

LETTER

TO

SIR ROBERT LADBROKE, KNT,

SENIOR ALDERMAN,

And One of the

REPRESENTATIVES of the City of LONDON;

WITH

An Attempt to shew the good EFFECTS which may
reasonably be expected from the Confinement
of CRIMINALS in SEPARATE Apartments.

Justitiæ et Clementiæ
Securiori ac mitiori reorum custodiæ.

Do not spread the Compost on the Weeds
To make them ranker.

HAMLET, ACT III. Scene X

L O N D O N :

Printed and Sold by J. and W. OLIVER, N^o 12,
in Bartholomew-Close :

Sold also by J. RIVINGTON, N^o 62, in St Paul's Church-yard

M DCC LXXI.

[Price One Shilling and Sixpence.]

L E T T E R

T O

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W I T H

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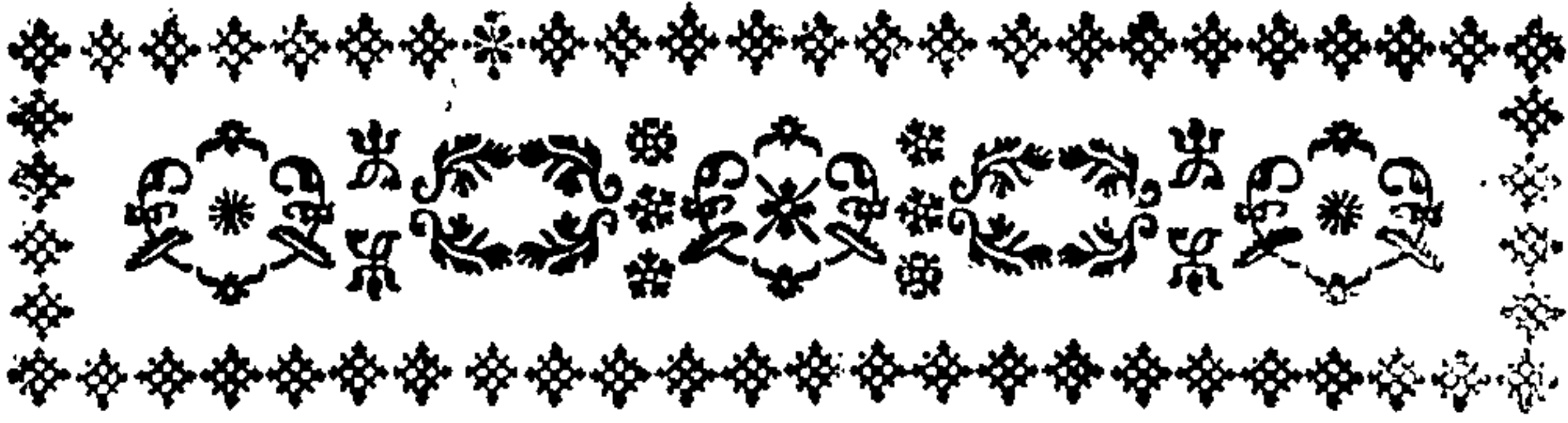
By James Drennon Esq

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A

L E T T E R

T O

Sir ROBERT LADBROKE, &c.

S I R,

THE judicial office which you bear in the metropolis of this kingdom will be a sufficient apology for a stranger's addressing you, on a subject of great importance to your fellow citizens, and to the numerous inhabitants of the adjoining county: and the readiness always shewn by you to promote every useful scheme, encourages me to hope, that you will pay a due regard to each pertinent remark that may be here submitted to you.

It is a general practice with those who have any plan of reformation in view, not only to paint in the strongest colours the reigning vices and enormous offences of the age; but peremptorily to avow that the times, into which they

are unhappily cast, are infinitely worse than the preceding. An assertion that it must be a mark of folly implicitly to admit, because there never was a period free from the same complaint. To avoid, therefore, a censure of this kind, I will not venture to determine positively, that there are now more criminals than there were some years ago; though to say that their numbers are diminished might be as unwarrantable. We were told by the late Mr Henry Fielding, whose station in life enabled him to make an accurate enquiry, of their being to the best of his knowledge, in the year 1751, a very great increase of robberies (1). And he was then likewise pleased to communicate what, in his opinion, were the principal causes of, and to suggest what he thought the most likely remedies for, the growing disorders. Several of his regulations were deservedly approved and adopted: I wish, I could add, that they were followed

(1) In a Tract entitled, *An Enquiry into the Causes of the Increase of Robbers, &c.* p. 1. Notwithstanding the growth, which this author supposed to have been very extraordinary within a few years, there have certainly been periods of our history, when the number of capital convicts, at least of such as were executed, were greater than in later times. Sir Thomas More, in his *Utopia*, edit. by Alsop, A. D. 1639. p. 24. seems to speak of twenty hanging together upon the same gallows, in the reign of Henry VII. as no unusual spectacle. At the Sessions at the Old Baily, in September 1749, 19 Felons were condemned, and 15 of them were executed. In September 1750, 12 out of 16 convicts suffered death. In September 1769, 17 persons were condemned, but in April 1770, 30 convicts received sentence of death. The whole number of prisoners tried in the three last years, and for the same term before Mr Fielding published his Tract is as follows,

In		In	
1749	- - - 670	1768	- - - 643
1750	- - - 670	1769	- - - 616
1751	- - - 615	1770	- - - 704
	<hr/>		<hr/>
	1955		1963
	<hr/>		<hr/>

followed with all the good effects he had flattered himself they would be.

An attentive spectator, however, of common occurrences must observe with concern, that all ranks of people may still too easily partake of diversions beyond what their circumstances will bear; a branch of luxury, which this Gentleman sensibly termed the parent of theft (2)—that every avenue leading to London is infested by highwaymen and footpads — that few nights past in the last winter, in which some house was not broken open—that a ready and secure vent is still often found for a valuable booty (3) — and that, in defiance of a law, which directs a speedy execution, and an open ignominious dissection, we still frequently hear of atrocious murders.

Since then the Acts of Parliament here referred to (4), which were partly enacted in consequence of this ingenious and vigilant Magistrate's investigation and advice, have proved ineffectual; ought we not to aim at discovering the cause to which this failure may be imputed; for, this being once known, the means of removing it may soon occur. And, I must confess, that, after mature deliberation, the present method of confining criminals seems to be a fruitful source of the continuance, if not increase, of the evils

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which

(2) Fielding's Enquiry, &c. p. 5.

(3) Upon the trial of Brent, alias Brett, for the robbery of Lady Mayo, a discovery was made of the common method of negotiating bank notes which had been stolen; it appeared likewise that the Receiver allowed very little more than one half of the value of them. And had not the conscientious Factor conceived an opinion that a christian broker would give a better price for them than one of his own tribe, it is not unlikely the offender had remained concealed. The same witness deposed that only 10 guineas were paid for a diamond ring valued at £ 300. See Sessions Paper for October 1770, part. II.

(4) 25 George II. c. 36, 37.

which so much alarm us. To evince the truth of this, and to state the benefits which will probably arise from an alteration, is the reason of my taking the freedom of conveying these sheets to the public under the sanction of your name.

But, Sir, whilst this pernicious effect of the mismanagement of our prisons was under my examination, another very baneful one presented itself to me: namely, that pestilential distemper, always distinguished by the name of the Gaol Fever. And it appeared to me to be no slight recommendation of my scheme, that the confinement of criminals in separate apartments, which is the regulation proposed, would be salutary in both cases.

Few words are sufficient to shew it to be our duty to preserve, if possible, the health of persons, who, for real or suspected offences, are deprived of that valuable blessing liberty. The feelings of humanity will admonish us not to expose them to greater hardships than what are absolutely necessary. From an apprehension, that the sensibility of those who have the custody of them, by being constant eye-witnesses of scenes of the deepest distress, should become callous; if a man dies of any hard usage of his keeper, it is, by the common law, felony in that keeper; and, the better to prevent cruel treatment, the coroner is to summon a party jury, consisting of six prisoners and six persons of the neighbouring villa or parish, to enquire into the death of every prisoner (1). This compassionate care in our laws has probably saved many lives; and yet there is too much reason to fear, that the inquests yearly find a very great number to have perished solely from their confinement.

By

(1) Burn's Justice, under titles Gaol and Coroner.

By a skilful contrivance of that truly christian philosopher, the late Dr Stephen Hales, some check was given to the ravages of the dreadful disease, which is engendered in gaols; and had it not been for the obstinate prejudices of a few, and the insufferable idleness of many, his ventilators would probably have been of much more extensive service. But it must certainly be worth our enquiring, whether some other method may not be devised, which, with the little use generally made of this valuable machine (2), will entirely prevent the breeding of the gaol fever.

This reverend Gentleman mentioned it as a fact well known, that the vapors which arise from human live bodies are extremely corruptible; and that, where a multitude are confined in a small compass, the quantity that incessantly exhales must be very great, and that it is from this cause principally, that the air of prisons often produces mortal distempers—his plan, therefore, was to draw off these noxious vapors, and to supply the room with plenty of fresh air (3). This method is, I believe, observed a few hours in the four and twenty. However, as the rancid vapors are incessantly arising, notwithstanding the periodical working of this instrument, the air must still be very unwholesome. But since the danger proceeds chiefly from the numbers kept together, can it be better guarded against than by diminishing that number? And by a separate confinement this cause at least would be

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removed;

(2) Dr Pringle, in a letter to the present Chamberlain, whilst he was Lord Mayor of London, expressed his concern to see as he passed through Newgate, from time to time, the machine often standing still, though there seemed to be wind enough to turn the sails. See Sir Stephen Theodore Janssen's Letter to the committee for the rebuilding of Newgate, 8vo. 1767, p. 45.

