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OBSERVATIONS AND REFLECTIONS

ON THE

DESIGN AND EFFECTS OF PUNISHMENT.

BY JOHN SERGEANT, Esq.

AND

COL. SAMUEL MILLER,

OF THE U. S. MARINE,

IN LETTERS,

ADDRESSED TO ROBERTS VAUX.

Read at a Meeting of the Prison Society of Philadelphia, and with the consent of the writers published by its order.

ALSO,

THE OPINION

OF THE

KEEPERS OF THE PENITENTIARY AND BRIDEWELL

AT PHILADELPHIA,

ON THE

SEPARATE CONFINEMENT OF CRIMINALS.

JESPER HARDING, PRINTER.

1828

[The following letter was not intended for publication when it was written, but the value of the opinions which it contains induced a request that the writer would permit this use made of it, to which he politely consented.]

DEAR SIR,

I have, as I have said, [illegible] literally true even of the corrector or editor.

Most [illegible] of all, [illegible]

LETTERS.

[The following letter was not intended for publication when it was written, but the value of the opinions which it contains induced a request, that the writer would permit this use to be made of it, to which he politely consented.]

Sept. 8, 1827.

DEAR SIR,

I MEANT to have said, when we were interrupted to-day, that the charge of cruelty is a very vague one. All punishment is an infliction of some sort, doing violence to the feelings of the culprit, and therefore producing pain. This is literally true even of the correction of children.

Most punishments, too, are of a nature to endanger more or less the health of those who are subjected to them. Restraint merely—the least of all, may shock the constitution of a man accustomed to the free use of liberty. A change of diet, especially with those who have been in the habit of immoderate indulgence, may in like manner have a dangerous tendency. And so of many others.

Every protracted punishment is in some degree liable to the objection last mentioned. Those which are short, the pillory, whipping post, and the gallows, are free from it. *They do no more than* they *are* intended *to do.* But they are not free from the imputation of cruelty.

Confinement in jails, has its peculiar evils. If they are crowded, there is danger to health, and even to life, as the frequent occurrence of fevers sufficiently proves; and they are certainly ruinous to the moral constitution of the patient.

The representation of the convict, whose letter you have published, is undoubtedly true.

If the prison be not crowded, still, as long as there is association, there will be an accumulation of corrupting and corruptible materials, and consequently an increase of corruption. Our prisons are schools of vice, where a most finished education is obtained, if we may call by that name the maturing our worst propensities by a stimulating culture.

These things are all cruel, in a certain sense. The greatest cruelty of all, is that which exposes the prisoner to the danger of infectious communication calculated to destroy all remnant of moral principle. It makes him a candidate for further and greater punishment, and, as it were, prepares his neck for the rope.

Cruelty, in my opinion, is properly imputable only to unnecessary infliction of pain or suffering. If a man were placed in a hospital to cure him of habits of intemperance, he would be likely to suffer much pain if liquor were not allowed to him; and yet, no one would affirm that there was cruelty in withholding it.

Supposing punishments not to be merely vindictive, they must operate by terror, by reform, or by disabling the culprit to repeat his misconduct. The only effectual mode of accomplishing the last of these purposes, is perpetual imprisonment or death. In graduating the scale of penalties, these are very rightly reserved for extreme cases. We may, therefore, dismiss them from our consideration. To operate by terror, where there is no reform, you must employ as much cruelty as will counterbalance the influence of temptation upon a mind predisposed to crime. What this may be, I believe no one yet knows, for certainly our prisons have not been able to inspire their inmates with salutary fear. On the contrary, it would seem, that when a culprit has once been in jail, the jail becomes thenceforward his home, from which he is only occasionally absent during the rest of his life.

To work a reform, as has already been intimated, our pre-

sent system is proved to be inadequate. It is worse. The offender becomes hardened by its operation. It is therefore inefficient in both points of view. Ought we not then to try the plan of solitary confinement?

