

ON THE  
PENITENTIARY SYSTEM  
IN THE UNITED STATES  
AND ITS APPLICATION  
IN FRANCE

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SOUTHERN ILLINOIS UNIVERSITY PRESS

*Carbondale and Edwardsville*

CHAPTER ONE

AN HISTORICAL OUTLINE  
OF  
THE PENITENTIARY SYSTEM

THOUGH the penitentiary system in the United States is a new institution, its origin must be traced back to times already long gone by. The first idea of a reform in the American prisons, belongs to a religious sect in Pennsylvania. The Quakers, who abhor all shedding of blood, had always protested against the barbarous laws which the colonies inherited from their mother country. In 1786, their voice succeeded in finding due attention, and from this period, punishment of death, mutilation and the whip were successively abolished in almost all cases by the Legislature of Pennsylvania. A less cruel fate awaited the convicts from this period. The punishment of imprisonment was substituted for corporal punishment, and the law authorized the courts to inflict solitary confinement in a cell during day and night, upon those guilty of capital crimes. It was then that the Walnut Street prison was established in Philadelphia. Here the convicts were classed according to the nature of their crimes, and separate cells were constructed for those whom the courts of justice had sentenced to absolute isolation. These cells also served

to curb the resistance of individuals, unwilling to submit to the discipline of the prison. The solitary prisoners did not work.<sup>1</sup>

This innovation was good but incomplete.

The impossibility of subjecting criminals to a useful classification, has since been acknowledged, and solitary confinement without labor has been condemned by experience. It is nevertheless just to say, that the trial of this theory has not been made long enough to be decisive. The authority given to the judges of Pennsylvania, by the law of April 5, 1790, and of March 22, to send criminals to the prison in Walnut Street, who formerly would have been sent to the different county jails, soon produced in this prison such a crowd of convicts, that the difficulty of classification increased in the same degree as the cells became insufficient.<sup>2</sup>

To say the truth there did not yet exist a penitentiary system in the United States.

If it be asked why this name was given to the system of imprisonment which had been established, we would answer, that then as well as now, the abolition of the punishment of death was confounded in America, with the penitentiary system. People said — *instead of killing the guilty, our laws put them in prison; hence we have a penitentiary system.*

The conclusion was not correct. It is very true that the punishment of death applied to the greater part of crimes, is irreconcilable with a system of imprisonment; but this punishment abolished, the penitentiary system does not yet necessarily exist; it is further necessary, that the criminal whose life has been spared, be placed in a prison, whose discipline renders him better. Because, if the system, instead of reforming, should only tend to corrupt him still more, this would not be any longer a penitentiary system, but only a bad system of imprisonment.

This mistake of the Americans has for a long time been shared in France. In 1794, the Duke de la Rochefoucauld Liancourt, published an interesting notice on the prison of Philadelphia: he declared that this city had an excellent prison system, and all the world repeated it.<sup>3</sup>

However, the Walnut Street prison could produce none of the effects which are expected from this system. It had two principal faults: it corrupted by contamination those who

worked together. It corrupted by indolence, the individuals who were plunged into solitude.

The true merit of its founders was the abolition of the sanguinary laws of Pennsylvania, and by introducing a new system of imprisonment, the direction of public attention to this important point. Unfortunately that which in this innovation deserved praise, was not immediately distinguished from that which was untenable.

Solitude applied to the criminal, in order to conduct him to reformation by reflection, rests upon a philosophical and true conception. But the authors of this theory had not yet founded its application upon those means which alone could render it practical and salutary. Yet their mistake was not immediately perceived, and the success of Walnut Street prison boasted of in the United States still more than in Europe, biased public opinion in favor of its faults, as well as its advantages.

The first state which showed itself zealous to imitate Pennsylvania, was that of New York, which in 1797, adopted both new penal laws and a new prison system.