(3) In his Description of Ventilators, 8vo. 1743, p. 41, 42.

removed ; unless you put each malefactor into so strait an apartment, that his own breath, and the matter which perspired from his body, should affect his health. This, however, can never be necessary ; and a very small room will allow each person a greater plenty of purer air, than what prisoners in general now enjoy. For light must be thrown into every ward ; and the windows for the admission of this will probably, for the sake of security, be placed beyond the reach of the tallest man ; and consequently, though the dimensions of the floors be but a few feet square, there must be height. The very great benefits that have accrued to persons labouring under an infectious disease from their not being too closely stowed, and from properly ventilating the chambers, was long since experienced in the Small Pox Hospital ; where they kept only two persons in a ward. The good Dr Hales, whose directions were principally followed by the managers of this charitable institution, seems to have solicitously provided that the sick people should not catch cold by the admission of the fresh air. Some later trials have however shewn, that so great caution was not absolutely requisite, and have likewise furnished another convincing proof of this pure element being, as he had asserted it was, the genuine cordial of life (1).

Besides, ventilators might still be occasionally used : And, to keep up a more constant circulation of air, iron grates might be fixed in the doors, as they are in those of the cells in Bedlam, and even in prisons abroad ; where, in other respects, the unhappy and innocent captives are not treated with tenderness or humanity. Dr Hales advised a hole about nine inches square to be cut in each cell door in Newgate, with grating iron bars

(1) In his Description of Ventilators. Dedicat. p. 4.

bars across, because it would a little contribute to the draught of air (2); but this current would certainly be much increased, were the lower part of the inner door, instead of being made of one solid piece of wood, to consist of a range of bars (3). And if all these wards opened into galleries round a spacious area, it would be almost impossible that the prisoners should suffer in their health from any stagnated and putrid air.

How far this precaution can be taken on the spot, where the new gaol is erecting, I know not: but if it is not feasible, there will always be reason to regret, that the committee employed did not make choice of a district, where they were less cramped for room. And none seem to have been so proper as the bank of the Thames, if we may judge from the different effects which the use of Dr Hales's salutary machines had in the Savoy prison, and in Newgate. The greater decrease in the former prison may indeed have been partly owing to the convenience of a larger area for the prisoners to walk in, and to the care of the Master in having the rooms cleansed. Nor is this mentioned with a design of censuring Mr Akerman, since he might not have the same plenty of water with which the other was supplied, and of which Mr Hayward seems to have made a constant use (4). But as nastiness is likewise a cause of this pestiferous fever; no contrivance, no pains, should be wanting to prevent or remove it. And this, Sir, may be offered as
another

(2) Sir Stephen Theodore Janssen's Letter, p. 40.

(3) *Cameræ ostii interioris pars inferior constat crate ferreo,— Exterius ostium ordinariè mane ab horâ sextâ usque undecimam aperiri solet; ut aer carceris aliquatenus repurgetur.*

Limborch Historia Inquisitionis, p. 158.

(4) See an account of the success of ventilators published in the London Magazine for the year 1753, p. 90.

another reason for adopting the mode of separate confinement.

The abominable foulness of our gaols has long been matter of complaint. Some have asserted that they are filthier than dog kennels, or even than the styes where the filthiest of all animals are fatted. I would fain hope these accounts are greatly exaggerated; but loathsome enough they certainly are, even when gaolers attend to that important branch of their office the keeping them otherwise. And, while they are upon the present plan, it would be an Herculean labor to cleanse many of them, and consequently almost impossible entirely to prevent the gaol distemper. Cleanliness being so essential a preservative, some have thought it strange that in a prison, where a very great number of debtors are always confined, such a nuisance should be tolerated, as, not long ago afforded an occasion for a singular action brought into one of the courts in Westminster-hall by a lawyer against a fellow-captive. But the surprize vanished, when it appeared that the precious liquor, in which the unlucky plaintiff had been besteepled, produced a considerable revenue to the Sovereign of that little district. Vespasian is said to have incurred a gentle reprehension from his son for levying a tax upon so fordid a commodity (1). It may, however, be questioned, whether there is any other instance upon record since the reign of that Emperor, till what is here referred to. Though, perhaps, Mr — ought not to be accused of a want of attention to the health of his subjects, as he may be of opinion that salts, as well as acids, are antipestilential; and thus far is undeniable, *Lucri bonus est odor ex re qualibet.*

Dr

(1) Sueton. Lib. VIII. c. 23.

Dr Hales, Sir John Pringle, and others have observed, that air, corrupted and putrified, is of such a subtle and powerful nature, as to rot and dissolve heart of oak, and that the walls of buildings have been impregnated with this poisonous matter for years together(2). Since therefore a process like that which was used by the Jews, when a house had the plague of leprosy, is requisite (3), can a cleansing once a week, and this perhaps a superficial one, be sufficient? Should the prisoners be kept separate, less dirt and filth, in proportion to the space, would be contracted: and each person might with greater ease, more frequently, and more effectually, sweep and wash his own room. Add to this, the apartments might, when empty, which must then often happen, be thoroughly washed, aired, scraped, and fumigated; a method that has been tried with success, where it is practicable, which cannot now be the case in Newgate. Since, as the wards are spacious enough to hold a number of criminals, they are never unoccupied; not a day can be allowed for purification. By an abstract of the minutes of the writer of the Sessions Papers, there were from the year 1748 to 1770, 11,178 prisoners tried at the Old Bailey: and as many more must have been committed, within that period, for lesser offences, we may easily conceive how quick the succession of tenants is in this mansion.

It appears by some resolutions of the court of Aldermen in the year 1735, that they were sensible of this advantage from single cells, and endeavoured to have a proper use made of it. For they directed that after every execution each cell, and the bedding for the condemned prisoners, should

(2) Sir Stephen Theodore Janssen's Letter, p. 61, 62.

(3) Leviticus, ch. xiv. v. 40—45.

should be well aired. The Chinese and the Japanese, particularly the latter, are in this respect well worthy our imitation: for their prisons are kept as neat and as healthy as possible (1). Most of the prisoners, except great criminals, are permitted to air themselves for some time every day, and are, for the rest of it, confined to their separate cells. A comparison is drawn in the Modern Universal History between the management of the common gaols in Europe, and those of the Chinese nation, much to the discredit of the Civil Magistracy in this quarter of the world; and the impartial authors of this useful work have insinuated, that prisons are no where under worse regulations than in their own country. But it is to be hoped that the reproach will soon be removed from the largest gaol in England.

Another benefit likely to result from the proposed method of confinement is, that if a prisoner from a bad habit of body, or from any other cause, should get any noxious disease, it cannot so easily spread. Whereas, at present, the infection must probably be communicated to great numbers before it is discovered. This ought to be most cautiously guarded against in such a prison as Newgate, which is the common receptacle for all felons who are to be tried at the ensuing Sessions; and in which likewise offenders are sentenced to undergo the penalty of imprisonment. It has been observed, that, generally, the fever first breaks out upon the persons lately committed; because they, having been used to breathe a purer air, are more affected by the rancid vapors, than others who are accustomed to them. And if this be really so, the locking them

(1) Modern Universal Hist. 8vo. vol. VIII. p. 177. and vol. IX. p. 91.

them up in a separate room will remedy this fatal inconvenience. It is equally necessary to remark that, on another account, more care will be required to keep the intended gaol free from this disorder, than even Newgate itself. For, all the walls being new, and consequently the joints closely compacted, the inside of the former can receive no other draughts of air than from windows, funnels, and grates; whereas the ruinous breaches of the latter are constant ventilators: by which, if a prisoner sometimes recovers his liberty, much unwholesome air makes also an escape. This the rather deserves notice, because the gaol of a neighbouring county built not many years ago, though it is situated on an airy spot, and has the help of a ventilator, has been at times much infected, and, probably, in no small degree, from a want of attention to this circumstance.—For which reason, Sir, I could not but be sorry to see, that, in an engraved elevation of the front of the new prison towards the Old Bailey, and with an aspect where the sun and the wind might be of great utility, there is a large tract of wall without a single opening for light or air.

The numbers conjectured to die yearly in the gaols were mentioned as a sufficient motive for taking every precaution to prevent a like mortality hereafter. But though these perhaps amount to many more than all the convicts executed in the same length of time, yet they fall extremely short of what are really sacrificed to this pestilential complaint. One infected person conveyed on board a vessel freighted with transported felons must make a most dreadful havock. Sir Stephen Theodore Janssen has related (2) some instances on his own knowledge, and many more as melancholy

(2) In Appendix to his Letter, N^o XIII.

lancholy there must have been which have never reached the public ear. Nor are they the prisoners alone who are exposed to the malignant effects of this fever. Their keepers, it is said, have always a seasoning. And all, who, from curiosity or charity, enter these contagious mansions, do it at the risque of their lives. Many probably of the former have paid dearly for their imprudence: and the relations of the latter have frequently had no other consolation for the loss of valuable friends, than that they died in the discharge of one of the most exalted duties of a christian.

