited as possible. I take for granted, consequently, that one of the present houses of correction will be ap-

pointed for this purpose, and by way of proposal put down 70,000 R:dr B:co for arranging the interior.

For the reception of transport-prisoners, at the county-jails situated on the road, *small-cells* are also necessary; (see plan of county-jail). According to the accompanying estimate, every such cell may be stated at 443 R:dr 36 sk. B:co, and consequently for 288 (or on an average 12 to each county) 127,800 R:dr B:co (about 10,650 £).

Middling-cells. An average of 66 is reckoned for each county-jail, (see page 119), consequently for 24 counties 1,584.

Each middling-cell is stated in the estimate at 669 R:dr 15 sk. B:co, consequently for 1,584 — 1,060,191 R:dr B:co (about 88,350 £).

Large-cells. For three *Central prisons for penal-labour*, containing each 363, are appointed — 1089 large cells *).

According to the proposal every *Large-cell* may be calculated at 661 R:dr B:co, or together 719,829 R:dr B:co (about 59,980 £). (The *large-cell* costs less here than the *middling-cell*, because a greater number of cells are built together in the central prison, than in the county-jail; for this see page 117.

*) When, in consequence of different details in the building, the number of cells in the plans has not always corresponded to that stated in the calculation on page 113, the number has on such occasions always been increased. Here are, for instance, 12 cells more than are mentioned on page 119.

The 200 *large-cells* necessary for the four northern counties and for Gothland (see page 118) are included in the 1584 middling-cells calculated for the county-jails. Here, consequently, is considered only the difference in expense, arising from their greater dimensions, taken by way of proposal at 50 R:dr B:co each; consequently — 10,000 R:dr B:co (about 830 £).

The prisons for confinement before trial are taken at a round sum of 540,000 R:dr B:co (45,000 £).

The separate prisons, supported by the towns and of which there are no accounts, are not included in this calculation. As it is, however, reasonable, that the towns should enjoy the same advantages as are afforded to the counties, an examination ought to be made in this respect, in order to find out the number of cells necessary. By way of proposal 250,000 R:dr B:co are taken, which, with the observance of economy in the building, ought to be sufficient.

The expense of applying the penitentiary-system in all the Swedish prisons would then be 2,777,820 R:dr B:co (about 231,485 £).

A decrease might certainly be calculated on through the employment of prisoners, and the possible application, in some places at least, of the present district-county-prisons; but as this decrease is undecided and completely depending on a careful local examination, I have not considered it right

to include it in the calculation, but only state its possibility.

The sum is considerable, but the expense ought, however, to be considered from a higher point of view. We are now in a difficult epoch as regards the increase of crime, and in consequence of that the increasing danger for the public security. To prevent the farther extension of the evil, vigorous measures are necessary, as well with regard to the legislation as to the houses of correction.

The existing law of 1734 is founded principally on the application of the physically-afflictive punishments, and adopts, in very few cases, the punishment by loss of liberty. But a dear-bought experience of the grievous consequences of flogging and penance, and the rejecting judgment of public opinion, have more and more limited their application, so that, for instance, in punishing theft for the first offence, and generally the second when not attended with breaking into a house, imprisonment with bread and water has been introduced, although this punishment, on account of the short time it lasts, and the great differences in its greater or less severity in application, can by no means be considered as an approved *psychological punishment*. This transition has perhaps been called for by necessity, in order, so to speak, to throw a bridge between the old and the new views of justice so essentially differing from each other; but its dangerous consequences, if allowed to exist long, can

easily be seen. One thus leaves more and more that theory of punishment, on whose support the prevailing laws depend, without, however, entering upon the new theory approved by the experience of other countries, and by those who are well versed in the law. These frequent changes, which are often made by way of favour, must then, in time, decrease the respect of the public both for the law and for the administration of justice.

The adoption of the new criminal law forms, in my opinion, the only means of avoiding the dangerous maze in which there is so much danger of being lost. But how will it be possible to apply its enlightened principles of justice, with any hope of success, if our houses of correction do not receive those improvements which are so highly necessary? To employ punishment by loss of liberty with the retaining of the contagious demoralisation of our prisons, would only extend the scale of this vicious mutual instruction. Hence is consequently seen the whole importance of the penitentiary system, and the necessity of not shunning any sacrifices, in the promotion of its possible introduction.