Solitary confinement without labor, was admitted here as in Philadelphia, but, as in Walnut Street, it was reserved for those who especially were sentenced to undergo it by the courts of justice, and for those who opposed the established order of the prison. Solitary confinement, therefore, was not the ordinary system of the establishment; it awaited only those great criminals who, before the reform of the penal laws, would have been condemned to death. Those who were guilty of less offenses were put indiscriminately together in the prison. They, different from the inmates of the solitary cells, had to work during the day, and the only disciplinary punishment which their keeper had a right to inflict, in case of breach of the order of the prison, was solitary confinement, with bread and water.

The Walnut Street prison was imitated by others: Maryland, Massachusetts, Maine, New Jersey, Virginia, etc., adopted successively, the principle of solitary confinement, applied only to a certain class of criminals in each of these states. The reform of criminal laws preceded that of the prisons.<sup>4</sup>

Nowhere was this system of imprisonment crowned with

the hoped for success.<sup>4</sup> In general it was ruinous to the public treasury; it never effected the reformation of the prisoners. Every year the legislature of each state voted considerable funds towards the support of the penitentiaries, and the continued return of the same individuals into the prisons, proved the insufficiency of the system to which they were submitted.

Such results seem to prove the insufficiency of the whole system; however instead of accusing the theory itself, its execution was attacked. It was believed that the whole evil resulted from the paucity of cells, and the crowding of the prisoners; and that the system, such as it was established, would be fertile in happy results, if some new buildings were added to the prisons already existing. New expenses therefore, and new efforts were made.

Such was the origin of the Auburn prison [1816].

This prison, which has become so celebrated since, was at first founded upon a plan essentially erroneous. It limited itself to some classifications, and each of these cells was destined to receive two convicts: <sup>5</sup> it was of all combinations the most unfortunate; it would have been better to throw together fifty criminals in the same room, than to separate them two by two. This inconvenience was soon felt, and in 1819 the Legislature of the State of New York, ordered the erection of a new building at Auburn (the northern wing) in order to increase the number of solitary cells. However, it must be observed, that no idea as yet existed of the system which has prevailed since. It was not intended to subject all the convicts to the system of cells, but its application was only to be made to a greater number. At the same time the same theories produced the same trials in Philadelphia, where the little success of the Walnut Street prison would have convinced the inhabitants of Pennsylvania of its inefficiency, if the latter, like the citizens of the State of New York, had not been led to seek in the faults of execution, a motive for allowing the principle to be correct.

In 1817, the Legislature of Pennsylvania decreed the erection of the penitentiary at Pittsburgh, for the western counties, and in 1821, that of the penitentiary of Cherry Hill, for the city of Philadelphia and the eastern counties.<sup>7</sup>

The principles to be followed in the construction of these

two establishments were, however, not entirely the same as those on which the Walnut Street prison had been erected. In the latter, classification formed the predominant system, to which solitary confinement was but secondary. In the new prisons the classifications were abandoned, and a solitary cell was to be prepared for each convict. The criminal was not to leave his cell day or night, and all labor was denied to him in his solitude. Thus absolute solitary confinement, which in Walnut Street was but accidental, was now to become the foundation of the system adapted for Pittsburgh and Cherry Hill.

The experiment which was to be made, promised to be decisive; no expense was spared to construct these new establishments worthy of their object, and the edifices which were devoted, resembled prisons less than palaces.

In the meantime, before even the laws which ordered their erection, were executed, the Auburn prison had been tried in the State of New York. Lively debates ensued on this occasion, in the legislature, and the public was impatient to know the result of the new trials, which had just been made.

The northern wing having been nearly finished in 1821, eighty prisoners were placed there, and a separate cell was given to each. This trial, from which so happy a result had been anticipated, was fatal to the greater part of the convicts. In order to reform them, they had been submitted to complete isolation; but this absolute solitude, if nothing interrupts it, is beyond the strength of man; it destroys the criminal without intermission and without pity; it does not reform, it kills.<sup>8</sup>

The unfortunates, on whom this experiment was made, fell into a state of depression, so manifest, that their keepers were struck with it; their lives seemed in danger, if they remained longer in this situation; five of them, had already succumbed during a single year; <sup>9</sup> their moral state was not less alarming; one of them had become insane; another, in a fit of despair, had embraced the opportunity when the keeper brought him something, to precipitate himself from his cell, running the almost certain chance of a mortal fall.