There is, however, danger without venturing within the walls of a prison. These filthy and miserable wretches disperse their putrid and pestilential vapors far and wide; and, as it is remarked of a species of nasty animals, can annoy at a distance those whom they deem their enemies, without hurting themselves (1). In the courts of justice this has been often unhappily experienced, but never more fatally than at the Old Bailey in April 1750. A mournful Session indeed! which must, Sir, have recurred to your thoughts on my first naming the gaol fever; since it deprived your city of its Chief Magistrate, and the nation of two very able and upright Judges,

(1) Mr Derham, in a note to chap. XIV. of his Physico-Theology, has given from Ray's Synops. Quadr. the following account of one of these animals. (*Tzquiepati* Anglice *Squack*, and one that I saw, they called a *Stonck*.) *Ipsa tota teterrimum exhalet odorem, et urina stercusq; est foetidissimum, atque adeo pestilens, ut nihil sit reperire in nostro orbe, cui in hac re possit comparari: quo fit ut in periculo constituta, urinam & faeces ad 8 pluriusve passuum intervallum ejiciat, hoc modo se ab omnibus vindicans injuriis.*—It was an observation of the late Mr Justice Foster, that in April 1750, when so large a number died by an infection at the Old Baily, there was no Sickness in the goal more than is common in such places. See his *Crown Law*, Page 74.

Judges, and of forty other persons: most of whom caught this mortal distemper, whilst they were engaged in employments of the highest importance to their country. So great was the alarm which this catastrophe occasioned, and with reason, as to oblige Lord Chief Justice Lee, by a special application, to acquaint your Brethren of the necessity of some speedy regulations in the gaol, or it would not be safe to attend the trials. And though all the Aldermen, and particularly Mr Janssen, who considered it as a duty more incumbent upon him from his office of Sheriff, solicited the advice of the most skilful persons, and assiduously followed their directions, as far as they were able; yet there is too much reason to fear, that the deaths of many since that time may be attributed to a like noxious atmosphere.

Aware, Sir, I am, that I am giving you a detail of facts, which have been repeatedly published. And, while the evil continues, the causes and effects of it cannot be too often represented, nor set in too strong a light; till, perhaps, at last, the representation may not be in vain. As to the remedy now offered, it does not become me to aver positively that it will fully answer. However, since all other experiments have, in some degree, failed of the desired success, I cannot forbear expressing my earnest wish that this may have a fair trial.

But, Sir Robert, highly as this merits the attention of the respectable Magistracy of the metropolis, there is yet a more pernicious, because a more extensive and lasting disorder, contracted or increased in our public gaols; and for the cure of which no medicine sufficiently powerful has been administered: namely, the complete corruption of the morals of almost all the persons who are sent into them. To borrow an allusion
from

from a practice common at this time; they are INOCULATED with wickedness, and the distemper is the more malignant, because most of the subjects of it have already caught the infection in the natural way.

There can be no danger of my being thought to exceed the bounds of truth in asserting, that such a set of abandoned fellows is hardly to be found within so small a compass upon the face of the earth, as are sometimes enclosed in the prison so often mentioned. There are perhaps few vices or crimes, of which some or other of them have not been guilty, or have boldly declared themselves ready to perpetrate, were opportunities given them, and they imagined they could be gainers by the attempt. And yet what numbers of these profligate wretches are suffered to herd together; to pass their hours in uttering the most shocking oaths, and using the most blasphemous expressions; in swilling as large quantities of strong liquors, as the residue of their unjust gains, or the contributions of their former comrades, will enable them to purchase; in jointly contriving means to break from their confinement, or of procuring perjured evidence to clear them on their trials, or in planning future schemes of rapine, of violence, and of murder, should they be so lucky as to escape the vengeance of the law. A mode of imprisonment this so diametrically opposite to the principles of sound policy, that it is amazing it should have been so long endured.

Prevalent however, as it now is, the spirit of our antient laws is far from countenancing a practice thus injurious to the community. “ By them
 “ persons only reported to be pilferers or robbers
 “ may be bound over to their good behaviour,
 “ to the intent that people be not troubled nor
 “ endamaged; and, if of good fame, though
 “ charged

“ charged with lesser offences, they must be bailed,
 “ if they offer sufficient sureties ; but where the
 “ offences are of an enormous nature, they must
 “ be committed to gaol, as the only place of
 “ safe custody for them, and because no other
 “ effectual security can be depended on that
 “ they will not still be disturbers of the public
 “ peace (1).” But the four walls of prisons,
 according to the present management of them,
 are as bad sureties for future good behaviour, as
 can well be accepted. It is true, that while cri-
 minals continue within them, they have not the
 power of injuring all whom they please to assault.
 The respite is, however, for a short time only.
 And when they are delivered, which in London
 happens every six weeks, they are much better
 qualified, and more inclined than ever to per-
 petrate crimes of the deepest dye. A modern
 ingenious writer (2) speaks of it as a general obser-
 vation that the strongest love is contracted in a
 gaol. The term is much too tender and soft for
 the union formed between the persons under con-
 sideration. But it is very certain that they enter
 into an alliance offensive and defensive ; and that
 they aid and support one another, not always
 indeed till death dissolves the bond, because self-
 preservation often renders it necessary for one of
 the parties to break from the agreement before
 this entire and fatal separation. And, by this
 intimate converse with associates of the same
 stamp, so frequently began in a prison, they are
 confirmed in their old habits : or, if they are of
 a docible disposition, though destitute of a fruit-
 ful invention, their theory of wickedness becomes
 B enlarged,

(1) Dr Blackstone's Commentaries on the Laws of England, vol. IV. p. 253 and 295.

(2) Baretti, in his journey from London to Genoa, vol. I. p. 12.

enlarged, and the public are soon sensible of their improvements.

What may be the numbers usually locked up together in Newgate I am not exactly informed. It is said, many of the wards will hold ten; and that, when there is a full gaol, forty or more may be kept in the largest apartment. Of this I am better assured, that, at the end of some sessions, near half of those who were in custody are let loose upon the town(1). It would be a breach of charity to fix a censure of guilt upon an individual, who had stood the trial of his country, and had been acquitted. However, when we consider the laudable tenderness of our Judges towards all persons charged with criminal offences, as well as the full evidence required by our laws, together with many ingenious contrivances practised to evade the force of them; he must be over-credulous, who can persuade himself, that the greater part of those cleared at the Old Bailey are really innocent. Can it then be matter of surprize, that our streets and roads are more infested with these pests of society a little after, than before a gaol delivery? And can we impute the increase to a more probable cause than the method of confining them?

Seldom have I passed through the gate of that almost diabolical fabric, Newgate, that the description given by our illustrious Poet of the infernal regions hath not occurred to my mind. And if you only recollect some parts of Paradise Lost, you will perceive that many of the lines, in which Milton has related the employments and amuse-

(1) In the Mayoralties of Mess Aldermen Beckford, and Trecothick, seven hundred and three prisoners were tried at the Old Baily; and of this number, two hundred and fifty nine were acquitted, and fifty six branded, whipped, or sentenced to a short imprisonment.

amusements of the evil spirits, are very applicable to the inhabitants of the other place. At present, I shall only observe, that the close recess of the Pandæmonium, where the chiefs of them sat in council to work the destruction of mankind, answers but too well to the principal ward in the prison, ludicrously termed by the felons their **HALL**; and in which, the most subtle of them plot mischievous schemes to prey upon their fellow creatures, and to seduce others less wicked than themselves, and which the strongest and fiercest never fail to carry into execution, if they can by art or force regain their liberty.

Left these, Sir, should be thought wild and fanciful speculations, be pleased only to peruse the accounts of those, who, from their offices, have had the best opportunities of knowing the lives and conversations of these wretches, and you will find them verified.

The late Mr Henry Fielding, in his Enquiry(2); remarked, “that the villain, who, against almost the direct knowledge of all present in court, is triumphantly acquitted, scorns the law, vows revenge against his prosecutors, and returns to his trade with a great increase of confidence, and commonly of cruelty.”—His Brother, one of the present active Magistrates for Middlesex, in his Plan for preventing robberies; (3) observed, “that he, who in consequence of having been admitted an evidence, is, after the conviction of his confederates, constantly discharged, as constantly returns to his former courses, and generally by the next sessions, after the execution of his comrades, becomes the captain of a gang of his own raising.” But the strongest proof of all is, that several of that most horrid crew, who for twenty years carried

on the practice of thief-taking, and received very large public rewards for the murder of those, whom they had enticed to commit robberies, had undergone a long imprisonment in Newgate, (where, as the writer of the Narrative of their transactions suggests(1), they had no doubt received a good education) and entered upon this plan after the times of their confinement were expired. And this spirited and truly patriotic Peace Officer, who detected and prosecuted to conviction some of these barbarous miscreants, has informed the world, that their general rule was to fix on thoughtless and unfortunate creatures, who had been acquitted on trials at the Old Bailey for small offences (2).

From these authorities, and from others that might be produced, it is plain that imprisonment in this country is a great political evil; and defeats what many writers have laid down to be one of the principal ends of punishment. Plato has often observed, that the design of a wise man in correcting those who have violated the rules of

Justice

(1) See a Pamphlet intitled, *A faithful Narrative of Thief-takers, &c.* by Joseph Cox, 8vo. 1756, p. 5. It appears from this narrative, that there was one more cause of the increase of robberies about the time Mr Henry Fielding published his *Traкт*, besides those expatiated on by that Gentleman. And according to Mr Cox, it was a principal cause; since in the year 1749, there were forty five convictions for real and counterfeit robberies in Middlesex only; whereas for almost two years after the discovery of the Monsters, whom he properly calls the Thief-makers, no more than fifteen were convicted in the same county. page 75.