The question should also be examined more closely in a merely financial point of view. The sending the prisoners such great distances in consequence of the application of the idea of centralisation, as well to jails as to houses of correction, and the many transports, to and from the places of trial, have caused considerable expenses, which,

according to the proposal made in the fourth chapter, would be considerably decreased.

The expense of guarding would next undergo a considerable decrease, for, in consequence of the adoption of the Pensylvanian cell-system, all military guard would be discontinued, and the watch left instead to the turn-keys, not more than one of whom would be necessary for 20 or 25 cells, excepting a few for necessary reserve. The support of the garrisons at Långholmen and Malmö, has, together with the expense of marches, cost a considerable sum, which has of later years constantly increased, and may be calculated at about 40 R:dr B:co for each prisoner; to which ought to be added the salaries for 13 under-jailers and 2 overseers for the watching of the interior.

Finally it ought not to be forgotten, that, if the prisoners' labour were employed in a more useful manner, a no trifling compensation might be calculated on from that for the expense of their support, which in 1838 amounted to no less than 166 R:dr 21 sk. B:co (nearly 14 £) for every prisoner in the Southern house of correction.

Without being able to state decidedly the amount of these possible savings, it ought nevertheless to be calculated with tolerable certainty, that they will repay a considerable part of the interest of that capital which will be necessary for the erection of the buildings.

But if the possibility of this decrease of expense be not taken into the calculation, the attention should at least be directed to the circumstance, that the costs for the superintendence and care of the prisons, which in 1834 amounted to 245,380 R:dr B:co (about 20,440 £), arose in 1837 to 464,781 R:dr (about 38,730 £), which makes an increase of 219,401 R:dr (19,950 £) and that consequently if the reform in question is not carried into execution, the state will at all events be loaded with an increased charge, perfectly answering the interest of the capital necessary for the building, amounting only to 138,891 R:dr B:co (about 11,570 £). If to this be added the value of those day's work which are lost in our prisons, the injurious effects of our present system of punishment, even in a financial point of view, will be tolerably evident.

Although I have considered it right to take up the whole cost of the plan, in order not to lead to an extensive undertaking, without having first openly shown what sacrifices it will require, it is by no means my intention, that the whole sum should be immediately appointed.

To erect at once so many extensive buildings would, besides other inconveniences, considerably increase the price of building-materials, and thus cause the expenses to exceed the estimate, which is made according to the usual prices.

It also appears to me desirable, that *some* experience as to the practical application of the Phi-

ladelphian system may be gained in our country, before the important step is taken of rebuilding all our prisons in accordance with it.

On these grounds I believe I can at present propose:

1:0 That a jurist, not unacquainted with prison-discipline, accompanied by a person skilful in architecture, be sent out as soon as possible, in order to take more particular notice of the management, discipline and manner of building, adopted in the foreign penitentiaries.

2:0 That, during the present diet, the possibility be prepared, according to the forms appointed by law, of deliberating on and adopting the new project for a criminal-code at the next meeting of the states.

3:0 That, in case those grounds, which I have represented, be approved, a committee be formed in order to propose the less important alterations and additions, which may be considered necessary. This committee ought to consist of few persons; the two estimable members of the former law-committee would of course be appointed.

4:0 That the sum which the states may consider it right to appoint from the means at their disposal, be employed in the following manner:

a) In immediately commencing the rebuilding of the prisons for confinement during trial, in those places where this may be considered most necessary.

b) In rebuilding or extending those county-jails which in the first place need improving.

c) In erecting a central prison for penal-labour according to the Philadelphian system.

Should the noble sympathy, which already begins to show itself in Sweden, for the improvement of the penal-laws and for prisons, be raised by my well intentioned exertions, and especially by the judgment of those distinguished authors whom I have cited in several places, the object will be gained, and one of my most earnest wishes accomplished *).

*) The effect produced by the appearance of this work, was all that the illustrious Author could have desired. The book was eagerly sought and read, and the Diet, inspired by the noble sentiments there developed, appointed the sum of 1,800,000 R:dr to be applied in the manner proposed; besides which the different committees were led to discuss the subject in such a way, as must lead at the next meeting of the Diet, to the most beneficial results.

Translator's note.



EXPLANATION OF THE PLATES.

PRISON FOR PENAL-LABOUR.

Pl. I. Plan of the Buildings.

A. Dwelling-house, containing:

1. Passage and Corridor.
2. Reception-room.
3. Bath.
- 4, 5, 6, 7. Washing-room, kitchen, larder.
8. Casern for 10 or 12 soldiers.
9. Ditto for turn-keys.
10. Sessions-room.
11. Direction's room.
12. Rooms and kitchen for the Overseer.
13. Ditto for the Book-keeper.
14. Ditto for the Clergyman.
15. Ditto for the Doctor.