Upon similar effects the system was finally judged. The Governor of the State of New York pardoned twenty-six of those in solitary confinement; the others to whom this favor

was not extended, were allowed to leave the cells during day, and to work in the common workshops of the prison. From this period, (1823) the system of unmodified isolation ceased entirely to be practised at Auburn. Proofs were soon afforded that this system, fatal to the health of the criminals, was likewise inefficient in producing their reform. Of twenty-six convicts, pardoned by the governor, fourteen returned a short time after into the prison, in consequence of new offences.

This experiment, so fatal to those who were selected to undergo it, was of a nature to endanger the success of the penitentiary system altogether. After the melancholy effects of isolation, it was to be feared that the whole principle would be rejected: it would have been a natural reaction. The Americans were wise: the idea was not given up, that the solitude, which causes the criminal to reflect, exercises a beneficial influence; and the problem was, to find the means by which the evil effect of total solitude could be avoided without giving up its advantages. It was believed that this end could be attained, by leaving the convicts in their cells during night, and by making them work during the day, in the common workshops, obliging them at the same time to observe absolute silence.

Messrs. Allen, Hopkins, and Tibbits, who, in 1824, were directed by the Legislature of New York to inspect the Auburn prison, found this new discipline established in that prison. They praised it much in their report, and the Legislature sanctioned this new system by its formal approbation.

Here an obscurity exists which it has not been in our power to dissipate. We see the renowned Auburn system suddenly spring up, and proceed from the ingenious combination of two elements, which seem at first glance incompatible, isolation and reunion. But that which we do not clearly see, is the regular of this system, of which nevertheless some one must necessarily have formed the first idea.

Does the State of New York owe it to Governor Clinton, whose name in the United States is connected with so many useful and beneficial enterprises?

Does the honor belong to Mr. Cray, one of the directors of Auburn, to whom Judge Powers, who himself was at the head of that establishment, seems to attribute the merit?

Lastly, Mr. Elam Lynds, who has contributed so much to put the new system into practice, does the glory also of the invention belong to him? <sup>10</sup>

We shall not attempt to solve this question, interesting to the persons whom we have mentioned, and the country to which they belong, but of little importance to us.

In fine, does not experience teach us that there are inventions, the honor of which belongs to nobody in particular, because they are the effects of simultaneous efforts, and of the progress of time?

The establishment of Auburn has, since its commencement, obtained extraordinary success. It soon excited public attention in the highest degree. A remarkable revolution took place at that time in the opinions of many. The direction of a prison, formerly confided to obscure keepers, was now sought for by persons of high standing, and Mr. Elam Lynds, formerly a captain in the army of the United States, and Judge Powers, a magistrate of rare merit, were seen, with honor to themselves, filling the office of directors of Auburn.

However, the adoption of the system of cells for all convicts in the state of New York, rendered the Auburn prison insufficient, as it contained but 550 cells after all the successive additions which it had received.<sup>11</sup> The want of a new prison, therefore, was felt. It was then that the plan of Sing Sing was resolved upon by the legislature (1825) and the way in which it was executed is of a kind that deserves to be reported.

Mr. Elam Lynds, who had made his trials at Auburn, of which he was the superintendent, left this establishment; took one hundred convicts, accustomed to obey, with him, led them to the place where the projected prison was to be erected: there, encamped on the bank of the Hudson, without a place to receive, and without walls to lock up his dangerous companions; he sets them to work, making of every one a mason or a carpenter, and having no other means to keep them in obedience, than the firmness of his character and the energy of his will.