(2) The learned Reformer, Martin Bucer, in his Book, published in the reign of Edward VI. concerning the Kingdom of Christ, remonstrates against tedious imprisonment, "because the criminals, under such confinements, are commonly useless, and left wholly to idleness and ill company."

Justice is, that they may offend no more (3); and when the law takes vengeance on a criminal; it is, says Seneca, on purpose to reform the person whom it punishes (4); and Mr Judge Blackstone has remarked, that punishments, in an extended view, are calculated to prevent future crimes, and that the intent of them is to deprive offenders of the power of doing mischief (5). Whereas, at present, by the commitment of criminals to a prison you increase their power of doing mischief. He, who before had been guilty of stealing a pocket handkerchief, commences immediately after a daring street-robber or a burglarist. For these rank weeds thrive fast in this hot-bed of vice; and, when grown to maturity, they scatter a large quantity of their noxious seed, which can hardly ever be eradicated.

If then the mismanagement in our prisons is found to be a certain cause of many acts of rapine and violence, which render our substance and our lives insecure, it will be less difficult to point out a probable means of diminishing, though not of totally preventing them. And is there not some reason to lament our being too often debarred of one method, which might save numbers from utter ruin. We read that it was a commendable maxim of one of the most famous free states which the world ever saw, that no Athenian, unless charged with treasonable practices, or with imbezzling the public revenues, should be kept in bonds, if he could find sufficient securities (6). And, by the Roman Law, even state criminals were before conviction committed, not

(3) In Protagora edit Ficini, p. 226.—In Gorgia, p. 357.—De leg Lib XII. p. 977.

(4) Seneca de Clementiâ, Lib. I. c. 22.

(5) Commentar. vol. IV. p. 12 and 249.

(6) Potter's Antiquities of Greece, Book I. c. 18.

to the common gaol, but to the free custody of the Magistrates and Senators of their acquaintance (1). This privilege remained for more than two hundred and fifty years after the dissolution of the commonwealth, but with this difference; that only one person in a province had a right of determining who should partake of it. For as Ulpian says (2), “ The Pronconsul is wont to
 “ judge, whether the person ought to be put
 “ into the prison, or delivered to a Soldier to
 “ keep, or whether he should be committed to
 “ Sureties, or even to himself : and herein usually
 “ regard is had to the nature of the crime charg-
 “ ed upon any one, and to the preservation of
 “ his honor, as also to the wealth or substance,
 “ *seeming* innocence, or dignity of the party ac-
 “ cused.”

Whether one of their motives for this indulgence might be, to avoid the hazard of the innocent associating with those who were culpable; or lest persons already vicious should become more profligate by this communication, is not mentioned. It is, however, clear that by this wise precaution they guarded against these pernicious effects. And, by our common law, anciently, a man accused or indicted of high treason, or of any felony whatsoever, wasailable upon good security (3). After the Norman conquest, our countrymen were by degrees in many cases deprived of this valuable privilege. And by the reign of Edward the First the abuses became so notorious, as to make it necessary for the Legislature to interpose and rectify them : Since,
 as

(1) Instances of this occur in the detection of the infamous bacchanalian Society mentioned by Livy, Lib. XXXIX. c. 8. &c. and in Sallust's Hist. of the conspiracy of Catiline 47.

(2) As cited by Lardner in his Credibility of the gospel History, vol. I. p. 504.

(3) Bishop Ellys on Liberty, part II. p. 6.

as Statute the 3d, ch. 15. of that King expresses it, “ Sheriffs and others had taken and kept in
 “ prison persons detected of felony, and incon-
 “ tinent have let out by replevin such as were
 “ not replevifable, and have kept in prison such
 “ as were replevifable, because they would gain
 “ of one party and grieve the other.” But this Act of parliament, made on purpose to declare what persons were replevifable, and what not, which was before that time not determined, increases the number of offences notailable to seventeen : and one of them delivered in such general terms, “ as for manifest offences,” and another for breaches of the savage forest laws.

The consequences of using these vague and loose expressions were such as might be expected. For it appears from a speech of Pecham, Archbishop of Canterbury, in Parliament, in the 18th of Edward I. that there were, within a few years, many notorious violations of this Statute (4). Among other grievances, his Grace represented, “ that very many freemen of the kingdom, had,
 “ without any guilt on their part, been com-
 “ mitted by the King’s Ministers to divers pri-
 “ sons, as if they had been slaves of the meanest
 “ degree, therein to be kept.” And that in consequence of this complaint, some Ministers and others suffered severe punishment. Encomiums of the learned author of the Commentary must reflect a lasting honor upon those characters who are happily the objects of his praise ; and he has distinguished this Prince with the title of the ENGLISH JUSTINIAN for his numberless regulations of the legal institutions of his country (5). To him we are certainly indebted for some endeavours to specify the persons who were, and
 B 4 who

(4) Ellys on Liberty, Part II. p. 7.

(5) Blackstone’s Commentaries, p. 413.

who were not,ailable; but by his many restrictions we may perceive that he was not willing to allow the whole privilege to which his subjects were intitled by the common law (1). And some have thought, that the various limitations made by the Stat. 1. & 2. of Philip and Mary, c. 15. as well as by the Act before mentioned, are not an improvement of our constitution.

It seems indeed to be the opinion of the Hon. Mr Justice Blackstone, that, as one Court has a discretionary power of accepting security in all cases, the wisdom of the Legislature has provided a sufficient remedy, where it would be hard and unjust to confine a man, though accused of the highest offence (2). The sentiments of a Lawyer of his Lordship's great learning and sound judgment commands an almost immediate assent: they should, at least, incline persons of far inferior talents and knowledge, who may view things in a different light, to suspect they must be in an error. And yet, considering with how many evils our gaols are pregnant, one can hardly avoid believing that the extension of the liberty of bail would be an useful regulation. There may not be very many instances, in which a short confine-

(1) This Prince manifestly discovered in another instance that he was not under the influence of the benignity of the common law; since it was in his reign that the penance of *peine forte & dure* was introduced. For under this hard and strong confinement, with a slender allowance of provision, criminals might linger for weeks, and perish at last under the inexpressible torments of hunger. But interested views rendered him and other rapacious feudal Lords regardless of the inhumanity of their scheme. And they might think it necessary to prevent a practice which was probably very frequent, of persons charged with criminal offences remaining, from affection to their families, obstinately mute, lest they should, by conviction, incur a forfeiture of their estates. Blackstone's Comment. p. 322.

(2) Commentaries, vol. IV. p. 296.

confinement would be a material injury. The inconvenience of the restraint is not, however, the only thing which merits attention, for the greater corruption of the prisoners ought, if possible, to be prevented.

If instances of petitions to the Court of Kings Bench rarely happen, the paucity of them may, in some degree, be attributed to the uncertainty of obtaining relief, and to the unavoidable expence with which an application is attended; for this, from counties at a distance from London, rises higher than persons in moderate circumstances can well afford. And they are the prisoners in the country gaols, who have most need of this privilege; and to whom it may be of the most essential service. In London the Sessions quickly return; but Assizes are held no where more than twice, and in the four northern counties only once, a year. It must, therefore, often happen, that suspected criminals are confined eight months or longer, and this during the inclemency of the winter season.

Besides, many of the people committed to the county prisons are young offenders, and might be reclaimed; which is a vain expectation after they have been suffered to converse with such a set of miscreants as they are sure of finding in those places. The learned Judge declares, that bail should be allowed in most of the inferior crimes, but that the actual custody of the person is the only equivalent security in felonies, and other offences of a capital nature (3). But what an amazing number must then be debarred of this benefit! Two species of crimes alone were exempted by the Athenians (4); but in this country, “among the variety of actions which
“ men

(3) Comment. vol. IV. p. 294.

(4) Potter's Antiq Book I. c. 18.

“ men are liable daily to commit, no fewer than
 “ one hundred and sixty have been pronounced
 “ by Act of parliament to be worthy of instant
 “ death (1).” Of this tremendous catalogue,
 by Stat. 9 Henry I. one is larceny, above so small
 a sum of twelve pence (2). And though, by the
 merciful interpretation of the Judges, and the Ju-
 ries compassionate forgetfulness of their oaths (3),
 the value of the thing stolen is often reduced far
 below the true worth of it, to let the crime come
 under another denomination, or to give the cul-
 prit the benefit of Clergy : yet a Justice of the
 Peace, who foresees this will probably be the
 issue of the trial, may be afraid to make the same
 favorable construction. The positive oath of
 the prosecutor, perhaps, obliges him to look
 upon it as one of the enormous offences, and for
 that reason to insist on the highest security that
 can be taken.

Mr Henry Fielding was indeed disposed to
 believe, that many of the worthiest Magistrates,
 from a fear of completing the destruction of
 offenders

(1) Comment. vol. IV. p. 18.

(2) Though this was a capital offence by the common law,
 yet the convict might redeem his life by a pecuniary ransom.
 When K. Henry I. deprived his subjects of this privilege, he
 ought not to have made a thief liable to so rigorous a punish-
 ment, unless the thing stolen had been of greater worth : for
 most probably there had, from the first institution of the law,
 been a decrease in the value of money, but how great a one
 cannot be easily ascertained. It appears from some articles of
 the prices of commodities inserted in Bp Fleetwood's Chron.
 Prec. that about the year 1000 the compensation for an ox lost
 was thirty pence, and in the year 1135, a lean beast of that
 species was computed at three shillings. The moderns ought
 not, however, to censure the conduct of this prince and his
 nobles, if they only reflect on the amazing alteration from that
 period ; for in the laws of Henry I. c. 76. forty sheep are va-
 lued at twenty shillings.

