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On the Penitentiary
System in the United
States and its
Application to France

The Complete Text

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Chapter 2

Discussion. — Object of the Penitentiary System. — First section: what are the fundamental principles of this system? — Two distinct systems: Auburn and Philadelphia. — Examination of these two systems. — How are they similar; how do they differ.

The penitentiary system, in its proper sense, applies only to individuals convicted and subject to the punishment of imprisonment for the expiation of their crime.

In a less restricted sense, it can be extended to every arrested person, whether their arrest precedes or follows the sentence; that is, whether these persons are arrested as accused of a crime or as convicted for having committed it; in this broader sense, the penitentiary system includes prisons of any kind, central houses, houses of arrest and refuge, etc.

It is also in this latter sense that we will understand it.

We have already said that in the United States, the prisons corresponding to our houses of arrest, that is, cells intended for provisionally arrested defendants and those individuals sentenced to a short term of imprisonment, have undergone no reform. Consequently, we will not speak of them: we can present in this regard only a theory; and it is to practical observations above all that we give our attention.

We will therefore immediately direct our attention to penitentiaries as such, which in the United States contain convicts who, according to our laws, would be sent to the central houses of correction, houses of detention, and to the *bagnes*.¹

The punishment of imprisonment, in the different States where it is pronounced, is not varied like in our laws. In the French system, one distinguishes between simple imprisonment, seclusion, and forced labor; each of these punishments has characteristics that belong to it; imprisonment in the United States has a uniform character; it differs only in its duration.

It is divided into two principal classes: 1. Imprisonment from one month to one or two years, applied to police infractions and misdemeanors; 2. Imprisonment from two to twenty years, or for life, which serves to repress the more serious crimes.

It is for the convicts who are found in the second class that a penitentiary system exists in the United States:²

In what does this system consist and what are its fundamental principles?

How is it put into action?

By what disciplinary means is it maintained?

What results have been obtained in respect to reformation of the inmates?

What have been its effects from a financial account?

What lessons can we adopt from this system for the improvement of our prisons?

Such are the principal questions on which we will present the summary of our observations and research.

After having accomplished this task, we will conclude our report by examining houses of refuge for juvenile delinquents; these establishments are rather schools than prisons, but they do not form a less essential part of the penitentiary system, since the discipline to which these young prisoners are subjected has as its object to punish those who have been declared guilty, and it proposes the reformation of all!

FIRST SECTION

Of what does the penitentiary system consist, and what are its fundamental principles?

In the United States, there are two perfectly distinct systems: the system of Auburn and that of Philadelphia.

Singsing in the State of New York, Wethersfield in Connecticut, Boston in Massachusetts, Baltimore in Maryland, are founded on the Auburn model.³

On the other side, Pennsylvania is found completely alone.

These two systems, contrary to each other on important points, have, however, a common basis without which no penitentiary system is possible; this basis is the *isolation* of prisoners (*l*).

Anyone who has studied the interior of prisons and the mores⁴ of prisoners has acquired the conviction that the communication of these men with each other makes their moral reformation impossible, and even becomes for them the inevitable cause of a hideous corruption. This observation, which is justified by daily experience, is becoming an almost popular truth in the United States; and the publicists who agree the least on the mode of execution of the penitentiary system agree on this point, that no good system can exist without the separation of criminals.⁵

It was believed for a long time that to remedy the evil that arises from the communication of prisoners with each other it sufficed to establish a certain number of classifications in the prison. But after having tried this way, its ineffectualness has been recognized. There are similar punishments and crimes called by the same name, but there are no two moral persons who are alike; and every time convicts are mixed together, there necessarily exists a disastrous influence of one on the others, because, in the association of the cruel,⁶ it is not the least guilty who acts on the criminal, but the most depraved who has an effect on the one who is the least.

It is therefore necessary, given the impossibility of classifying prisoners, to come to the separation of all (*m*).

This separation, which prevents the cruel person from being harmful to others, is favorable to himself.

Thrown into solitude, he reflects. Placed alone in the presence of his crime, he learns to hate it: and if his soul is not yet desensitized to evil, it is in isolation that remorse will come to assail him.

Solitude is a severe punishment, but such a punishment is merited by the guilty. "A prison intended to punish," says Mr. Livingston, "would soon cease being an object of fear, if the convicts who fill it could entertain there at their pleasure the social relations in which they were indulging before having become prisoners."⁷

However, whatever the crime of the guilty, no one has the right to take life from him, when society wants only to deprive him of his liberty. Such

would be, however, the result of complete isolation, if no distraction came to soften the rigor.

This is the reason why labor is introduced into the prison. Far from being an aggravation of punishment, it is a true benefit for the prisoner.

But even when the criminal does not find an alleviation of his sufferings, he should nevertheless be forced to engage in it. It is idleness that led him to crime; in working, he will learn how to live honestly.

From another point of view, the labor of the criminal is still necessary: his imprisonment, expensive for society when he is idle, becomes less onerous when he works.

The prisons of Auburn, Sing Sing, Wethersfield, Boston, and Philadelphia rest therefore on these two united principles: isolation and labor. These principles, to be beneficial, ought not to be separated: the one is ineffective without the other.

In the former Auburn prison, they tried isolation without labor, and the prisoners who did not become insane, or who did not die of despair, reentered society only to commit new crimes.

At Baltimore in this moment they are trying the system of labor without isolation, and this trial does not appear favorable.

While allowing half the principle of solitude, they reject the other half; the penitentiary of this city contains a number of cells equal to that of the prisoners who are locked up during the night; but during the day they permit them to communicate together. Assuredly, separation at night is the most important; however, it is not sufficient. The relationships that criminals have with each other is necessarily corrupting; and these relationships must be avoided if one wishes to preserve the prisoners from any mutual contagion (*n*).

Thoroughly convinced of these truths, the founders of the new penitentiary of Philadelphia wanted each prisoner to be locked in an individual cell day and night.

They thought that the complete and material separation of criminals can alone secure them from a mutual defilement, and they have adopted the principle of isolation in all its rigor. According to this system, the convict once thrown into his cell remains confined there until the expiration of his punishment: he is separated from the whole world; and the penitentiary full of malefactors like himself, but isolated from one another, does not even present to him a society in the prison: if it is true that, in establishments of this nature, all evil comes from the relations that prisoners have amongst themselves, we are forced to acknowledge that nowhere is vice more surely

evaded than at Philadelphia, where the prisoners are in the material impossibility of communicating together. It is incontestable that this perfect isolation shelters the prisoner from all disastrous contagion.⁸

As solitude is in no other prison more complete than in Philadelphia, nowhere also is the necessity of labor more absolute. At the same time, it would be inaccurate to say that labor is imposed in the Philadelphia penitentiary; it can be said more correctly that the honor of labor is granted. When we visited that penitentiary, we spoke consecutively with every prisoner (*o*). There is not one who has not spoken to us of laboring with a kind of gratitude, and who has not expressed to us the idea that without the help of constant occupation, life would be insufferable to him.⁹

During the long hours of solitude, without this distraction what would become of the man left to himself, prey to the remorse of his soul and to the terrors of his imagination? Labor fills the solitary cell with an interest; it fatigues the body and rests the soul.

It is highly remarkable that these men, most of whom have been led to crime by laziness and idleness,¹⁰ are reduced, by the torments of isolation, to find in labor their unique consolation: in detesting idleness, they accustom themselves to hate the primary cause of their misfortune; and labor, in comforting them, makes them love the only means they will have of honestly earning their living one day.

The founders of Auburn also acknowledge the necessity of separating the prisoners, to prevent any communication between them, and to subject them to the obligation of labor; but in order to arrive at the same goal, they follow a different path.