During several years, the convicts, whose number was gradually increased, were at work in building their own prison, and at present the penitentiary of Sing Sing contains one thousand cells, all of which have been built by their criminal inmates.<sup>12</sup> At the same time (1825) an establish-

ment of another nature was reared in the city of New York, but which occupies not a less important place among the improvements, the history of which we attempt to trace. We mean the house of refuge, founded for juvenile offenders.

There exists no establishment, the usefulness of which, experience has warranted in a higher degree. It is well known that most of those individuals on whom the criminal law inflicts punishments, have been unfortunate before they became guilty. Misfortune is particularly dangerous for those whom it befalls in a tender age; and it is very rare that an orphan without inheritance and without friends, or a child abandoned by its parents, avoids the snares laid for his inexperience, and does not pass within a short time from misery to crime. Affected by the fate of juvenile delinquents, several charitable individuals of the city of New York<sup>13</sup> conceived the plan of a house of refuge, destined to serve as an asylum, and to procure for them an education and the means of existence, which fortune had refused. Thirty thousand dollars were the produce of a first subscription. Thus by the sole power of a charitable association, an establishment eminently useful, was founded, which, perhaps, is still more important than the penitentiaries, because the latter punish crime, while the house of refuge tends to prevent it.

The experiment made at Auburn in the state of New York (the fatal effects of isolation without labor) did not prevent Pennsylvania from continuing the trial of solitary confinement; and in the year 1827, the penitentiary of Pittsburgh began to receive prisoners. Each one was shut up, day and night, in a cell, in which no labor was allowed to him. This solitude, which in principle was to be absolute, was not such in fact. The construction of this penitentiary is so defective, that it is very easy to hear in one cell what is going on in another; so that each prisoner found in the communication with his neighbor a daily recreation, i. e. an opportunity of inevitable corruption. As these criminals did not work, we may say that their sole occupation consisted in mutual corruption. This prison, therefore, was worse than even that of Walnut street, because, owing to the communication with each other, the prisoners at Pittsburgh were as little occupied with their reformation, as those at Walnut Street. And while the latter indemnified society in a degree by the produc-

of their labor, the others spent their whole time in idleness, injurious to themselves, and burdensome to the public treasury.<sup>14</sup>

The bad success of this establishment proved nothing against the system which had called it into existence, because defects in the construction of the prison, rendered the execution of the system impossible. Nevertheless, the advocates of the theories on which it was founded, began to grow cool. This impression became still more general in Pennsylvania, when the melancholy effects caused by solitude without labor in the Auburn prison, became known, as well as the happy success of the new discipline, founded on isolation by night, with common labor during the day.<sup>15</sup>

Warned by such striking results, Pennsylvania was fearful she had pursued a dangerous course. She felt the necessity of submitting to a new investigation the question of solitary imprisonment without labor, practiced at Pittsburgh and introduced into the penitentiary of Cherry Hill, the construction of which was already much advanced.

The legislature of this state, therefore, appointed a committee in order to examine which was the better system of imprisonment. Messrs. Charles Skaler, Edward King, and T. I. Wharton, commissioners charged with this mission, have exhibited, in a very remarkable report, the different systems then in practice (December 20, 1827), and they conclude the discussion by recommending the new Auburn discipline, which they pronounce the best.

The authority of this inquiry had a powerful effect on public opinion. It however met with powerful opposition: Roberts Vaux, in Pennsylvania and Edward Livingston, in Louisiana, continued to support the system of complete solitude for criminals. The latter, whose writings are imbued with so elevated a philosophy, had prepared a criminal code, and a code of Prison Discipline for Louisiana, his native state. His profound theories, little understood by those for whom they were destined, had more success in Pennsylvania, for which they had not been intended. In this superior work, Mr. Livingston admitted, for most cases, the principle of *labor of the convicts*. Altogether, he showed himself less the advocate of the Pittsburgh prison, than the adversary of the Auburn system. He acknowledged the good discipline

of the latter, but powerfully opposed himself to corporal punishment used to maintain it. Mr. Livingston, and those who supported the same doctrine, had in general a powerful fact: this was the uncertainty of their theories, not yet tested, and the proven success of the system they attacked. Auburn went on prospering; everywhere its wonderful effects were praised, and they were found traced each year with great spirit, in a work justly celebrated in America, and which has essentially succeeded to bring public opinion in the United States, on the penitentiary system, to that point where it now is. We mean the annual publications of the Prison Discipline Society at Boston. These annual reports — the work of Mr. Louis Dwight, give a decided preference to the Auburn system.<sup>46</sup>

All the states of the Union were attentive witnesses of the controversy respecting the two systems.