(3) Comment. vol. IV. p. 239. called by the author a pious
 Perjury.

offenders in sending them to Bridewell, declined a rigorous execution of the laws (4). A method of acting, which, as he observed, however laudable the motive might be, is sometimes more justifiable to a man's own conscience, than it would be in the Court of King's Bench: which requires the Magistrate to execute the laws entrusted to his care, in the manner they prescribe. And it is very clear that no cautious Justice will, in direct felonies, or even in dubious cases, run the risque of incurring a severe penalty for taking any or insufficient bail.

What great uneasiness must it, however, excite in the breast of a benevolent and well inclined Magistrate, to be under the disagreeable, but unavoidable, necessity of sending to the common Gaol or to Bridewell for six months, or a longer term, a man proved, by the oath of a single witness, to have stolen, or to have received, knowing it to be stolen, a Dog, or the Skin of a Dog. In 1769, when the learned Judge published the last volume of his Commentaries, " he observed that the law did not hold any one
 " of this species of animals to have any intrinsic
 " value (5):" though now the person, who has them surreptitiously in his possession, incurs a forfeiture of from twenty to thirty pounds; or, what is still of more consequence, of his liberty, and of every moral quality he may be possessed of. His Lordship likewise remarked, " that
 " convictions on a summary proceeding had of
 " late been so far extended, as, if a check was
 " not timely given to them, to threaten the dis-
 " use of Juries (6)." But laudably solicitous as are some staunch supporters to the freedom of
 the

(4) Fielding's Enquiry, p. 64.

(5) Comment. p. 236.

(6) Comment. p. 276.

the Press, in endeavouring to secure to persons charged with one of the highest misdemeanors the full enjoyment of this inestimable method of trial : yet, upon a little interruption given to the sports of the field, the ill-fated culprit is to be deprived of it. By so heinous a provocation liberal patriots are metamorphosed into Nimrods !

The chief objection to the granting of bail, in offences which by our laws are judged to be so heinous as to be punished with loss of life, is, that it will greatly tend to elude the public justice ; since there is nothing that a man may not be induced to forfeit to save his own life (1.) But cannot this difficulty be obviated in many charges of felony, by altering the security of money in the parties accused, which is now the only security required, into a certain forfeiture of life for not surrendering at the time fixed in the bond, if they shall ever hereafter be apprehended. It is supposed that one half of the persons capitally convicted are recommended by the Judges to the Royal mercy ; and that a much greater proportion of those who are indicted are either acquitted for want of evidence, or escape the sentence of death by the palliating contrivances before mentioned. The odds therefore, against any criminal's being executed, are greatly in his favor : and these chances are imagined to have promoted an increase of robberies. If then all persons who absconded, after having been admitted to bail, were from that time, without any regard to the penalty of the original offence, to become guilty of felony without benefit of Clergy, and to as assuredly suffer death, as a convict who returns from transportation before his term is expired, would there be much danger in extending the liberty of bail to all felonies,

not

(1) Blackstone's Comment p. 294.

not accompanied with a burglary, putting in fear, or any other atrocious circumstance, which the crown seldom, if ever, pardons.

By a rule of the Athenian Government, in which the privilege of security was almost as universal as it was by our common law, if the person accused did not make his appearance, sentence was given against him without any farther trouble; but if in the space of ten days he came and presented himself, proving that he had been detained by sickness, or any other extraordinary and unavoidable necessity, the former sentence was disannulled (2). However, as flight betrays a strong suspicion of guilt, and is a repeated insult upon the laws, by endeavouring to elude the force of them, so the penalty ought to be greater than the man would be exposed to upon a conviction for his first offence. And if it were more rigorous, and more certain, few, probably, would venture to incur a forfeiture of their security. But when I hint at the framing of another sanguinary law, I wish not to see it added to the dreadful list now subsisting. Let it rather be adopted in the room of a great number of these, which, it is to be hoped, will soon undergo a revival and a repeal, on account of the inadequate proportion of the penalty to the crimes. Not that what is here offered can be deemed a severer punishment than ought to be inflicted; since, as well by the common law, as by the Stat. 1 Edw. II. a breach of prison is felony in a man committed for a capital offence (3). And the person who runs from his bail has surely less claim to favor; for his conduct is attended with very aggravating circumstances. It is from a candid supposition of his innocence, and from a tenderness to pre-

vent

(2) Potter's Antiq. b. 1. c. 21.

(3) Blackstone's Comment. vol. IV. p. 130.

went his suffering any punishment before a verdict of his equals have pronounced him to be guilty; that the law vouchsafes this indulgence to him; and his not appearing according to his engagement, is an ill requital for the confidence placed in him. He is also chargeable with the basest ingratitude to those who shew the greatest regard to him, by admitting him into their "friendly custody (1);" an expression as humane as it is significant; for no more beneficent office can be done towards a man, than to save him from the utter ruin likely to ensue from residing within a prison.

From a full persuasion of this, I have, Sir, taken the liberty to intimate, with the respect, I trust, due to the laws, a regulation that seems to me of consequence. Though, possibly, some inconveniences which might arise from following it have not occurred to my mind, earnestly bent on redressing the evils of a gaol. Let us, however, next examine what principally contributes to them, and whether they may not be abated by proper management. And since there can be no doubt of their being increased from the confinement of a number of wicked wretches in the same apartment, is it not an obvious conclusion that by dividing them you check the growth?

The many days, perhaps weeks, they have to converse together, tends to the greater corruption of all of them. Deprive them, therefore, of the society of one another, and the least advantage you can expect is, that they shall not be more abandoned when they gain their liberty, than before their commitment. Were this to be the only good that would accrue, it would be worth while to make the alteration; but there are reasonable grounds for believing that some hacknied offenders,

(1) The same, p. 294.

offenders, as well as those who are only in the first stages of wickedness, might be reduced into a right tract by keeping them in different rooms. I am not apprized of the manner in which prisoners are distributed; there is, however, some cause for suspicion, that a proper care is not always taken not to intermix the very bad with others who are less so. An Act of parliament has provided against gaolers putting or lodging prisoners for debt and felons together in one chamber, and enjoins them to be kept separate and apart from one another in distinct rooms (2). And had the regulation extended to criminals of different ranks, some good might have ensued. Though certainly gaolers are not always chargeable with neglect in this instance; for they may be ignorant of the true characters of those committed to their custody, and at present they must often want a variety of wards for so necessary a separation.

But let us suppose that prisoners of the same degree only in wickedness are locked up together, it is easily foreseen that a novice must be injured by such society. Be pleased, Sir, to consider what was probably a principal cause of his entering upon an evil course; was it not an union with dissolute companions! Young people are apt hastily to entertain a high opinion of the sagacity of those, who pretend to have acquired what is called a complete knowledge of the world, and to look upon them as their best friends, if they will but condescend to initiate them, and to make them the partners of all their scenes of gaiety and extravagance. Guided by their advice, and encouraged by their example, their days and nights are past in intemperance, debauchery, and riot. Till, at last, the invasion
of

(2) Stat. 22, 23. Car. II. c. 20.

of their neighbour's property is found to be the only means of extricating themselves from their necessities; the almost inevitable effects of vicious indulgencies.

When, therefore, they are detected, can it be prudent to let them associate with others of the like evil propensities, who will not fail to stimulate their old desires? They resemble persons who have long had a fever upon them, and shall the heat be suffered to continue, perhaps acquire a higher degree of inflammation? A remission may be followed by an intermission, and there may be then hopes of a recovery. And what so likely to procure a remission, as their being left to their own cool dispassionate reflections?

There can be little doubt of their having deviated from a want of due consideration: and after they had proceeded a little in the wrong way, from an apprehension of the disquietude of mind that a retrospect would occasion, they would studiously endeavour to suppress each ferocious thought as it arose: and finding, if secluded from the world, all their attempts fruitless, they would certainly shun solitude. While therefore the laws give you a power over them, oblige them to be alone. They must then deliberate upon their present situation; they must review their past actions; they must weigh, and feel the dread of the certain disagreeable, perhaps fatal, consequences of them.

The admonitions and reproofs of friends may have been hitherto despised; they may have disregarded the earnest request of an affectionate father (1); who, sensible that frequent consideration

(1) See Abp Tillotson's Posthumous Sermons, N^o CXVIII. The house of labor in Amsterdam, called the *Spinbuis*, is calculated

ration was alone wanting to reclaim them, might have urged them to pass only one quarter of an hour in each day by themselves. Here then you can enforce the injunction of their dying parents; and they, learning the wisdom of it by experience, may form from it strong and effectual resolutions of amendment.

Lessons of virtue and religion may possibly have been imprinted on the minds of many of these persons in the earlier part of life; which, though obscured by sensual and criminal habits, may not be effaced: and the seasonable instructions and reprehensions of kind and judicious friends might revive these dormant principles. But they will quickly become as inactive as ever, if the exhortations are given in the presence of, or they return immediately to, companions of a more libertine cast.