In this prison, like in those that are founded on its model, the prisoners are locked up in their solitary cells only during the night. During the day, they work together in common workshops, and since they are subjected to the law of a rigorous silence, though united, they are still isolated by that fact. Labor in union and in silence is therefore the characteristic that distinguishes the Auburn system from that of Philadelphia...

Because of the silence to which the prisoners are sentenced, this congregation offers, it is said, no disadvantage, and presents many advantages.

They are united, but no psychological link exists between them. They see without knowing each other. They are in society, without communicating together; there is between them neither aversion nor sympathy. The criminal who plans an escape project or an attack on the life of his guards does not know in which of his companions he can find assistance.

Their congregation is wholly material, or, to put it better, their bodies are together and their souls [are] isolated; and it is not the solitude of the body that is important, it is that of the intelligences. At Pittsburgh the prisoners, although materially separated, are not alone, since psychological communications exist among them. At Auburn they are really isolated, though no wall separates them.

Their meeting in the workshops is therefore not dangerous: it has further, it is said, a merit all its own, that of accustoming the prisoners to obedience.

What is the principal object of punishment in relation to him who is subjected to it? It is to give him sociable habits, and first to teach him to obey. The Auburn prison has on this point, its partisans say, a manifest advantage over that of Philadelphia.

Perpetual imprisonment in a cell is an irresistible fact which curbs the prisoner without fighting, and thus strips his submission of every kind of morality; locked up in this narrow space, he does not have, properly speaking, to observe discipline. When he is silent, he keeps a forced silence; if he works, it is to escape the boredom that overwhelms him: in a word, he obeys much less the established rule than the physical impossibility of acting otherwise.

At Auburn, on the contrary, labor, instead of being a consolation for the prisoners, is, in their eyes, a painful task of which they would be fortunate to rid themselves. In observing silence, they are incessantly tempted by it to break the law. They are subjected to the discipline, and yet they may not be [disciplined]. They have some merit in obeying, because their obedience is not a necessity. It is thus that the Auburn discipline gives to prisoners the habits of sociability that are not found in the Philadelphia prison (*p*).

We see that silence is the principal basis of the Auburn system; it is what establishes among all the prisoners that psychological separation that deprives them of any dangerous communications, and leaves them only the social relations that are inoffensive to them.

But here is presented another serious objection against this system; partisans of the Philadelphia prison say that to pretend to reduce a great number of collected malefactors to complete silence is a veritable chimera; and that this impossibility ruins from top to bottom the system whose sole foundation is silence.¹¹

We think that there is great exaggeration in this reproach. Certainly, we cannot admit the existence of a discipline pushed to such a degree of perfection that it guarantees the rigorous observation of silence amidst a great number of united individuals, whose interest and passions excite to communicate together. We can say, however, that if in the prisons of Auburn, Sing Sing, Boston, and Wethersfield, silence is not always strictly observed, the cases of infraction are so rare that they are scarcely dangerous.

Admitted, as we have been, into the interior of these various establishments, and going there at every hour of the day without being accompanied by anyone, visiting in turn the cells, workshops, chapel, and the yards, we have never been able to surprise a prisoner uttering a single word; and yet we have sometimes spent entire weeks in observing the same prison.

At Auburn, there exists a layout of the site that singularly facilitates the discovery of any contravention to the rule. Each of the workshops, where the prisoners work, is surrounded by a gallery from which one can see them without being seen by them. We have often, from the benefit of this gallery, spied on the conduct of the prisoners, whom we have not found in fault a single time. There is, moreover, a fact that proves better than any other to what extent silence is maintained by this discipline; it is what takes place at Sing Sing. The prisoners of this prison are occupied with extracting stone in quarries located outside the walls of the penitentiary; so that 900 criminals, watched by only 30 guards, work in liberty in the middle of an open countryside without any chain fettering either their feet or their hands. Clearly, the lives of the guards would belong to the prisoners if material force was sufficient for the latter; but they lack psychological force. And why are these 900 united malefactors weaker than the 30 individuals who command them? Because the guards communicate freely among themselves, coordinate their efforts and have every power of association;¹² while the convicts, separated from each other by silence, have, despite their numerical force, all the weakness of isolation. Let us suppose for an instant that the prisoners have the least facility of communication; immediately the order is reversed: the meeting of their intellects, carried out by speech, has taught them the secret of their strength; and their first infraction to the law of silence destroys the whole rule.

The admirable order that reigns at Sing Sing, and which silence alone can maintain, proves then that silence is observed there (*q*).

We have shown the general principles on which the Auburn and Philadelphia systems are based: now, how are these principles put into action? How and by whom are the penitentiary establishments

administered? What is the interior order and the discipline of each day? This is what we will explain in the following section.

SECOND SECTION: ADMINISTRATION

Administration. — Superintendent. — Clerk. — Inspectors. — Who appoints them. — Their privileges. — Their salary. — Importance of their choice. — Influence of public opinion. — Daily discipline of the prison. — Rising; going to sleep; labor, meals. — Nourishment. — Cafeteria. — Point on reward for good conduct. — Point on unproductive labor. — Difficulty of labor in the solitary cells of Philadelphia. — Enterprise: how it differs from the system established in France. — Absence of any *pécule*, except at Baltimore.¹³

The administration of the prison is everywhere entrusted to a superintendent¹⁴ whose authority is more or less extensive. At his side is found a clerk or accountant, responsible for the financial part of the establishment.

Above the superintendent, three inspectors have the high direction and moral surveillance of the prison,¹⁵ and finally below him a more or less considerable number of inferior guards are his agents.

At Auburn, Singing, Philadelphia and Wethersfield, the superintendent is appointed by the inspectors; at Boston, he is appointed by the governors;¹⁶ in Connecticut, the inspectors are appointed by the legislature; in Massachusetts, by the Governor of the State, and in Pennsylvania, by the Supreme Court. Everywhere the power that appoints the superintendent revokes it at its discretion.

We see that the choice of persons who direct the penitentiary establishments belongs to significant authorities.

Regarding jailors [or, inferior guards], their nomination in the prisons of Singing, Wethersfield, Boston and Philadelphia belongs to the superintendent himself; at Auburn, they are chosen by the inspectors.

The superintendents of prisons are all, with the exception of those of Philadelphia, required to give sufficient guaranty of their good management.¹⁷ The functions of the inspectors are gratuitous at Philadelphia and Wethersfield; they are only slightly compensated in the other prisons. The sum that they receive in Massachusetts hardly amounts to their travel expenses.¹⁸ They are always chosen from the inhabitants of the locality.¹⁹ The men most distinguished by their social position aspire to pursue this employment; it is thus that at Philadelphia, among the number of

inspectors of the penitentiary, one notes Mr. Richards, mayor of the city, and at Boston, Mr. Gray, senator of the State of Massachusetts.

Although the inspectors are not the immediate agents of administration, they are however the masters of it. They make the regulations that the superintendent is responsible for executing, and they constantly survey this execution; they can even modify it at their discretion, according to the demands of circumstances; in no case do they take part in the acts of administering; the superintendent alone administers because he alone is responsible. They have everywhere the same legal authority; however, they do not exercise it in the same manner in each of the prisons that concern us. Thus, at Singing the surveillance of the inspectors appeared superficial to us, while at Auburn and Wethersfield their intervention in the affairs of the prison is much more felt.

In sum, we can say that the functions of inspectors are more extended in the law than in reality; while the superintendent, whose written authority is not very great, is found however [to be] the soul of the administration.