B. Watch-tower, from which the corridors in the 3 wings may be seen. This tower is built so high, that the fields around can be seen to a considerable distance from the dormant-windows in the roof. In the celler under the tower is placed a steam-boiler, from which the cells, by means of heating pipes (*a Pl. II*) are warmed; and in the middle is placed a forcing-pump, which supplies the two reservoirs in the garret with water. Should it be wished to use a small steam engine for the forcing up of the water, there is room for it in the watch-tower. The expense would be but trifling, as from 4 to 6 horse-power were sufficient, and besides,

the advantage would be gained, of promoting cleanliness by means of the draught, which may be obtained from the sewers (*h, h, Pl. II*).

- C.** Passages to the wings with the windows so constructed, that the guard can thence see the outer walls of the wing-buildings.
- D.** The wing-buildings, 3 stories high, divided into 42 *large-cells* in each story, or together 378, from which, however, are deducted 15 cells for doors and stairs; there remain, consequently, 363 cells to be used for imprisonment. Through all three floors runs an open corridor, 16 feet broad, which is lighted partly from the windows in the passage-buildings, and from the large window in the gable, partly from panes of patent-glass in the water-roof, *b, Pl. II*. On both sides of the corridor, galleries 5 feet broad are formed on the beams proceeding from the cells in the upper floors. The cells are 9 feet broad and 10 feet high; in the first floor $14\frac{1}{2}$ feet long, in the second floor 13 feet, and in the third floor $13\frac{1}{2}$ feet long. They are vaulted in the first and second floors to prevent the communication of sound. For the same purpose the partition walls are built with spaces which are filled with sand or saw-dust.
- E.** Prison-yards, separated by means of planks closely joined and 7 feet high. The passage thither takes up two cells in each wing.

The heights of the windows from the floor, and their sloping, as also the height of the planks, are calculated according to circumstances, so that, from the cell-windows, one cannot see those who are walking in the yards.

As there are, in every central-prison, according to this plan, 24 such yards, 24 persons can at once take the fresh air, and if we reckon $\frac{1}{4}$ of an hour for this purpose, and 4 hours every day, each prisoner can enjoy this privilege every third day; but should it be considered necessary, especially during warm summer days, that they come more frequently into the open air, if 6 hours were appointed for this purpose, the prisoners could be out every other day for $\frac{1}{4}$ of an hour.

F. Platform from which the guard can see the yards.

Pl. II. Section and Details of the Wings.

- c.** Reservoir of water in the garret, whence the water is led through zinc pipes **d** to the smaller reservoirs **e** placed in each cell, which are necessary in order at once to bring a greater quantity of swill-water to the sewers, than the water-pipe discharges. These reservoirs **e**, containing $3\frac{1}{2}$ cubic feet of water, are made of zinc with an opening at the bottom of 7 inches in diameter, or a surface of $38\frac{1}{2}$ square inches, supplied with a valve of a harder metal. Besides this valve which leads to the sewer, the reservoir should have a less valve or cock for a supply of water for drinking and washing. From the sewers **f**, which ought to be lined with zinc, pipes of 6 inches diameter are led to the main pipes **g**, which go from all three floors to bricked drains in the cellars. These pipes **g**, may be made of planks, pitched inside, grooved together and bound by iron bolts with screws and nuts, which may be drawn together, if the joints become leaky. The bricked drains **h**, which ought always to be full of water, have a fall of one foot to the gables, where the sliding doors are opened for cleansing. For change of air, draught-pipes **i** are led from the outer wall under the floor to the middle wall, which take off foul air, and **k**, which let in fresh through openings in the window-nich. All the pipes **g** are taken up to that **l**, which lies above them, which is connected with the steam conductor from the heating pipes.

COUNTY-PRISON.

Pl. III.

The prison contains in 3 floors 66 Middling-cells, 6 feet broad, 9 feet high, in the 1:st floor $11\frac{1}{2}$, in the second 10, and in the third floor $10\frac{1}{2}$ feet long.