It was the direction of a heathen moralist, that when a man perceived in his mind a remote tendency to perpetrate a profane and wicked action, he should be sent to receive the admonitions of a discreet, religious person; and he was of opinion, that the evil desire might, by that means, be often restrained, and the necessity of inflicting severe punishments be superseded (2). How widely different is our practice. For when this inclination has betrayed itself by an overt act, not perhaps of the blackest hue, but which may be the prelude to more atrocious deeds, we compel the offender to converse with those, who, so far from discouraging, will incite him to go forward.

culated to answer the end proposed by the salutary Advice of a father to his son, mentioned by his Grace in the passage referred to. For there are private apartments in it, where young women, who have a vicious turn of mind, are, at the request of their parents, occasionally confined, till they shew some marks of a better disposition.

(2) Plato de Leg. lib. IX. p. 922. edit. Ficini.

ward. Very true it is, that most gaols are supposed to have spiritual instructors, and that to the credit of the governing part of the city of London, a Clergyman is appointed to officiate in Newgate, with a competent allowance for his support. But it is no less certain, that he can do little more than perform regularly the Public Service. He is rarely called upon to teach and to assist any criminals, except those who are under sentence of death: nor indeed, in the present state of the gaol, could he be of much use to any other prisoners. Were they all kept in distinct apartments; he might hope to make some impression by his attendance. And many of them would possibly be glad to employ their solitary hours in the perusal of such books, as would illustrate and confirm the various religious motives to repentance and reformation that can be but briefly inculcated in conversation.

We ought to consider further, that shame, and the horrible notions generally formed of a gaol, may for some time have deterred several from an enormous violation of the laws. And when from want, and the flattering hopes of escaping a discovery, a man ventures to go upon the highway, or to commit some more secret felony, it is usually observed that, on his first apprehension, his sensibility and his dread still remain; and he will shew more signs of sorrow and contrition than at any future period. But what an alteration is made by a short residence within the inclosure of a prison. The very appearance of modesty soon vanishes, and he acquires a consummate effrontery. In a few days his confinement becomes familiar to him, and his wonted spirits return.

The reason is manifest. He finds he has only changed one set of profligate companions for
another

another as abandoned : and that he and they are not debarred of a few at least of the sinful amusements which they indulged while they had their liberty.—Here they

Sing

Their own heroic deeds, and hapless fall ;
 and complain, that fate
 Free virtue should enthral to force or chance.
 Thus they ————— excite
 Fallacious hope, or arm th' obdured breast
 With stubborn patience, as with triple steel.

Here are they permitted

to reach

The tempting stream, and *for a time* to lose
 In sweet forgetfulness all pain and woe (1.)

And there is another diversion of which they are suffered to partake, that our Poet has not enumerated among the entertainments of the fallen angels, though it was very suitable to those beings. I mean gaming—that most mischievous and dangerous sport. It will be unnecessary to shew that prisoners are not restrained the use of any intoxicating liquors they can afford to buy : and a late Ordinary of Newgate writes as follows of one of the convicts whom he attended. “ He
 “ was much inclined to gaming, an instance of
 “ which happened when he was in the New Pri-
 “ son. His sister brought him two guineas to
 “ relieve him therein, out of which he quickly
 “ lost sixteen shillings playing at huzzle in the
 “ hat (2).”

In the opinion of Mr Henry Fielding, most highwaymen of eminence were bred in the gam-
 c 2 ing

(1) Milton's Paradise Lost, b. II. v. 547, 567, & 606.

(2) Account of the malefactors executed at Tyburn, May 1, 1758.

ing School (1); but this vice is, we perceive, like many others, descended to persons of the lowest order, to the dregs of the people. And no clearer proof can be given of the keenness with which it is practised, than appeared on a late trial at the Old Bailey. When the evidence deposed that they found two of the villains, who broke open Mrs Jeredore's house, playing at cards at the rendezvous within a few hours after the robbery, and the plate not melted down in an adjoining room. So necessitous was one of the fellows, that he had been obliged to sell his hat for a pair of shoes (2), and yet perhaps the turn of a card was to decide whether he might lose his share of that spoil, for which he had risked, and might soon forfeit, his life. An infatuation surpassing what Tacitus relates of the antient Germans, for they staked only their liberty (3).

Now the mode of confinement here contended for will certainly put a stop to some of these corruptions, and by means of this little interruption, several of the prisoners may be drawn off from a further pursuit of what has proved so pernicious to them. It cannot surely then be an unfair conclusion from the foregoing representation, that felons, as well as the public, may reap some benefit from their being lodged in different rooms. Should they be capitally convicted of the crimes laid to their charge, and justice require the sentence to be carried into execution; they will have had so much more time to prepare themselves for their last awful change, and will be the better able to judge of the sincerity of their repentance.

And

(1) Fielding's Enquiry, &c. p. 25.

(2) See the Sessions Paper for October, 1770.

(3) De Mor. Germ. c. 25.

And if, from the circumstances of the case, there is room for a mitigation of the punishment, the likely prospect of a reformation may be urged as a corroborating plea to the Crown for mercy. Or, when the issue of the trial is more fortunate to them, there will be reason to hope, that, from a just sense of their former misconduct, and this not the effect of warm and sudden, but of cool and deliberate resolves, they may hereafter become peaceable, nay useful, members of the community.

Add to this, upon their release, persons of probity and reputation will have less cause for shunning all kind of connexion with them than they have at present. For such is the too just opinion adopted of gaols, that they are generally considered as academies of wickedness; and if a young man is once admitted within their walls, who has learnt only the first rudiments of vice, he has the credit of returning from them an accomplished villain. We are, indeed, very apt to suspect that the morals of all debtors receive some taint from the contagion of a prison; and, in felonious cases, an indelible blot is fixed upon the characters of offenders. Suspicions of this kind are productive of very bad consequences; as they, in great measure, preclude a man from getting a livelihood by his labor, if he were inclined to be honest and industrious. But when we are assured, that so far from running the hazard of a further corruption by a communication with other criminals, the confinement itself has a probable tendency to reclaim them; we shall have less scruple to place once more some little confidence in them: and, by degrees, if they do not forfeit the esteem of the upright and the good by following their old courses; they will,

what the law presumes in many cases (1), be strictly and literally restored to all the privileges of subjects : or, as it is mentioned as a singular circumstance in Siam, the reproach shall cease with the punishment, and he, who suffers it one day, will be as much respected as ever the next (2).

It is recommended by Plato in his ideal republic, that persons, banished by the sentence of the laws, should, on their return, pass an examination how they had behaved during their exile: and that, after a confinement in prison, enquiry should be made whether their conduct had been justifiable, before they should be restored to the society of honest men (3). Very desirable rules, were they practicable. But there will be less cause to regret their not being so; if, which is far from being impossible, the proper steps are taken to render the penalty of imprisonment an instrument of reformation.

You must, Sir, have observed, that the hopes conceived of a reformation are grounded chiefly on the time and advantages given to criminals, by this scheme, for a review of their past ways by a seclusion from the world. And in this age of gaiety and pleasure, may the writer, without exposing himself as an object of ridicule, venture to intimate, that very beneficial fruits might be expected, if all persons would, at proper seasons, submit to a voluntary retirement. Rational creatures are possessed of the distinguishing faculty of recalling and examining past actions. Small, however, is the number of mankind, who are
not

(1) A person admitted to his clergy, after his punishment of branding, is restored to his credit. — It is actionable to call him felon: all the infamy and other circumstances are discharged. Burn's Justice, under the title Clergy.

(2) Modern Universal History, v. VII p. 269.

(3) De Leg. l. IX. p. 931. l. X. p. 960.

not extremely averse to this employment. This backwardness in the vicious hath been mentioned to arise from a dread of the stinging reproaches they must encounter in such an exercise. But those, whose hours are squandered in an endless round of expensive and dissipating amusements, are very little disposed to recollection, and from a similar cause.

They too well know that their conduct will not stand the test of even their own partial scrutiny, and that disgust and uneasiness must be the result of self-communion. Precipitately, therefore, do they run from one scene of imaginary pleasure to another, and their sole study seems to be to forget themselves. An endeavour as vain, as it is pernicious! For though they may at one time be so unfortunate as to banish a serious thought; yet, when there is the least cessation from their wonted diversions, the adversary will return, and the force exerted to repel him will make his future attacks more formidable: and if they do succeed, it must be by the loss of the understanding. The most prudent way is, to yield at first; to hearken immediately to the sober reflections of our minds; and we shall soon perceive that the disquietude will abate, and that we shall probably suffer less pain than what is now occasioned by every sudden transient thought.

But superficial must be any mental inspection, unless we withdraw from the enticing objects which have so frequently seduced us. The love of ourselves beyond others being a passion so deeply rooted in us, a mere speculative man would be apt to conclude that his fellow creatures might be easily persuaded to enjoy, for a considerable part of their time, the happiness of conversing with so dear an object; however, a

little experience will soon convince him of the contrary. And since this has been found so difficult a task, it were to be wished that some of our very ingenious modern architects would exercise their talents in constructing edifices with such attractive charms, as might allure some of the giddy generation, whose closets appear dungeons to them, to indulge a few minutes recollection.

Antient history has delivered down to us an account of one mansion of this kind; viz. the Cave of Trophonius. And an Italian writer of a serious cast, as the Spectator informs us (1), expressed a desire to have it in his possession; since he thought it would contribute more to the reformation of manners than all the Workhouses and Bridewells in Europe. The medicinal qualities of it were, it is said (2), to correct all immoderate and unseasonable levity; but that it operated in this manner on those only, who entered into it by themselves, stripped of all showy ornaments of dress, and destitute of every thing that might interrupt serious reflection. As the celebrated contriver of this wonder-working cavern is reported to have perished with hunger, it may be thought rather unreasonable to request the artists of the present age to pursue a scheme that proved fatal to their brother of Bœotia; especially, since they have such fair opportunities of amassing large fortunes by erecting buildings which have quite contrary effects. Almost innumerable are the temples of pleasure that have been raised in various parts of the kingdom within these few years, and we seldom hear complaints of their being deserted; or that the thousands,
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(1) N^o 598, 599.