The objection to it is, that its severity would be intolerable. As it has never been fairly tested by experiment, this objection must, for the present, be somewhat conjectural. There may be individuals who will not be able to endure continued solitude for a considerable length of time. In such cases, some modification in their favour may be necessary. Experience will show to what extent this ought to be made. That there are any to whom solitary confinement, even for a short time, would be fatal, or even highly injurious, may well be doubted, for we have had frequent instances of its infliction without such effects.

Without, therefore, undertaking to decide how far it will be effectual for the purpose of reform, I think the experiment ought to be made. It may fail. But it has not yet failed, and if it should succeed, it will do infinite good. If not, we are at least in the way of our duty in making it, and it will be time enough to abandon the effort, when it has been tried and found wanting.

To return, however, to the charge of cruelty, with which it has been stigmatized in advance, and therefore gratuitously. It may be replied, in the first place, that if it be only meant that the punishment will be severe, but without injury to the health or morals of the patient, there is nothing in the objection. Punishment ought to be severe, if it is meant to operate at all. People are not sent to prison, to enjoy there the comforts and luxuries of life. It may be replied, further, that admitting it to be severe, or even very severe, before it can on that account be condemned, it must be compared with any other practicable mode of punishment, and a fair comparison made of the cruelty (so called) of each. And in making this comparison, we must take into the account, the general merits of the respective plans as they tend more or

less to the welfare of society, and of the unhappy subject of punishment. If there is a well grounded hope of lessening the quantity of crime and thus promoting the general happiness and security of society, and if there is also a hope of reforming the criminal, or even deterring him from the repetition of crime, these are powerful considerations to be placed in the scale against specific objections of severity. Nor, in this estimate, must we forget, that this plan of solitary confinement has one peculiar and great recommendation which no one can question. It will prevent prisoners from injuring each other by vicious instruction, a most cruel thing, it must be admitted, as it relates to those who are exposed to such a noviciate, and as it relates to society in general.

I intended to write a sentence or two, and I have got upon the second sheet without saying a word that is new to you, who have so well considered the whole subject. It gives me an opportunity, however, to say, that I earnestly hope the experiment will be made, and also to assure you of my respect and regard.

Yours, very truly,

JOHN SERGEANT.

ROBERTS VAUX, Esq.

Marine Barracks, Philadelphia, Jan. 8th, 1828.

DEAR SIR,

I have the pleasure to acknowledge the receipt of your favour of the 5th instant, requesting my "opinion of the effects of solitary confinement, in preference to the lash, or any modes of punishment which have been adopted by the marine, or land service of the United States." In reply, I shall confine myself to such facts and observations, as have come within my knowledge in the course of my public duty.

During a period of several years in which I was in service,

previous to the repeal of the law of congress, authorizing punishment by stripes and lashes, it became my duty as an executive staff officer, to carry into effect all sentences of courts martial at head-quarters. In the painful discharge of this duty, I could not fail to observe the good, or bad effects of this degrading, and I was about to add, inhuman system. The result of such observations during four successive years, was, that in the numerous instances which came under my notice, I can recollect but one, in which a reformation was effected solely by the lash. During the period above alluded to, the corps of marines was commanded by a native of this city, who was as distinguished for all the essential qualities of a gentleman, as he was for humanity and active benevolence. His duty often called upon him to sanction the proceedings of courts martial, inflicting punishment by the lash, which his better feelings revolted at. Finding that he could not, consistently with the respect that was due to the opinion of many of his officers, remit the sentences legally awarded, he converted one of the rooms in barracks into six cells, or places of solitary confinement, and thus, in all cases, in which he was authorized to act without the intervention of a court, substituted a confinement to these apartments, for the lash. His humane efforts were crowned with the happiest effects, and procured for him the spontaneous and grateful epithet of the "soldier's friend." During this period, and until the repeal of this degrading law, I can bear testimony in numerous instances, of the most complete reformation resulting from solitary confinement; and this too, when the lash, and every other mode practised in service, had failed. Subsequently to the repeal of the law, the various modes of punishment consisted in hard labour with ball and chain, curtailment of pay, stoppage of liquor, and solitary confinement to the cells on bread and water. In noticing the operation of the respective modes of punishment on the prisoners, I readily discovered the superiority of solitary confinement, over all others. The prisoners viewed it as a very severe punishment,