For an explanation of the style of building, the direction of the pipes, the corridors &c., which are similar to those of the Prison for Penal-labour, the reader is referred to **Pl. II.**

- a.* Porter's and reception room.
- b.* Bath.
- c.* 12 Small-cells for transport-prisoners, ($7\frac{1}{2}$ feet long, $4\frac{1}{2}$ broad and 7 high). To show the manner in which they are built and fitted up a section through 1—2 is given.
- d.* Privy for the transport-prison.
- f.* Rooms for the under-jailers.
- g.* Ditto for Jailer.
- h.* Kitchen.
- l.* Rooms for the meetings of the Direction.
- m.* Magasine-rooms.
- n.* Egress to the prison-yards.

E. Four prison-yards separated by planks.

The steam-boiler, forcing-pump, and sewer-drains, are placed, as in the Prisons for Penal-labour, in the cellars.



ESTIMATE OF THE EXPENSES.

Prison for Penal-labour.

All brick-buildings with iron-roofs and on granite foundations.

A. Dwelling-house.

	R:dr	sk.	
Materials	9,649:	8.	-
Days-work	3,813:	28.	-
Sundries and contract work	<u>1,841:</u>	32.	-
			15,304: 20. -

B. Watch-tower and C. Passages.

Materials	10,650:	8.	-
Days-work	3,324:	8.	-
Sundries and contract work	<u>1,802:</u>	-	-
			15,776: 16. -
Steamboiler and Pump with putting up			3,000: - -

D. A Wing.

Materials	44,070:	26.	8.
Days-work	12,424:	2.	-
Sundries and contract work	<u>9,933:</u>	40.	-
Three Wings	at 66,428:	20.	8. 199,285: 14. -
The Prison-yards			2,000: - -
Platforms, care of labour and materials, and sundry expenses			<u>4,630: 46. -</u> 239,997 R:dr.
As the prison contains 363 cells, the expense of a <i>large-cell</i> may be calculated at			661: 7. 2.

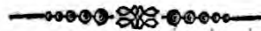
County-jail.

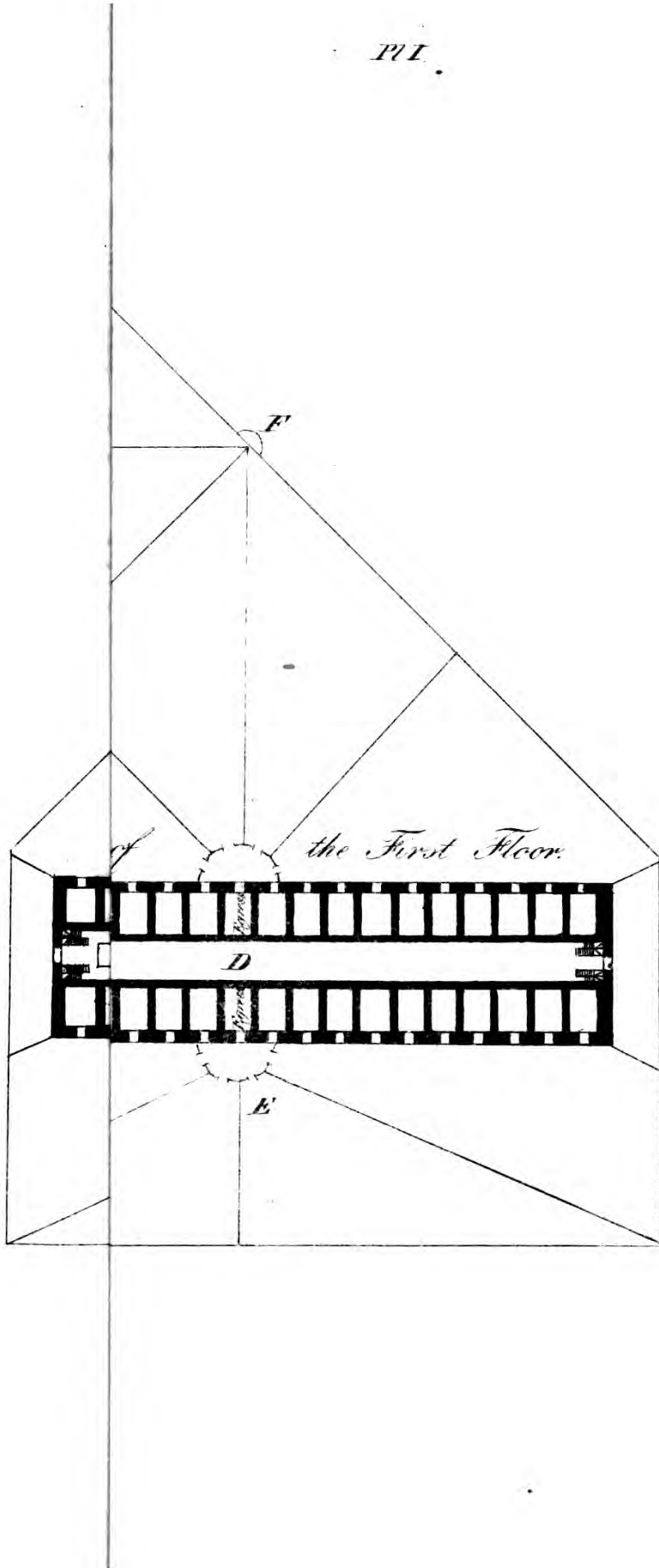
A brick-building with paper-roof raised on a granite foundation.