(2) Erasmi Adag. chil. I. centur. VII prov. LXXVII.

and ten thousands who frequent them acquire a sober turn of mind.

After Mr Henry Fielding had opened fully the dangerous tendency of the many places of public diversion which then subsisted, the legislature empowered the magistrates within twenty miles of London to limit the number in their respective districts. But what was the consequence? are they not amazingly increased? It was for some time thought that two play-houses, and an opera house, with the help of concerts, private routs, &c. were sufficient for the weekly entertainment of the inhabitants of London and Westminster. And lest they should be too much mortified in the season appropriated by their forefathers for acts of recollection and repentance, when all diversions used to be suspended; an oratorio was allowed two evenings in a week, and three ridottos within the forty days. But now there is no remission.--One year Mrs Cornelys opened a subscription for music, dancing, feasting and gaming at the west end of the town; and had it not been Sir, for the unaccountable aversion of yourself and your brethren to subjecting the families of the sober citizens to her dominion, this "empress of the vast regions of taste and magnificence" would have erected one of her palaces near the Royal Exchange (3). The success at Soho soon

(3) Thus stiled in a puffing advertisement in a news paper. — Since this Letter was delivered to the Printer, the public have had the satisfaction of hearing that this celebrated Lady has been obliged to submit to the indignity of appearing before Sir John Fielding and his brethren; and that they have run the risk of forfeiting all pretensions to politeness by levying a penalty on her and a favourite Italian singer, for a breach of the law. And should a Jury be of opinion that Mrs Cornelys is guilty of keeping a disorderly house, in suffering Masquerades within it, the censure of a superior court for her misconduct will certainly give pleasure to many more than it will mortify.

soon encouraged another schemer to establish a new meeting in Pall-mall, and these vie with each other in every profusion of elegance and luxury. —Masquerades, which, in consequence of a prohibition from the late King, had been suspended for near ten years, are likewise revived; and this notwithstanding our present truly gracious and virtuous Prince had expressed his utter disapprobation of this silly and vicious entertainment; for by an ingenious evasion of the law the Royal authority it seems cannot now suppress it.

So insatiable, however, is the passion for pleasure, that the hunters after it are ever in chace of more objects. We therefore next hear of twelve hundred members of a society formed on a plan entirely new, at least in this country. For it consists of Ladies as well as Gentlemen who meet at a tavern: and the professed design of this Female Coterie (1), so called from the founders, is said to be the preventing a person's being under the painful necessity of passing a few hours, not alone, but in their families. But a deficiency being still apprehended, a building is raising, which may be used till the spring is so far advanced, as to render it safe for persons of tender constitutions to venture a mile from town. And this, I am told, is so spacious, that it will contain as numerous a company as that described by Mr Barette (2). Some have already stiled it the Winter Ranelagh; others have distinguished it by the title of Pantheon; a name, which in one respect cannot be improper, since there is little reason to doubt of its being consecrated to every pleasurable idol. However, though the confluence

(1) One of the curious rules of this singular community is, that no new member shall be ballotted for but at night, between the hours of ten and twelve.

(2) Barette's Journey, &c. vol. III. p. 156.

ence of the votaries will certainly be as great as the projectors can wish; yet, it is to be hoped, that they will not resemble some professors of Pantheism in Germany, who called themselves Brethren and Sisters of the free Spirit, and pretended to be exempted from all the obligations of morality and religion (3). If this magnificent fabric is really built in imitation of the new amphitheatre at Madrid, the *Faula por los pàxoros, & por las pàxoras* (4), ought not to be forgotten. And I will beg leave to offer an improvement which the intent of this Letter suggests to me; that as more than one of each sex may, in the course of every meeting, transgress the laws of the assembly, each offender should be obliged to retire to a separate cell for the rest of the evening.

Such, Sir, is the increase of places appropriated to public diversions, since the Legislature attempted to reduce the number; and it is no less clear that the fashion is now spread into the remotest parts of the kingdom. The choice springs of Tonbridge, Bristol, Scarborough, Cheltenham, and Bath, will remove only a few complaints; but luckily, sea water is discovered to be a panacea for an English constitution; and our happy situation upon an island supplies us with as large a quantity of it as we can desire. For the purpose of using this, there is not a county bordering on the ocean, where there are not several summer rendezvous of the gay world, who are all subject to one disorder at least, a weariness of themselves. Fishing towns, that a few years since had not apartments much larger than the cabins of their hoys, can boast of assembly rooms little inferior
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(3) Mosheim's Eccles. Hist. vol. V. p. 157. 8vo edit.

(4) Cage for the cock birds, and cage for the hen birds, or jail for the men, and jail for the women. Mosheim's Eccles. Hist. vol. III. p. 157.

in size, in elegance, and in sumptuousness, to that at York, and can exhibit five hundred at a ball.

As all these scenes of dissipation, of luxury, and extravagance, must be attended with ruinous consequences both to the public and to individuals; the question naturally arises, whether the wisdom of our Senators cannot devise any other method of checking their further progress. That our parliaments have formerly thought it an object worthy of their notice, is plain from the Act before referred to, and from several laws enumerated by Mr H. Fielding in his useful Tract. This Gentleman likewise observed that in the virtuous and freest times of the Roman republic, when the people would submit to the exertion of a censorial officer, the better to suppress luxury, a certain number of persons only were allowed to assemble at a private feast (1). A regulation
which

(1) Macrob. Saturnal. lib. II. c. XIII. From the date of the commencement of the Orchian Law, termed by Mr Henry Fielding (in his Enq. p. 8.) with his peculiar cast of humour, a Riot Act, it is not improbable, that Cato, who has the credit of being the promoter of it, tried to prevent, for the future, the establishment of any such society of Bacchanalians, as had been but a few years before detected and suppressed by the vigilance and activity of the consuls. Livy has given a very circumstantial detail of this monstrous crew, from whose account the following passages are transcribed. *Initia erant, quæ primo paucis tradita sunt: deinde vulgari cæpta per viros, mulieresque. Additæ voluptates religioni vini & epularum, quo plurimum animi illicerentur. — Primo sacrarium id fœminarum fuisse, nec quemquam virum eo admitti solitum. Sacerdotes invicem matronas creari solitas. Pacullam Miniam Campanam viros primum filios suos initiasse. Ex quo in promiscuo sacra sint, & permisti viri fœminis, & noctis licentia accesserit, nihil ibi facinoris, nihil flagitii prætermisum — in his nobiles quosdam viros, fœminasque.* Lib. XXXIX. c. 8. & 13. We may perceive from these extracts, that a religious pretence, a zeal for the due observance of the mysteries of the heathen Bacchus, gave rise to this abominable assembly. And it is generally agreed, that many of
our

which seems to have been borrowed from the Athenians, who, partly to avoid tumults, and partly to restrain the prodigality of their citizens, limited the number of guests; and this they did at a time, when it was become the practice to entertain an *infinite* number (2).

Some will, perhaps, be apt to accuse me of rambling from my principal subject. I heartily wish the connexion were not so close: but it appears very evident to me, that there is a broad and well beaten passage from places of public diversion, harsh as the expression may sound, to a prison. An inability to discharge just debts, in consequence of the sums of money squandered at the former, deprives, yearly, hundreds of their liberty; and very many subject themselves to viler durance by illegally obtaining the properties of others to gratify their inordinate love of pleasure.

It will be likewise objected, that most of the entertainments here specified, being designed only for the great world, cannot be a source of those crimes, which I am endeavouring to prevent. And such seems to have been the opinion of that Gentleman, whose plan I am pursuing, though I must own, *haud passibus æquis*; for he more than once insinuated, that the luxury and diversions of the noble and the opulent are rather

our modern subscription clubs have been formed upon the pious motive of celebrating, in the best manner, the secret rites of the Demon who presides over cards and dice. The writer is not, however, so uncharitable as to harbour the most distant surmise of their being a single society now subsisting in this country, the members of which are of the same profligate principles with the people branded by the Roman Historian. But he cannot surely give offence by a seasonable hint, that some regard is always due to appearances; and that it is impossible to use too much precaution, when any new adopted scheme has the least dangerous tendency.

(2) Potter's Antiquities, b. I. c. 26. and b. IV. c. 20.

ther moral than political evils (1). But in this country of boundless freedom, is it not impossible to confine diversions to those who move in the higher spheres, or more properly, to those who can really bear the expences of them. Is there any pleasure, or any vice, in which these "superior Beings" will, in defiance of all precepts human and divine, indulge themselves, that can effectually by law be denied to persons of inferior rank? When Mr Fielding made the preceding observations, he must have forgot what he advanced but a page before, "that it was a branch of liberty claimed by the people in a free state to be as profligate as their governors." And surely, the conclusion of this Gentleman was as erroneous, "that the community will not be much affected by such extravagances in persons of higher rank, as reduce them to poverty." For the pernicious consequences will not end in the misery, distress, and sometimes utter ruin, of a private family. Extreme necessity produces false patriotism; and that terminates in an implicit servile dependence, in a prostitution of every generous and virtuous principle. The loss of thousands, or of a great estate, will not, it is true, be relieved by means of common theft or robbery of an individual: there is, however, a public depredation, that is no very uncommon resource.