but without that degradation which invariably followed the lash. A system so congenial to the better feelings of our nature, and resulting in the reformation of men, for whose good conduct and practical usefulness, we were in a measure responsible, could not fail to excite a determination in the minds of those who had the true interests of the service at heart, to practice it in all admissible cases. I have done so; and during the periods I have held distinct commands, my conviction of its superiority over all other systems hitherto practised, is such, that if the lash were again authorized in our service, I would, so far as it depended on myself, avoid it as the most impolitic and pernicious system, ever resorted to for the government and reformation of rational beings. That solitary confinement is dreaded by some, even more than the lash, is an evidence in favour of its adoption. Of this, I have had abundant evidence. Men who have been ordered to the cells for six or eight days for minor offences, have solicited that the punishment might be commuted to a dozen lashes! It is true such men had generally been attached to sea service, where the lash is the usual mode of punishment.

Humanity and kindness are essential qualities in a good disciplinarian, and mainly contribute to the due enforcement of every specific punishment. I have witnessed the happiest effects of kind treatment to those in solitary confinement. It has called forth the warmest effusions of gratitude, which continued to be manifested after their release, by the most cheerful and prompt attention to duty. Greater attention has been paid to those suffering under the effects of the lash, because it was necessary, but the same results could never be produced. They were sensible of kindness for the moment, but disgrace had destroyed their pride, damped their spirits, and generated habits of dissipation, from which they rarely recovered. The moral and physical advantages resulting from a course of treatment which induces men to execute with cheerfulness whatever they are required to do, must be ap-

parent to all, who have witnessed them labouring with, or without a willing heart. And that system of punishment which is the most dreaded by the perpetrators of crime, which carries with it the least disgrace, and presents the fewest impediments to a cheerful discharge of duties, or restoration to society, reason and common sense would seem to sanction as the best. From witnessing the effects of the various modes of punishment, the conviction on my mind is, that one of the surest methods to reclaim men from vice and bad habits, is so to temper the punishment that they shall not wholly lose that self respect which is essential to the recovery and maintainance of a good character.

It is true, my experience has been derived, almost exclusively, from the government of men in military life; but I can see no valid reason, why a system calculated to restrain and punish men under military law, should not, cœteris paribus, be equally as operative under the civil.

If these brief and imperfect remarks shall contribute in the smallest degree, to establish in this state, a system of solitary confinement, in preference to the barbarous and degrading use of the lash, I shall feel pleasure in having cast in my mite, to the accomplishment of so important an object.

With great respect and esteem, I am,

Dear Sir, your obedient Servant,

SAM'L. MILLER.

ROBERTS VAUX, Esq.

The subscribers, who for many years have been engaged in superintending the convicts in the penitentiary, and also the untried prisoners, vagrants, and others, committed to the common jail of the city and county of Philadelphia, feel no hesitation in declaring their opinion, that *any association of criminals*, is inefficacious as a punishment, and unavailing as a preventive of crime. They fully believe, that *separate*

confinement will accomplish the best results for the criminal, and for society; and they further declare, that of the numerous instances of imprisonment of refractory convicts in the cells, they know of no instance of mental derangement produced thereby, though in some cases, such imprisonment has continued for a long time.

ISRAEL DEACON, *Principal Keeper of Penitentiary.*
ABIJAH PRICE, *Assistant Keeper* *do.*
JACOB HOLLAWAY, *do.* *do.*
J. BURKHART, *do.* *do.*
CHRIS'R ARMSTRONG, *do.*
WM. HELLINGS, *do.* *do.*
ANTHONY FREED, *do.* *do.*
JOSEPH S. KITE, *do.* *do.*
WM. HARVEY, *do.* *do.*
JACOB REAKIRT, *Keeper of Bridewell, Arch Street,*
ANDREW HOOTON, *Deputy.*
JOHN M'DANIEL, *do.*
FURMAN BLACK, *do.*

Philadelphia, Jan. 14, 1828.