Materials	27,851:	8.	-
Days-work	8,429:	41.	-
Sundries and contract work	7,558:	32.	-
Steamboiler and pump, with putting up			2,000: - -
Prison-yards			780: - -
Platforms, care of labour and materials and sundries			<u>2,880: 15. -</u> 49,500 R:dr.

Of this sum may be reckoned for the addition of the transport-prison . . . 5,325: - -
 The expense remaining for the county-prison will be 44,175: - -
 Each of its 66 *Middling-cells* can consequently be calculated at 669: 15. 3.
 and *Small-cells* for transport-prisoners at 443: 36. -

The above estimate of the expenses can probably be lowered, partly by its being possible to obtain, in many places, limestone for the outer-walls, partly by the employment of working companies of prisoners for the execution of the work; the saving which, according to calculation, may be thus gained only in the payment of day-labourers, amounts to 6,977 R:dr, besides what may be spared in a more considerable degree through that skill which may be calculated on in such companies, and which lessens the necessity of employing the more expensive workman.





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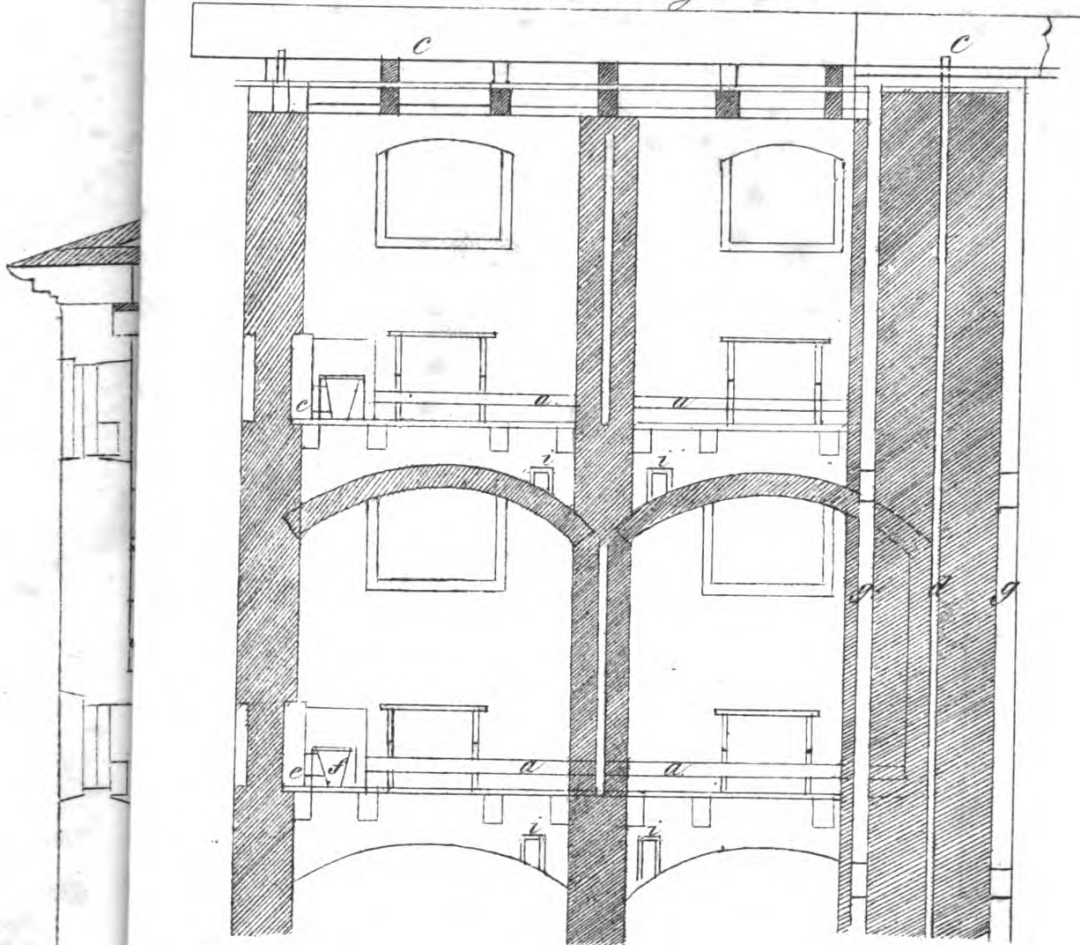
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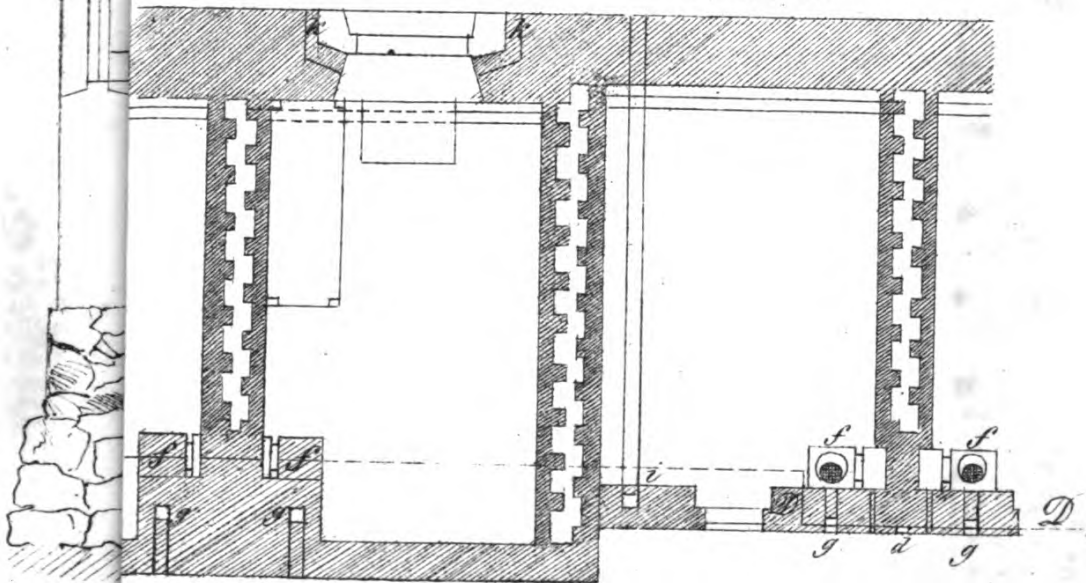
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Section through C. D.