In this fortunate country, which has neither troublesome neighbors, who disturb it from without, nor internal dissensions which distract it within, nothing more is necessary, in order to excite public attention to the highest degree, than an essay on some principle of social economy. As the existence of society is not put in jeopardy, the question is now how to live, but how to improve.

Pennsylvania was, perhaps, more than any other state, interested in the controversy. The rival of New York, it was natural she should show herself jealous to retain, in every respect, the rank to which her advanced civilization entitles her among the most enlightened states of the Union.

She adopted a system which at once agreed with the austerity of her manners, and her philanthropical sensibility. She rejected solitude without labor, the fatal effects of which experience had proved everywhere, and she retained the absolute segregation of the prisoners — a severe punishment, which, in order to be inflicted, needs not the support of corporal chastisement.

The penitentiary of Cherry Hill, founded on these principles, is therefore a combination of Pittsburg and Auburn. Isolation during night and day, has been retained from the Pittsburg system; and, into the solitary cell, the labor of Auburn has been introduced.<sup>47</sup>

This revolution in the prison discipline of Pennsylvania, was immediately followed by a general reform of her criminal laws. All punishments were made milder; the severity of solitary imprisonment permitted an abridgment of its duration; capital punishment was abolished in all cases, except that of premeditated murder.<sup>48</sup>

While the states of New York and Pennsylvania made important reforms in their laws, and each adopted a different system of imprisonment, the other states of the Union did not remain inactive, in presence of the grand spectacle before them.

Since the year 1825, the plan of a new prison on the Auburn model, has been adopted by the legislature of Connecticut; and the penitentiary at Wethersfield has succeeded the old prison of Newgate.

In spite of the weight which Pennsylvania threw into the balance, in favor of absolute solitude with labor, the Auburn system, i. e. common labor during the day, with isolation during night, continued to obtain a preference. Massachusetts, Maryland, Tennessee, Kentucky, Maine, and Vermont, have gradually adopted the Auburn plan, and have taken the Auburn prison as a model for those which they have caused to be erected.<sup>49</sup>

Several states have not stopped here, but have also founded houses of refuge for juvenile offenders, as an addition, in some measure, to the penitentiary system, in imitation of New York. These latter establishments have been founded in Boston in 1826, and in Philadelphia in 1828. There is every indication that Baltimore also, will soon have its house of refuge.

It is easy to foresee, that the impulse of reform given by New York and Pennsylvania, will not remain confined to the states mentioned above.

From the happy rivalry which exists among all the states of the Union, each state follows the reforms which have been effected by the others, and shows itself impatient to imitate them.

It would be wrong to judge all the United States by the picture which we have presented of the improvements adopted by some of them.

Accustomed as we are to see our central government attract everything, and propel in the various provinces all the parts of the administration in a uniform direction, we sometimes suppose that the same is the case in other countries; and comparing the centralization of government at Washington with that at Paris, the different states of the Union to our departments, we are tempted to believe that innovations made in our state, take, of necessity, place in the others.<sup>20</sup> There is, however, nothing like in the United States.