The most important position to fill in the prison is therefore without doubt that of the superintendent. It is in general entrusted, in the penitentiaries of the United States, to honorable men appropriate by their skill to functions of this nature. Thus, the Auburn prison has had by turn for directors Mr. Elam Lynds, former Army Captain, and Mr. Gershom Powers, Judge of the State of New York. At Wethersfield, Mr. Pillsbury; at Singing, Mr. Robert Wiltse; at Boston Mr. Austin, former Navy Captain; all are men distinguished by their knowledge and their capacity. To a great probity and a deep sense of their duties they add much experience and that perfect knowledge of men [that is] so necessary in their position. Among the superintendents of the American penitentiaries we have above all to note Mr. Samuel Wood, director of the new Philadelphia prison, a man of superior mind, who, influenced by his religious sentiments, abandoned a lucrative career in order to devote himself to the success of a useful establishment.

The inferior agents, the under-wardens, are not as distinguished either by their social position or by their talent. They are, however, in general intelligent and honest. Responsible for the surveillance of labor in the workshops, they almost always have a special and technical knowledge of the professions exercised by the inmates (*r*).

The salary of the various employees, without being exorbitant, is nevertheless considerable enough to provide to some an honorable existence, and to others all the necessities of life.²⁰

Moreover, it is not by the amount of sums paid to them that the merit of prison employees should be judged.

In Virginia, the superintendent of the Richmond prison annually receives 2000 dollars (10,600 fr.). Yet he is director of one of the worst prisons of the United States; while the superintendent of Wethersfield, which is one of the good ones, if not the best, receives for his whole salary only 1200 dollars (6,360 fr.).²¹ We can make the same observation in comparing the good prisons to each other: thus, in Connecticut, the sum total paid for the salary of the various employees of Wethersfield amounts to only 3713 dollars 33 c. (19,680 fr. 64 c.), for one hundred seventy-four prisoners; while in Boston, the same expenditure for two hundred seventy-six prisoners amounts to 13,171 dollars 55 c. (69,809 fr. 21 c.). Thus, at Boston, where the number of prisoners is not double those that are at Wethersfield, the expenses of the employees costs three and a half times more than in this latter prison.²²

In exposing the organization of the new establishments, we have been struck with the importance that is attached to the choice of individuals who direct them. As soon as the penitentiary system appears in the United States one sees the staff change in nature. One found only vulgar men to be jailers of a prison; the most distinguished men offer themselves to manage a penitentiary, where there is a moral direction to impress.

We have seen how the superintendents, however elevated their character and position was, were subject to the control of a superior authority, the inspectors of the prison. But there is still above them, and above the inspectors themselves, an authority stronger than any other, not written in the laws, but all-powerful in a free country; it is that of public opinion; the innovations that are made in this matter having excited general attention, [public opinion] is directed entirely on this point and it exercises its vast influence without obstacles.²³

There are countries where public establishments are so much considered by the government as its personal thing that it prohibits entrance to them to simply whoever pleases, just as a proprietor defends that of his house according to his good pleasure. They are a kind of administrative sanctuary into which no profane person can enter. These establishments in North America are thought of as belonging to all. Thus, the prisons are open to any who wishes to enter them, and each can get knowledge of the

interior order that presides there. There is no exception to this liberty except in the Philadelphia penitentiary. There one can still, if one wishes, visit the buildings and the interior of the establishment. It is only forbidden to see the inmates, because the visits of the public would be contrary to the theory of complete solitude that forms the foundation of the system.

Instead of avoiding the inspection of the public, the superintendents and inspectors of prisons solicit the investigation and attention of anyone.²⁴ Each year, the inspectors give an account of the financial situation and the moral state of the prison either to the legislature or to the governor; they indicate existing abuses and improvements to be made. Their reports, printed by order of the legislatures, are immediately handed over to public report and controversy; the newspapers, whose number there is immense,²⁵ faithfully reproduce them. In this way, there is not an inhabitant of the United States who does not know how the prisons of his country are governed, and who is not able, whether by his opinions, or by his fortune, to contribute to their improvement. General interest being thus excited, individual societies are formed in each town for the progress of prison discipline: every public establishment is carefully examined; every abuse is discovered and pointed out. If it is necessary to construct new prisons, individuals add their funds to those of the State to meet the costs. This general attention, source of a perpetual vigilance, causes an extraordinary zeal and extreme circumspection on the part of prison employees that they would not have if they were placed in the shadows. This surveillance of public opinion that is the cause of their discomfort also provides compensation for them, for it is what makes their functions elevated and honorable, base and obscure as they were.

We have just seen the elements that compose the prison. Let us now examine how it acts in the sphere of its organization. At the arrival of the convict in the prison, a doctor verifies the state of his health. They make him take a bath; they cut his hair and give him a new outfit according to the uniform of the prison. At Philadelphia, he is led to his solitary cell from which he never leaves; it is there that he works, eats, and rests; and the construction of this cell is so complete that there is never necessity for him to leave it.²⁶

At Auburn, at Wethersfield, and in other prisons of the same nature, he is first plunged into the same isolation, but it is only for a few days, after which they make him leave his cell to occupy him in the workshops.²⁷ At daybreak the prisoners are awakened to the sound of a bell signaling the

time to rise; the jailors open the doors. The prisoners form a line under the supervision of their respective guards, and go first into the hall where they stop to wash their hands and their faces, and from there go into the workshops where they are immediately put to work. The labor is not interrupted until dinnertime. There is not a single moment allocated to recreation.²⁸

At Auburn, when the hour of breakfast and dinner arrives work is suspended and every inmate meets in a large dining hall. At Sing Sing and in every other penitentiary they retire into their cells, and each eats separately there. This last rule appears to us preferable to that of Auburn. It is not without drawbacks and even danger to assemble such a large number of criminals in the same place, whose congregation makes the maintenance of discipline much more difficult.

In the evening, at the setting of the sun, work stops and every convict leaves the workshops to return to their cells. The rising, going to sleep, eating, leaving the cells, entering the workshops, everything during the day takes place in the most profound silence, and nothing is heard in the prison save the sound of those who march and the movement of the laborers who work. But when the day is finished and the prisoners are returned to their solitary cells, the silence that is in the confines of these vast walls, where so many criminals are confined, is a silence of death. At night, we often walked these ringing and silent²⁹ galleries where the clarity of a lamp shines incessantly: it was as though we walked through catacombs; there were a thousand living beings there and yet there was solitude.

The order of a day is that of the whole year. Thus, all the hours of the convict follow one another with an overwhelming uniformity, from the time he enters the prison until the expiration of his punishment. Labor fills the whole day. The whole night is given entirely to rest. Since the labor is arduous and rough, long hours of rest are necessary; they do not disturb the inmate between bedtime and sunrise. Before having slept, as well as after, he still has time to contemplate his solitude, his crime, and his misery.

Without doubt, not every penitentiary has a similar discipline; but every inmate of a prison is treated the same way. There is even more equality in the prison than in society.

Everyone wears the same clothes and eats the same bread. Everyone labors: there exists in this respect a distinction only in the results of those who have a natural aptitude to one profession more than another. In no case can work be interrupted. They have recognized the disadvantage of

determining a task, after the accomplishment of which the prisoner would be free to do nothing. It is crucial for the inmate as well as for the prison order that he labor without stopping; for him, because idleness is disastrous to him; for the prison, because according to the observation of Judge Powers fifty individuals who work are more easily watched than ten convicts who do nothing.³⁰

Their food is healthy, abundant, but coarse;³¹ it must sustain their strength and not provide for them any sensations that are simply agreeable.