Plan of 1st Floor and 2nd Floor



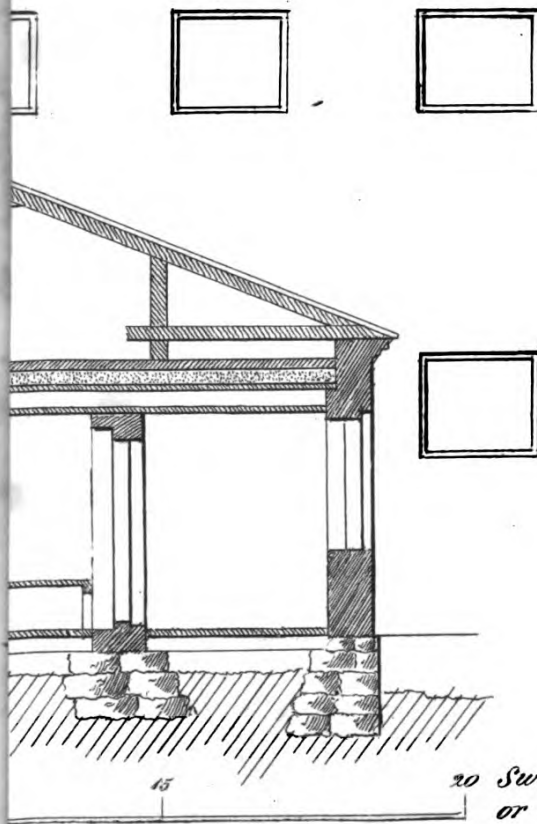
20
25 Swedish Fells
or ab 50 English Feet.



Pl. III.

2.

of the 1st and 2nd Floors.



*20 Swedish Ells
or ab. 40 English Feet.*

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