Those states, united by the federal tie into one family, are in respect to everything which concerns their common interests, subjected to one single authority. But besides these general interests, they preserve their entire individual independence, and each of them is sovereign master to rule itself according to its own pleasure. We have spoken of nine states which have adopted a new system of prisons; there are fifteen more which have as yet made no change.<sup>21</sup>

In these latter, the ancient system prevails in its whole force; the crowding of prisoners, confusion of crimes, ages, and sometimes sexes, mixture of indicted and convicted prisoners, of criminals and debtors, guilty persons and witnesses; considerable mortality; frequent escapes; absence of all discipline, no silence which leads the criminals to reflection; no labor which accustoms them to an honest mode of subsistence; insalubrity of the place which destroys health; ignominy of the conversations which corrupt; idleness that depraves; the assemblage, in one word, of all vices and all immoralities — such is the picture offered by the prisons which have not yet entered into the way of reform.

By the side of one state, the penitentiaries of which might serve as a model, we find another, whose jails present the example of everything which ought to be avoided. Thus the State of New York is without contradiction one of the most advanced in the path of reform, while New Jersey, which is separated from it but by a river, has retained all the vices of the ancient system.

Ohio, which possesses a penal code remarkable for its mildness and humanity of its provisions, has barbarous prisons. We have deeply sighed when at Cincinnati, visiting the prison. We feared half of the imprisoned charged with iron,

and the rest plunged into an infected dungeon; and are unable to describe the painful impression which we experienced, when, examining the prison of New Orleans, we found men together with hogs, in the midst of all odors and nuisances.<sup>22</sup> In locking up the criminals, nobody thinks of rendering them better, but only of taming their malice; they are put in chains like ferocious beasts; and instead of being corrected, they are rendered brutal.<sup>23</sup>

If it is true that the penitentiary system is entirely unknown in that part which we mentioned, it is equally true that this system is incomplete in those states even where it is in vigor.<sup>24</sup> Thus at New York, at Philadelphia, and Boston, there are new prisons for convicts, whose punishment exceeds one or two years' imprisonment; but establishments of a similar nature do not exist to receive individuals who are sentenced for a shorter time, or who are indicted only.<sup>25</sup> In respect to the latter, nothing has been changed; disorder, confusion, mixture of different ages and moral characters, all vices of the old system still exist for them: we have seen in the house of arrest in New York (Bridewell) more than fifty indicted persons in one room. These arrested persons are precisely those for whom well-regulated prisons ought to have been built. It is easy in fact to conceive, that he who has not yet been pronounced guilty, and he who has committed but a crime or misdemeanor comparatively slight, ought to be surrounded by much greater protection than such as are more advanced in crime, and whose guilt has been acknowledged.

Arrested persons are sometimes innocent and always supposed to be so. How is it that we should suffer them to find in the prison a corruption which they did not bring with them?

If they are guilty, why place them first in a house of arrest, fitted to corrupt them still more, except to reform them afterwards in a penitentiary, to which they will be sent after their conviction?<sup>26</sup>

There is evidently a deficiency in a prison system which offers anomalies of this kind.

These shocking contradictions proceed chiefly from the want of union in the various parts of government in the United States.

The larger prisons (state prisons) corresponding to our *maisons centrales*, belong to the state, which directs them; all the others follow the county jails, directed by the county; and at last the prisons of the city, superintended by the city itself.

The various branches of government in the United States being almost as independent of each other, as the states themselves, it results that they hardly ever act uniformly and simultaneously. While one makes a useful reform in the circle of its powers, the other remains inactive, and attached to ancient abuses.

We shall see below, how this independence of the individual parts, which is injurious to the uniform action of all their powers, has nevertheless a beneficial influence, by giving to each a more prompt and energetic progress in the direction which it follows freely and unimpeded.

We shall say nothing more of the defective parts in the prison system in the United States. If at some future period France shall imitate the penitentiaries of America, the most important thing for her will be to know those which may serve as models. The new establishments then, will form the only object of our further inquiry.

We have seen, in the preceding remarks, that few states have as yet changed entirely their system of imprisonment; the number of those which have modified their penal laws is still less. Several among them yet possess part of the barbarous laws which they have received from England.