No-one can follow a different diet from that of the prison. Every fermented beverage is forbidden there; they only drink water.³² The convict who possesses wealth nevertheless lives like the poorest of all: and we do not see in the new American prisons those cafeterias that are encountered in ours and that sell to the prisoners anything that can satisfy their gluttony. The abuse of wine is unknown there because the use of it is prohibited.

This discipline is simultaneously moral and just. It is not necessary that the site where society has placed criminals to repent present scenes of pleasure and debauchery. It is wrong to leave the rich criminal, whose wealth augments his crime, to rejoice in prison next to the poor prisoner whose poverty extenuates his fault.³³

Assiduity to labor and good conduct in the prison do not procure for the prisoner any alleviation of punishment. Experience teaches us that the criminal who has committed the most hateful and audacious attacks in society is often the least rebellious in prison. He is more docile than others because he is more intelligent; and he knows to submit when it is not in his power to revolt. He is ordinarily more skillful and active in work, above all when one indicates to him an easily attained pleasure as the goal of his efforts; thus, if we accord privileges to the prisoners on the basis of their conduct in prison we risk greatly alleviating the rigors of imprisonment for that criminal who has most merited them, and depriving of every favor those who are most worthy of it.

Perhaps in the present state of our prisons it would be impossible to govern them without the assistance of incentives granted for the diligence, activity, and talent of the inmates. But in America, where prison discipline operates supported by fear of punishment, they have no need of a psychological influence to direct them.

The interest of the prisoners requires that they never be idle; that of society desires that they work in the most useful way. We see in the new

penitentiaries none of those machines used in England that the prisoners set in motion without intelligence, and by means of which their physical activity alone is exercised.

Labor is not only good because it is the opposite of idleness; one desires even more that by working the convict learns a profession whose exercise will support him when he leaves prison.

Thus, the prisoners are only taught useful trades: and among these, care is taken to choose those that are most profitable and whose products are the easiest to sell (*s*).

The Philadelphia system has often been reproached with making labor impossible for the prisoners. It is certainly more economical and advantageous to make a limited number of laborers work in a common workshop than to give employment to each of them in a separate place. It is still more true to say that a great number of industries cannot be advantageously undertaken by a single worker in a very narrow place: however, the example of the Philadelphia penitentiary, where every inmate works, proves that professions that can be exercised by isolated men are numerous enough to be able to usefully occupy them.³⁴ The same difficulty is not encountered in the prisons where the convicts work in common. At Auburn and at Baltimore, a very large variety of professions are exercised. These two prisons offer the appearance of extensive factories that bring together all useful industries. At Boston and Sing Sing, the occupation of the inmates has been thus far more uniform. In these two prisons, most of the inmates are employed in cutting stone. Wethersfield presents on a small scale the same spectacle as Auburn.

In general, the labor of prisoners is awarded to a contractor, who gives a specified price for each day and receives in exchange whatever is manufactured by the inmate.

There exist crucial differences between this system and the one practiced in our prisons. In France, the same man undertakes the provision of food, clothing, labor, and healthcare for the prisoners, a system detrimental to the convict and to prison discipline.³⁵ To the convict, because the contractor, who sees in such a transaction only a matter of money, speculates on provisions like labor; if he loses on clothing, he cuts back on food; and if the labor produces less than he counted on, he compensates by spending less on the upkeep that is his responsibility. This system is equally disastrous to the order of the prison. The contractor sees in the inmate only a laboring machine, dreaming, in serving him, only of the profit that he wants to draw from him; everything appears good to him to stimulate

his [the prisoner's] industry; and he worries very little if the expenses for the convict are made to the detriment of the order. The extent of his privileges give him, moreover, an importance in the prison that he should not have; there is therefore interest in removing him from the penitentiary as much as possible, and to combat his influence when one cannot neutralize it (*u*).³⁶

It seems to us that the evil that we point out at the moment was generally avoided in the United States in the new penitentiaries that we visited. In these establishments, they have not exclusively adopted either the system of governance or that of the contract.

The clothing and bedding of the inmates are usually provided by the superintendent, who himself makes all contracts concerning these objects; he avoids many purchases by making the prisoners themselves manufacture and craft the materials necessary for clothing within the prison. At Auburn, Singing, and Boston, the prisoners are fed by the contractor, according to a contract that must not be made for more than a year. At Wethersfield, the prison itself provides for this expense. The contractor who, at Auburn, is responsible for feeding the prisoners is not the same one who makes them work.

There is also a different contractor for each type of industry; the contracts being thus multiplied, the same contractor can obtain only a circumscribed and transient influence in the prison.

At Wethersfield, not only does the administration of the prison nourish and maintain the prisoners without having recourse to contracts, but it also contended for the greatest part of the labor itself.³⁷

In each of these establishments the contractor cannot, under any pretext, interfere with the interior discipline of the prison or bring the slightest breach of its regulations. He must not sustain any conversation with the inmates, if it is not instructing them in the profession that he is responsible for teaching them; still, he must speak to them only in the presence and with the consent of one of the guards.³⁸

Despite these wise precautions, the presence of the contractor or his agents in the prisons is not exempt from disadvantages. Formerly, the Auburn prison was governed by it;³⁹ and when the principle of contract was admitted there, Mr. Elam Lynds, who was superintendent at the time, did not allow the contractor to approach the inmate. The contractor was committed to pay at the agreed price for the manufactured objects produced from the work of the prisoners, and these objects were delivered to him without his having overseen the execution thereof.

The discipline benefitted greatly from this order of things; if it is advantageous to restrict the relationships that were established between the contractors and the inmates, it is still better to put a stop to them entirely.

However, such a system of administration was difficult and costly.

The contractors, being deprived of the right to inspect the labor, imposed disadvantageous conditions on the prison; on the other hand, their exclusion from the workshops there necessitated the presence of guards capable of teaching the inmates their profession; and men gifted with the technical knowledge necessary for that purpose were not easy to find. Finally, the sale of manufactured objects was harder and less productive for the superintendent than it is for the contractors devoted exclusively to commercial operations. Thus, it has developed into the contract system we have just described; this system, surrounded by the safeguards that accompany it, possesses advantages that seem to negate most of its disadvantages. However, Mr. Elam Lynds always seems to fear that the tolerated presence of the contractors in prison will lead sooner or later to the complete ruin of the discipline.

We will soon see, in the article on expenses and income, that the labor of the prisoners is generally very productive. In touring these various establishments, we have been struck with the hard work and sometimes talent with which the convicts work; what makes their diligence completely surprising is that they act without [self] interest. In our prisons, like in most of the prisons of Europe, a part of the revenue belongs to the prisoners. This portion, called the *pécule*, is more or less substantial in various countries: in the United States, it is nonexistent. There they accept the principle that the criminal owes all his labor to society to indemnify it for the costs of his imprisonment. Thus, the whole time of their punishment, the convicts work without receiving the slightest salary; and when they leave the prison, no account is given to them of what they have done. They are given only a few pieces of money in order to be able to return to the site they intend to make their new residence.⁴⁰

This system appears excessively severe to us. We do not dispute the right of society, which appears to us incontestable, to find in the work of the inmate the indemnity that it is due: we do not know for that matter at what point a considerable *pécule* is useful to the convict who, most often when he leaves the prison, sees in the money he has amassed only a way to satisfy passions all the more urgent because they have been contained for a longer period of time. But what would be the disadvantage in giving a small incentive to the diligence of the convict, a feeble recompense for his activity? Why

would we not throw into his solitude, and into the midst of his sufferings, an interest in profit that, small as it was, would for him be nothing less than an immense sum? Besides, is it not necessary that on the day of his re-entrance into society he has, if not substantial monies at his disposal, at least some livelihood in the meantime until he is given work?⁴¹ Why not adopt the discipline of the Baltimore prison, where, though acknowledging the principle of other American penitentiaries, its rigor has been softened? In that prison, every convict has his determined task for the day: when he has finished he does not stop working, but he begins to work for himself; everything that he does after his task composes therefore his *pécule*; and since it is only delivered to him upon the expiration of his sentence, we are sure that the money that he has earned in this way will not be harmful to the rule of the establishment. There was a time when the prisoners of Baltimore could immediately spend the money composing their *pécule* on food. Their labor was then much more productive; but we have recognized the disadvantages of such an indulgence, destructive to any rule; and today their *pécule* remains intact until they leave prison.⁴²

Such is the order established in the American penitentiaries. We have said that this discipline was applied to any individual subject to imprisonment in the state prison; however, until now, female convicts have not been subjected to this discipline, save perhaps in the State of Connecticut. In American prisons, they are generally found mixed together, like they are in ours; and there, like in ours, they are exposed to any vice that is born from mutual communication.

Some people believe that it would be very difficult to apply a system, the very basis of which is silence, to women: however, the experiment that was made of it at Wethersfield, where the women are subjected, like the other inmates, to every rigor of cellular isolation during the night and absolute silence during the day, proves that the difficulty is not insurmountable.⁴³ Moreover, it is not the difficulty of execution that has, on this point, hindered reform of prisons in the United States. If, in the application of the new penitentiary system, women have been omitted, this fact must above all be attributed to the small number of crimes that they commit; it is because they occupy such little space in prison that they have been neglected.⁴⁴ It is the same for most social wounds, whose remedy we seek with ardor when they are deep; when they are not serious, we do not think to heal them.

THIRD SECTION: DISCIPLINARY MEANS

The necessity of distinguishing between the Philadelphia system and that of Auburn. The first, easier to put in force and to maintain. That of Auburn has corporal punishments as auxiliaries. — Tempered discipline at Wethersfield. — Discretionary power of the superintendents. — Question of corporal punishments. — What is their influence on the health of the prisoner.

Let us now examine by what disciplinary means the order of things that we have just described is established and supported.

How is silence so rigorously maintained among united criminals? How do we make them work without interest?

It is still necessary to distinguish here between the rule of Auburn and that of Philadelphia.

At Philadelphia, the discipline is as simple as the system itself. The only critical moment is that of the entrance into the prison. The solitary cell of the criminal is full of terrible phantoms for some days. Agitated by a thousand fears, prey to a thousand torments, he accuses society of injustice and cruelty, and in such a disposition of mind it sometimes happens that he defies the orders that are given to him and repels the consolations that are offered to him. The only punishment that the regulation of the prison allows to inflict on him is imprisonment in a dark cell and a reduction in food. It is rare that more than two days of such a discipline are necessary to submit the most rebellious inmate to the discipline. When the criminal has battled the first impressions of solitude; when he has triumphed over terrors that pushed him to insanity or despair; when, after having fought himself (or struggled) in his solitary cell, amidst his remorse, his conscience, and the agitation of his soul, he is overcome with loneliness and has sought in labor a distraction from his troubles; from that moment, he is tamed and henceforth submits to the rules of the prison. What contravention to order can one commit in solitude? The entire discipline is found in the fact of isolation and in the very impossibility of violating the established rule where the prisoners are. In other prisons, disciplinary punishments are inflicted on prisoners who break the law of silence or refuse to work. But silence is easy to those who are alone; and labor is not refused by those for whom it is unique consolation.⁴⁵ We have pointed out the disadvantage of complete isolation, the defect of which is to deprive the inmates' submission of its moral character; but we must at the same time acknowledge its advantages in respect to discipline; and the facility of governing an establishment of this nature without employing rigorous and

repeated punishments is certainly an important benefit. There are some who see in the order established at Philadelphia a system that is complicated in its organization and maintained with difficulty. Those who think thus seem to us to commit a great error. The Philadelphia system is expensive, but not difficult to establish; and once constituted, it sustains itself. It is the discipline that presents the least trouble; each cell is a prison within the prison itself, and the convicts who are detained there cannot make themselves guilty of misdemeanors that are committed only in association; there is no punishment because there is no infraction.

The discipline of Auburn, Sing Sing, Boston, Wethersfield, and Baltimore do not have the same character of simplicity; these various establishments do not follow uniform procedures in this respect.

In Sing Sing, the sole punishment for those who violate the established order is the whip. The application of this disciplinary punishment is extremely frequent there; and the slightest mistake brings it on the delinquent. This punishment is preferred to any other for several reasons. It immediately produces submission from the delinquent; his labor is not interrupted a single instant; this punishment is painful, but not to health; thus, it is thought that no other punishment would produce the same result.⁴⁶ The same principle is admitted at Auburn, but it is singularly tempered in its execution. The penitentiaries of Boston and Baltimore, a little more severe than Auburn, are, however, much less than Sing Sing; Wethersfield differs from every other by its extreme mildness (*v*).

In this latter prison, the use of corporal punishments is not rejected, only its application has been avoided as much as possible; Mr. Pillsbury, superintendent of the establishment, has assured us that for three years there had been only a single time that it was necessary to inflict the punishment of the whip. It is a severity to which one has recourse only when it is very evident that every other milder method has been tried without success; before using it, the influence of complete solitude is attempted on the recalcitrant inmate; shut up in his cell day and night, without leaving him the resource of labor; if we believe the employees of the prison, nothing is more uncommon than to see a prisoner resist this first trial; he has scarcely suffered the severity of complete isolation than he requests the favor of returning to his place in the common workshop and graciously submits himself to all the demands of the discipline. However, if he is not tamed from the first moment, they add a few more hardships to his solitude, such as utter deprivation of daylight, reduction of his food; sometimes also his bed is taken, et cetera. If the inmate is obstinate in his

resistance, then and only then one looks to the whip as a more efficacious means of submission. The directors of this establishment seem to have a marked aversion to corporal punishments; however, they would deeply regret it were they not legally endowed with the right to inflict them. They reject the application of a cruel punishment; but in it they find the power to pronounce an effective and powerful means of action on the inmates.

The tempered discipline of Wethersfield seems to suffice for the success of the establishment. However, it is thought in other prisons that their administration would be impossible without the auxiliary of the whip. This is the opinion of every practical man whom we have seen in the United States, and particularly that of Mr. Elam Lynds, of whom we have spoken above.⁴⁷ The legislatures of New York, Massachusetts, Connecticut, and Maryland have had the same conviction, since they have formally authorized the infliction of corporal punishments. These punishments have also received the sanction of judicial authority; and the country, through the organ of its jury, has made several verdicts of absolution in favor of guards who confessed to having struck inmates (*x*).⁴⁸

We have pointed out the remarkable differences that exist in the discipline of these various establishments; however, all allow the theory of corporal punishments; and it is correct to say that there are in the individual situation of each of these prisons circumstances that tend to explain the mildness or severity of its discipline.

If we recall the nature of the labor performed at Singing and the order established in that prison, we easily understand the insurmountable obstacles that the discipline there would meet if it was stripped of the most energetic means of repression. Auburn does not require the deployment of such great severity, because the same threats do not menace the order of the establishment. Wethersfield is found in this respect in a still more favorable position; it contains less than two hundred criminals, while Auburn contains six hundred fifty of them, and Singing more than nine hundred. It is clear that the relatively considerable number of inmates and the nature of the labor makes the penitentiary more or less easy to govern.