We shall not speak of the Southern states, where slavery still exists. In every place where one half of the community is cruelly oppressed by the other, we must expect to find in the law of the oppressor, a weapon always ready to strike nature which revolts or humanity that complains. Punishment of death and stripes — these form the whole penal code for the slaves.<sup>27</sup> But if we throw a glance at those states even which have abolished slavery, and which are most advanced in civilization, we shall see this civilization uniting itself, in some, with penal laws full of mildness, and in others, with all the rigor of a code of Draco.

Let us but compare the laws of Pennsylvania with those of New England, which is, perhaps, the most enlightened part of the American Union. In Massachusetts, there are ten dif-

ferent crimes punished by death — among others, rape and burglary.<sup>28</sup> Maine, Rhode Island, and Connecticut, count the same number of capital crimes.<sup>29</sup> Among these laws, some contain the most degrading punishments, such as the pillory; others revolting cruelties, as branding and mutilation.<sup>30</sup> There are also some which order fines equal to confiscations.<sup>31</sup>

While we find the remains of barbarism in some states, with an old population, there are others, which, risen since yesterday, have banished from their laws all cruel punishments not called for by the interest of society. Thus, Ohio, which certainly is not as enlightened as New England, has a penal code much more humane than those of Massachusetts or Connecticut.

Close by a state where the reform of the penal laws seems to have arrived at its summit, we find another, the criminal laws of which are stamped with all the brutalities of the ancient system. It is thus that the States of Delaware and New Jersey, so far behind in the path of improvement, border on Pennsylvania, which, in this respect, marches at the head of all others.<sup>32</sup>

We should forget the object of our report were we to dwell any longer on this point. We were obliged to present a sketch of the penal legislation of the United States, because it exercises a necessary influence on the question before us.

In fact it is easy to conceive to what point the punishments which degrade the guilty, are incompatible with a penitentiary system, the object of which is to reform them. How can we hope to awaken the moral sense of an individual who exercises on his body the indelible sign of infamy, when the mutilation of his limbs reminds others incessantly of his crime, or the sign imprinted on his forehead, perpetuates its memory?<sup>33</sup>

Must we not ardently wish, that the last traces of such barbarism should disappear from all the United States, and particularly from those which have adopted the penitentiary system, with which they are irreconcilable, and whose existence renders them still more shocking?<sup>34</sup>

Besides, let us not blame these people for advancing slowly on the path of innovation. Ought not similar changes to be the work of time, and of public opinion? There are in the



United States a certain number of philosophical minds, who, full of theories and systems, are impatient to put them into practice; and if they had the power themselves to make the law of the land, they would efface with one dash, all the old customs, and supplant them by the creations of their genius, and the dictates of their wisdom. Whether right or wrong the people do not move so quickly. They consent to changes, but they wish to see them progressive and partial.<sup>29</sup> This prudent and reserved reform, effected by a whole nation, all of whose customs are practices, is, perhaps, more beneficial than the precipitated trials which would result, had the enthusiasm of a stout minds and entering theories free play.<sup>30</sup>

Whatever may be the difficulties yet to be overcome, we do not hesitate to declare that the cause of reform and of progress in the United States, seem to us certain and safe.

Slavery, the shame of a free nation, is expelled every day from some districts over which it held its sway, and those persons themselves who possess most slaves, are convinced that slavery will not last much longer.

Every day punishments which wound humanity, become supplanted by milder ones; and in the most civilized states of the north, where these punishments continue in the written laws, their application has become so rare that they are to be considered as fallen into disuse.

The impulse of improvement is given. Those states which have as yet done nothing, are conscious of their deficiency; they envy those which have preceded them in this career, and are impatient to imitate them.

Finally, it is a fact worth remarking, that the modification of the penal laws and that of prison discipline, are two reforms intimately associated with each other, and never separated in the United States.

Our special task is not to enlarge on the first; the second alone shall fix our attention.

The various states in which we have found a penitentiary system, pursue all the same end; the amelioration of the prison discipline. But they employ different means to arrive at their object. These different means have formed the subject of our inquiry.