Now, can the discipline of these various prisons dispense with the aid of corporal punishments? This is a question that we would not dare to solve. We believe we can only say that, deprived of this powerful auxiliary, it will be surrounded by obstacles which are very difficult to overcome. Its difficulties would be all the greater as it rests on a single foundation, absolute silence; and because, should this foundation fail, it would collapse entirely.

How to maintain among criminals a complete silence if they are not constantly dominated by the terror of a prompt and rigorous punishment? In American prisons, this discipline founded on blows is all the more powerful as it is exercised with more arbitrariness.⁴⁹ At Singing and at Auburn there is no written regulation: the superintendents of these prisons must alone, in their administration, conform themselves to the verbal prescriptions that they receive from the inspectors and to a few principles written in the law; these principles are: solitary imprisonment of the convicts during the night and their labor in silence during the day. For the rest, they enjoy a discretionary power for any act of execution (*y*). At Singing, the superintendent even has the right to delegate this discretionary power to any of his inferior agents; and, in fact, he has transmitted his authority to thirty guards who are invested, like himself, with the right to punish the inmates. At Auburn, the superintendent alone has the power to punish; however, the same authority belongs to the inferior guards in any case of urgent and absolute necessity. It is the same at Boston. At Wethersfield, the regulations of the prison are written;⁵⁰ the restricted employees cannot in any case exercise the right to punish, which the superintendent alone enjoys, and which he himself exercises. Some important debates were raised in the state of New York on the question of knowing whether the presence of an inspector was necessary in order to be able to inflict the punishment of the whip on an inmate: in terms of the law, this guaranty was indispensable; however, the obligation for inspectors to assist in the infliction of corporal punishments caused them such frequent interruptions and such painful emotions that they immediately asked to be absolved from this duty; and today they acknowledge the right of the employees to exercise the discipline without official witnesses.⁵¹ The inspectors do not retain less of a great influence on the application of disciplinary punishments. Singing is the only prison where their surveillance in this regard has appeared superficial to us. The administration of this vast penitentiary is so difficult that there seems to be no desire to dispute with the guards the smallest part of their absolute power.

We will not elaborate here the question of whether society has the right to punish with corporal punishments the convict who neither submits to the obligation of labor nor to other demands of the penitentiary discipline.

Such theoretical questions are rarely discussed to the profit of reason and truth.

We believe that society has the right to do whatever is necessary to its conservation and that of the order established in its midst: and we understand very well that an assemblage of criminals who have all broken the laws of the country, in whom every inclination is corrupt and every instinct vicious, cannot be governed in prison according to the same principles and with the same means as [one governs] free men whose inspirations are honest and whose every action conforms to the laws. We further hypothesize that the convict who wishes to do nothing would be violently obliged to work, and that severity is employed to reduce to silence those who do not observe it; the right of society in this regard does not appear questionable to us, at least if it cannot with the aid of milder means arrive at the same results; but in our eyes, it is not the question here.

At what point can the use of corporal punishments be reconciled with the object itself of the penitentiary system, which is the reformation of the guilty? If this punishment is ignominious, does it not directly counter the goal that is proposed, which is to raise the morality of a man fallen in his own eyes?

This question appears to us [to be] the sole one to examine: but we do not think that it must be solved in an absolute manner. It seems to us that it greatly depends on the sentiment that, in public opinion and in that of the inmates, is attached to corporal punishments.

The discretionary power, by virtue of which the lowest guard at Auburn and the lowest turnkey at Sing Sing whip the prisoners, is little contested in the United States.

“The right of the guards over the person of the inmates,” says one, “is that of a father over his children, the teacher over his students, the master over his apprentice, and the captain of a ship over the men of his crew.”⁵²

The punishment of the whip is used in the American navy with no idea of infamy attached to it. In the origin of the penitentiary system it had not been allowed as a means of discipline. When they introduced it into the prisons as an auxiliary to the regulations, some voices were raised against it; but this opposition was more a philosophical dispute rather than a repugnance of mores.

Pennsylvania is perhaps the only State of the Union that continues to protest against the use of corporal punishments, and that has excluded them from the discipline of its prisons. The Quakers do not stop protesting the inhumanity of this punishment, and to their philanthropic grievances is joined the eloquent voice of Edward Livingston, who equally rejects this disciplinary means from his penitentiary code. It is above all in

consideration of corporal punishments used at Auburn that he declares himself the adversary of the system in force in that prison.⁵³

But their words find little echo in most of the United States, and today every new penitentiary except those of Philadelphia finds in the punishments in question a means of order and discipline; the laws of the country authorize the discipline that they have adopted and these laws have the sanction of public opinion.

There is certainly great exaggeration in the reproaches addressed to the Auburn discipline. First of all, corporal punishments are not as frequently applied as [the public] appears to believe; necessary to introduce the discipline of silence in a newly established prison, they are rarely used to maintain this discipline once put in force.

Now, is the entire discipline of these prisons, as is alleged, injurious to health, and are the rigors of isolation, like the cruelties of discipline, destructive to the life of the inmates? On this point, we can provide positive documents.

All the inmates that we have seen in the penitentiaries of the United States had the appearance of strength and health; and if we compare the number of those who die there with mortality in the former prisons we will see that the new penitentiaries, despite their severe discipline and their barbaric rule, are much more favorable to the life of the inmates. Mr. Edward Livingston desires that the punishment of the whip be substituted, like disciplinary punishment, with solitary imprisonment by day and night, without labor, and with reduction of food; it does not appear that at Wethersfield this punishment, which they have customarily inflicted there in preference to blows, has produced bad effects. However, ten individuals are mentioned as having died from this kind of punishment in the prison of Lambertton (New-Jersey), while there is still no example of an inmate having been the victim of corporal punishment.⁵⁴

In the former Walnut-Street prison, there was on average one death out of sixteen inmates each year, and in that of New York (Newgate) one death out of nineteen. In both prisons, the inmates were neither alone, nor forced to silence, nor subjected to corporal punishments.⁵⁵

In the new penitentiaries that have silence, isolation, and bodily discipline for their foundation, deaths are in an infinitely smaller proportion.

At Singing, one out of thirty-seven inmates die; at Wethersfield, one out of forty-four; at Baltimore, one out of forty-nine; at Auburn, one out of fifty-six; at Boston, one out of fifty-eight.

Furthermore: if we want to compare the mortality of the inmates in prison to that of free men in society, this comparison will be more favorable to penitentiaries. In fact, in Pennsylvania one individual out of thirty-nine dies each year, and in Maryland one out of forty-seven. Thus, in the former prisons where free communication exists and where discipline was mild one-half more died than in society; and in the new penitentiaries, under the austere discipline of isolation, silence, and blows, deaths are less numerous.⁵⁶

These statistics are better answers than any possible arguments to the objections that have been made.

We have said nothing on the sanitary state of the new Philadelphia prison, which has been established for too short a time to have been able to judge its effects. Everything leads us to think that the system of perpetual and complete seclusion that is in force there will be less favorable to the health of the prisoners than the system of Auburn. However, the doctor of the establishment already believes himself able to declare that mortality there will be less considerable than in the former Walnut-Street prison.⁵⁷

To sum up this point, it is necessary to acknowledge that the discipline of penitentiaries in America is severe. While society in the United States gives the example of the most extended liberty, the prisons of the same country offer the spectacle of the most complete despotism.⁵⁸ The citizens subject to the law are protected by it; they have ceased to be free only when they have become wicked.

NOTES

1. *Houses of correction were one of two types of prison dedicated to prisoner labor, which was for state use only. Houses of correction were unique in that those sentenced to 1–10 years labored together, rather than in isolation. There were ten original houses of correction, and three additional prisons set aside for women.
2. We will apply ourselves exclusively to expand on the penitentiary system of the United States, because that has been the only object of our investigation. If one desires documents on the prisons of Europe, one can consult the very remarkable work that has been published last year by Messrs. Julius, Lagarmitte, and Mittermayer, titled *Lessons on Prisons*.
3. Kentucky, Tennessee, Maine and Vermont have also adopted the same system: but this innovation among themselves is too recent to furnish useful documents.

4. *We consistently translate “les mœurs” as “mores” throughout the text. Tocqueville later gave his own definition of “mores” in *Democracy in America*: “I understand here the expression *mœurs* in the sense the anti-ents attached to the word *mores*; not only do I apply it to mores properly so-called, which one could call habits of the heart, but to the different notions that men possess, to the various opinions that are current in their midst, and to the sum of ideas of which the habits of the mind are formed. I therefore comprehend under this word the whole moral and intellectual state of a people” (2000, p. 275).
5. See the report from the commissioners-redactors of the Penal Code of Pennsylvania, 1828. —pag. 16 and especially pag. 22. — See the letter from Roberts Vaux to Roscoe, 1827. — pag. 9. — Ibid. the report made by the commission of the Baltimore Penitentiary to Governor Kent, 23 December 1818. — Ibid. Report serving as an Introduction to the Code of discipline of the prisons of Edward Livingston, pag. 21. And the letter from the same to Roberts Vaux, 1828. — Ibid. Report of John Spencer to the legislature of New York. Solitary imprisonment of the United States had many adversaries. Among its most celebrated antagonists one can mention William Roscoe of Liverpool and the General Lafayette: the first returned his opinion that he had formed on it as soon as he knew that labor was admitted into the solitary cells of Philadelphia. (See his letter to D. Hozack of New York, written on 13 July 1830, shortly before his death.) As for General Lafayette, he has always forcefully attacked the punishment of solitude. “This punishment,” he says, “does not correct the guilty. I spent several years in isolation at Olimutz, where I was imprisoned for having made a revolution, and in my prison, I only dreamt of new revolutions.” Moreover, Mr. de Lafayette’s opinion, which was created before the former system of solitude without labor was first established in Philadelphia, is perhaps modified like that of W. Roscoe, since this system has subjected itself to serious changes.
6. *I translate “méchants” as “cruel” because the sense seems to be: “Qui désire provoquer, occasionnellement ou non, la souffrance physique ou morale d'autrui” (One who wishes to cause, occasionally or not, physical or psychological pain of others).
7. See Introduction to the Code of the Discipline of Prisons.
8. See Inquiry into the Philadelphia Penitentiary, [Appendix] no. 10.
9. Everyone said to us that Sunday, day of rest, was much longer for them than the whole week.
10. *It is interesting to note that, within the same paragraph, Tocqueville and Beaumont use three different words for “laziness:” “la paresse,” “la fainéantise,” and “l'oisiveté.”

11. See Letter of Livingston to Roberts Vaux, 1828, pag. 7 and 8. There are certainly examples that prove the observation of silence in a few cases: that is so true that, in each of the prisons that we examined at hand, there were some punishments inflicted on those who had been surprised in fault on this point; it must be added that a certain number of contraventions remain always unknown. But the question is not whether there are some infractions; are these infractions of a nature to destroy the order of the establishment and to prevent the reform of prisoners? This is the point to examine.
12. *Introduction of the important idea of “association.”
13. *Rather than translate “savings” or “wage,” I keep the French word “pécule” throughout the translation to retain its meaning as the earnings of a French prisoner’s labor, part of which could be saved, but part of which could be spent while still in prison. Lieber notes in a footnote of his translation that “the *pécule* is now always called in America, *over-stint*” (Beaumont and Tocqueville 1833, p. 37). Tocqueville and Beaumont later make the argument that this two-fold use of the *pécule* poses a problem to the discipline of the prison because it allows prisoners to spend money on luxury items.
14. He is indifferently called warden, keeper, agent, or superintendent.
15. It is generally thought advantageous that the inspectors not change too often, and that they should not be all renewed at the same time. (See Report of 20 December 1830 on the Maryland Penitentiary). At Boston, they are appointed for four years. (See the law of 11 March 1828). At Philadelphia, the inspectors of the penitentiary are exempt from service in the militia, and from the responsibility of juries, from arbitrating or from overseeing the poor. (See rules of the prison.) Until 1820, there were five inspectors for the Auburn prison: it was recognized that this number was too large; and since then it was reduced to three. (See Report of 1820, by Mr. Spencer).
16. *Tocqueville and Beaumont seem to refer here to the state legislature.
17. At Auburn, the guaranty is 25,000 dollars (132,503 fr.). See report of 1832. — Ibid. at Singing.
18. Each inspector there receives 100 dollars (530 fr.). At Baltimore the surveillance committee annually receives 1,144 dollars (6063 fr. 20 c.). See Report of 1830.
19. “We have little confidence in any system of law, unless there is a committee that often provides, through personal investigation, enforcement of the rules.” Excerpted from the report of the inspectors of Wethersfield, 1830.
20. Although the salaries of the employees in the prisons of the United States are rather high, it is much less than it appears to us. The various industries are, in that country, so profitable, that any man endowed with some capacity easily finds a more advantageous career than what they are offered by

the administration of prisons. And we would not see such men as Mr. Samuel Wood at the head of American penitentiaries if they were not under the influence of a nobler sentiment than the urge to make a fortune.

21. See Report on the prison of Connecticut from 1830, page 1st. *Note: There is a question of whether this is printed as *II* (in Lieber's translation) or *I^{er}*.
22. See Statistical Tables, Financial part. — Salary of the employees, Appendix No. 19.
23. *Introduction of another major theme: the rule of public opinion in America.
24. "It is very desirable that citizens of the state and especially gentlemen honored with the power of making and administering the laws should frequently visit this prison." (See Report of Mr. Niles, 1819.) The new penitentiary establishments attract many curious persons who desire to visit it. In terms of the law, the superintendent can have the right to refuse them entrance; but he never makes use of this right; and all those who present themselves are admitted by paying 25 cents (1 f. 32 c.). These visits become a source of revenue for the prison, and the administration keeps account of the money that comes in. During the year 1830, the Auburn prison created, in this way alone, a total of 1,524 dollars 57 cents (8,084 f. 81 c.). See New Statutes of the State of New York. §64 art. 2 chap. 3 tit. 2 part 4, 2nd volume.
25. There were 239 in 1830 in the State of New York alone; and this number has increased still more the last two years. (See Williams Register 1831 page 36.)
26. Each cell is aerated by a ventilator and contains a latrine hole whose construction makes it perfectly odorless. It is necessary to have seen all the cells of the Philadelphia prison, to have passed whole days there, in order to form a precise idea of their cleanliness and the purity of the air that is breathed there.
27. The cells at Auburn are much smaller than the cells of the Philadelphia prison; they are seven feet long and three and a half feet wide. A salubrious air is brought in by a ventilator.
28. Furthermore, every kind of gambling is prohibited there: the regulations are uniform on this point, and faithfully executed.
29. *Lieber translates: "monotonous and dumb" (Beaumont and Tocqueville 1833, p. 32).
30. See Report of Mr. Gershom Powers, 1828, pag. 14.
31. See New Statutes of the State of New York, 2 vol., pag. 707, § 57. If one wishes to know in detail what composes the food of the inmates at Auburn, see the report of Judge Powers, 1818, pag. 43 and the handwritten note of the accounting agent (Clerk) of Auburn. — For the food at Wethersfield, see Report on that prison, 1828, pag. 19. — For the food at Boston, see

- Law of 11 March 1828. — For Baltimore, see Rules and Regulations, pag. 6. 1829.
32. See Report on the Wethersfield prison, 1828, page. 19.
 33. We indicate here only the most important points of which the order, discipline and administration of penitentiaries are composed. In order to know in detail the established rules in the new prisons, the division of hours in the day, the nature of the labors, the tasks of the employees, those of the prisoners, the nature of punishments allowed, the obligations imposed on contractors, etc. — it would be necessary to read the regulations of the Connecticut prison (Wethersfield) whose translation we give. See [Appendix] no. 13— see also the rules made for the prison of Boston by Mr. Austin the superintendent (1 January 1831). —And the two reports of Mr. Powers on Auburn, 1826 and 1828. —And finally the rules of the penitentiary of Philadelphia. We have also consulted, for this object, handwritten notes that had been delivered to us by the clerk of Auburn and by the Superintendent of Sing Sing (Mr. Wiltse).
 34. The professions practiced by the inmates of Philadelphia are weaving, shoemaking, tailoring, carpentry, etc. See Annual Reports of the Inspectors of the Penitentiary of Pennsylvania (1831).
 35. In the central house of detention of Melun, there is a very considerable library for the use of the inmates. It is furnished by the contractor, who the prisoners pay for the rental of each volume that they read. We can judge by this fact the nature of the books that constitute the library.
 36. *There is no reference to alphabetical note (*t*) in the main text of the first edition, although there is a note in the appendix. Lieber puts (*t*) here instead of (*u*) (Beaumont and Tocqueville 1833, p. 35). Mayer's edition puts (*t*) a few paragraphs above, in the sentence: "At Boston and Sing Sing (*t*), the occupation of the inmates has been thus far more uniform."
 37. See art. 4 of Section 1 of the Regulations of the Connecticut Prison, [Appendix] No. 13.
 38. See Report of Gershom Powers, 1828, pag. 42 —For Boston, see Regulations, 1 January 1831.
 39. See report of Gershom Powers, pag. 41, 1828.
 40. The law of the State of New York does not permit the superintendent to give more than 3 dollars to convicts when leaving (15 f. 90 c.), but he must give them the belongings that they need to clothe themselves with, except the value of these belongings cannot exceed 10 dollars (53 f.). See New Statutes of the State of New York, Part 4, Chap. 3, Tit. 2 Art. 2 § 62. —At Philadelphia, the superintendent can give to freed criminals 4 dollars (21 f. 20 c.) — (art. 8 of the rules). See Report of 1831. —At Boston, he is authorized to give them 5 dollars, that is to say 26 f. 50 c., and also he must provide to each free prisoner a decent suite of clothes that equals, it is said, a sum of 20 dollars (106 f.). The inspectors of the Massachusetts prison appear to regret that they give so much to the prisoners leaving annually.

See their Report of 1830, pag. 4. — For Wethersfield see Report on the Prison of Connecticut of 1828.

41. In general, the most dangerous moment for the freed convict is when they leave the prison. It is not unusual that their entire *pécule* is spent in the twenty-four hours that follow their release. At Geneva, to remedy this evil, it is common to not give the convicts their *pécule* at the time of their leaving the prison. They make them wait a little longer until they return to the site of their new residence. For some time, they did the same in France for the convict who leaves the *bagnes* and the *maisons centrales*. It is a wise measure that is important to keep.
42. See report on the Maryland penitentiary of 23 December 1828, addressed to Governor Kent. And report — Id. — of 1830.
43. The difficulty is two-fold:
 1. It is generally thought that women are resigned with more difficulty than men to complete silence;
 2. There is a lack, in order to compel them, of a coercive means that is used to tame men. The laws of the United States, which authorize the punishment of the whip to punish male inmates, forbid the infliction of this disciplinary punishment for women.
44. See Statistical Observations, [Appendix] No.17 § 4-Proportion of crimes committed by males and females.
45. The prisoner would be so inclined to pick up work when it amuses him and exercises his body and to rest idle when he is tired. But we do not allow, and with reason, a similar arrangement; it is necessary that he work all the time or not at all. If he refuses to work consistently, he is placed in a dark dungeon. He has then to choose between continual idleness in the dark and uninterrupted labor in his cell. His choice is never long to come and he always prefers labor. See Report on Philadelphia 1831.
46. We have no register of disciplinary punishments. We have been told that at Sing Sing there are approximately five or six per day (among 1,000 prisoners). At Auburn, the punishments that in the beginning were very frequent are very rare today. One of the inspectors of this prison told us: “I remember having seen, in the beginning, nineteen prisoners whipped in less than an hour. Since the discipline is well established, I continued once four and a half months without giving a single lash.” (See black handwritten inquiry on the Auburn discipline).
47. See our conversation with Mr. Elam Lynds at the end of the volume.
48. *No alphabetical note (*m*).
49. We will mention here a remarkable fact that proves the efficacy of this discipline. On 23 October 1828, a fire burst out in the Auburn prison; it

consumed a part of the buildings belonging to the prison. As it became dangerous even to the lives of the inmates, the latter were let out of their cells; but the order was not troubled a single instant among the prisoners; all were occupied with diligence in putting out the fire and not a single one attempted to profit from this circumstance in order to escape. (See report of 1829 from the Auburn inspectors).

50. At Boston, the regulations are also written and traces of the employees' duties are found there. However, these provisions are only indicative: the superintendent and the under-warden do not enjoy less discretionary power. *Regulation of the New Prison*, pag. 100.
51. See reports from the inspectors of Auburn, 26 January 1825.
52. Report of Gershom Powers, page. 11. 1827.
53. "The question to resolve," Mr. Livingston says, "is that of how to know if the whip is the most efficacious means to inculcate in the souls of the convicts religious and moral sentiments, the love of labor and science; and whether a man will love labor better because he has been coerced, by blows or by the terror of receiving them, to do the tasks each day that have been imposed on him." See letter from Livingston to Roberts Vaux, pag. 11, 1828. —Mr. Gershom Powers, director of Auburn, the discipline of which Mr. Livingston thus attacked, responded: "It is announced that at Philadelphia blows will not be tolerated in any case, and that the reduction of food will be the principal means, if not the only means, of maintaining discipline; in other terms, that by humane motives, to which the inmates are submitted, one will make them die by starvation." See report of 1828, pag. 97. Mr. Elam Lynds, with whom we have had numerous conversations on this subject, often told us that during the time when the inmates of Auburn were confined day and night in their cells without work a great number of them had passed half their time at the hospital.
54. See *Fifth Report of the Boston Society of Prisons*, pag. 92.
55. See *Statistical Observations*, [Appendix] no. 17. At Auburn, the inmates are treated more severely; at Philadelphia, they are more unhappy. At Auburn, where they are whipped, they die less than at Philadelphia, where by humanity one is put in a solitary and gloomy dungeon. —The superintendent of the Walnut Street prison, where the disciplinary punishments are mild, told us before the visit that we made there that it is necessary to punish the prisoners without ceasing for their infractions to the discipline. Thus, the disciplinary punishments of Walnut-Street, softer than those of Auburn, are all the more repeated and more destructive to the life of the prisoner than the severe punishments used in this latter prison.
56. See *Statistical tables of the States of New York, Pennsylvania, Connecticut, Maryland and Massachusetts*, at the end of this volume, [Appendix] no. 17.

57. See Reports on the penitentiary of Philadelphia by the inspectors, 1831, and Observations of Mr. Bache, doctor of the prison.
58. *The first use of the word “despotism.”

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