Before I leave this topic, I cannot, Sir, avoid taking notice of one class of our public diversions, that will not be judged foreign to my plan of reforming persons when under confinement for criminal offences; viz. the exhibition on the Stage of such pieces, as have a manifest tendency to encourage them in their illegal practices. As in the foregoing remarks it was far from my intention to shew a dislike of all diversions at pro-
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(1) Fielding's Enquiry, p. 4, 11, 12.

per times, but only to censure that unceasing and expensive pursuit of them which characterizes the present age ; so I am unwilling to be thought an enemy to all theatrical amusements, when my design is only to condemn what heightens the profligacy of the manners of the people.

It is much to the credit of modern audiences, that they will not admit, in any new representation, what is offensive to virtue and religion; and should I whisper a suspicion of the present well-bred managers of dramatic entertainments having the least inclination to introduce one of that turn, they would perhaps charge me with want of candour. Their conduct would, however, be more commendable than it is, if they would but persist in banishing from the Stage some of the old pieces that are deservedly obnoxious. About three winters ago the town expressed their disapprobation of a very humorous scene in a new comedy of an admired writer, because two bailiffs and their prisoner were the characters presented. Is it not then rather extraordinary, that an opera, of which all the scenes are laid in Newgate, or in places near as infamous; and in which almost all the *Dramatis Personæ* are rogues and prostitutes, should be performed frequently every season !

Keen resentment of the author, on missing an adequate compensation for his long services, gave rise to this satyrical performance; and the rage of party, ever regardless of consequences, crowned it with unprecedented success (1). Influenced by this baneful spirit, an Irish patriotic Dean foretold, that the reflections upon courtiers and statesmen might possibly be useful in times to come, and thought his injured friend had great
merit

(2) Dr Swift, in a letter to Mr Gay, dated Nov. 23, 1727, writes, " I hope your friends will join the reader to make it succeed, because you are ill used by others."

merit for thus attempting to mend the world as far as he was able (1). But Dr Swift did not in this point shew his usual sagacity; for, as I am told, the severe strictures on ministers of state, plentifully scattered through this entertainment, pass unnoticed, even at a period, when we certainly do not look with a favorable eye on the political conduct of our superiors. And as, from the confession of many malefactors, they have raised their courage by the songs of their hero Macheath, before they have sallied forth on their desperate nocturnal exploits (2), a just imputation falls on Mr Gay's memory for setting vice in general in an amiable, and not in an odious light, and thus corrupting, instead of reforming his countrymen (3).

The illiberal and groundless aspersions cast by Dean Swift on a Clergyman, no less admired for his distinguished talents, than esteemed for his many excellent qualities, because he thought it his duty, from the honorable office he then discharged, to censure in the pulpit the dangerous and immoral tendency of this Drama, has been often condemned. But I do not recollect to have seen it observed, that this zealous advocate for the author had soon the mortification to find, that a person might disapprove this idolized performance, who was neither deficient in parts or knowledge, or governed by servile and interested motives. For it appears from a Letter of Dr Swift's, that Sir Charles Wogan had manifested a strong
dislike

(1) *Intelligencer*, N III.

(2) *Abp Herring's Sermons*, preface, p. 5.

(3) Gay, in a letter to Swift, Dec. 2, 1728, offered to justify himself by this weak pretence, that he was the most obnoxious person in England for writing in the cause of virtue against the fashionable vices, and could have only given offence, by setting vice in an odious, and virtue in an amiable light.

dislike of the Beggar's Opera, and seems indeed to have expressed his surprize at the vitiated taste of the people of England, for countenancing it. And yet the Dean allows this Gentleman to have been a scholar, a genius, and a man of honour (4). To the credit of this gallant officer it may be likewise added, that, had he not been a lover of truth and decency, the mistaken political principles which he unhappily imbibed, and strenuously maintained through life, would have biased his judgment to favor a piece wrote with a professed view of insulting the reigning family, and of satyrizing the steady adherents to their illustrious house.

A cursory view of this Opera must satisfy an unprejudiced reader of the ruinous consequences of the greater part of it: and the evil still spreads, because it continues to be the darling entertainment of those, who will be most hurt by the poisonous impressions it leaves, and who can see it for so small a price as a shilling; an expence that they probably more than reimburse themselves, as they return in the croud from it. But the principal objection to it is, that the place set apart for the reception of the disturbers of the public peace is exhibited as a house of riot and diversion, and not of sorrow and despair (5).
When

(4) See Swift's Works, 12mo. v. XV. p. 102.

(5) Though Sir Richard Steele desired to be thought, and was, in many respects, a reformer of the licentiousness of the stage, yet there is one comedy, in which that lively author seems to have disregarded his wonted rule of "exhibiting nothing that might give offence to the laws and manners of his country." This he declared in his preface to the Lying Lover; but, in the last scene of the fourth act of that play, he has drawn too pleasing a representation of the conversation and amusements of prisoners in Newgate. He indeed took the first opportunity of obviating the bad consequences which might result from it, by opening the next act with a display of

When the taste of the Gentlemen, who most frequent the Theatres, will be so far improved and refined as to prohibit this performance, is uncertain : but till that time arrives, every endeavour ought to be used to counteract the ill effects of it. And what method can promise better, than rectifying the licentious management of prisons?

There can be little doubt of Mr Gay's having aimed to hold up to the spectators a faithful mirror of the lives and conversations of the characters of his Opera in the several stages of their progress; and if we may judge of his days by the present, he has given too exact a representation of the prevailing manners of the inhabitants of Newgate. Would it not then be extremely proper to make the alteration in Newgate, and to convince these thoughtless wretches, that the enchanting scenes they have hitherto beheld with delight and applause are mere delusions? Shew them that a prison really is, what it ought to be, a place of mortification and of punishment. And I am much deceived, if a more terrible penalty could be inflicted on them, than the confinement of them in separate apartments. That this may be a means of reclaiming young offenders I have already attempted to prove; and that it will operate powerfully on the more hardened villains, is no improbable conjecture.

The

the deep remorse, and sincere repentance of young Bookwit. However, by his own acknowledgment, in the preface to the *Conscious Lovers*, "A play ought to have the effect of example and precept," which can never be answered by shewing that Rogues of all kinds can drink and be merry while they are under confinement for their villainies, and at the eve of their execution. Besides, a few strokes of apposite humour are sooner caught, and retained longer, by persons whose minds have taken a wrong bias, than a series of the finest moral sentences which were ever written.

The disinclination we all of us have to a retrospect on our former conduct is manifest, and in proportion to our deviation from goodness, this aversion grows stronger: so that we shall always find the most abandoned miscreants have an irreconcilable dread of solitude, because they dare not think: Lest they should be given up a prey to black disquietude, from morning until morning are they found associating with the partners of their guilt, and cannot even be easy in their company, unless they are drowning their senses in liquor. The pains they thus take to prevent their rising to a full recollection of themselves, points out to us a plain and simple method of awakening them to this useful branch of knowledge; and that is, by obliging them to converse with themselves only.

Their restless thoughts would, like a deadly swarm
Of hornets arm'd, no sooner found alone,
But rush in upon them thronging, and present
Times past (1).

And yet, preposterous as it must seem, we allow them as little opportunity for reflection under confinement, as when they are at large.

Words cannot describe the exquisite distress and torment they must endure upon having their most formidable enemy let loose upon them (2).

D 2

And

(1) Sampson Agonist. v. 19, &c.

(2) Tacitus has given a lively representation of the horror and distraction of a guilty mind, in the first lines of a letter from the emperor Tyberius to the Roman senate, during his retirement in the island Capreae. *Quid scribam, &c.* "What
" I shall write to you, O fathers, or how I shall write, or what
" indeed I shall not write to you, if I know, may all the
" powers of heaven and hell inflict upon me more, excruciat-
" ing pains than I daily feel." Annal. lib. VI. c. 6.

And it would be proper to increase the alarm by founding in their ears, that what they now suffer are certain dismal forebodings of greater woes to come. When these terrors have had a due effect; a proper season may offer of convincing them of the weakness of those arguments which have been used to confirm them in wickedness, and of fortifying their minds with others that will render them more secure against future attacks. And may they not by this course of severe discipline be necessitated to grow better? or the least advantage the public may hope to reap will be, that they will hereafter be afraid to run the hazard of exposing themselves to all the horrors they have undergone from their distracting thoughts.

Some persons, I am aware, are so far from admitting the possibility of a reformation of these abandoned wretches, that they imagine them to be entirely ignorant of the fundamental principle of all religion, and incapable of any troublesome reflection. But is not this a very injurious, is it not an impious insinuation? For God hath not left himself without witness sufficient for the meanest capacity to comprehend, "that as he made the earth, as he created the visible world, so he continues to do good to all the sons of men, and that in him they live, and move, and have their being." These are natural arguments level to all. And how can we doubt whether the supreme Governor of the moral world hath planted in the breasts of all his rational creatures an internal proof of his existence, the power of reflecting and determining on the good and evil of their actions? The light and the efficacy of conscience may be obscured and suppressed; but it, I believe, very rarely happens that the one can
be

be totally extinguished, or the other subdued. If one of the most illustrious sages of the heathen world could not be persuaded, that a man could pass through life ignorant of the being of a God (1); will a member of a society, where christianity is established, utter an opinion so directly opposite? Will he presume, in this enlightned age, to degrade his countrymen beneath the lowest of the human species? For the Hottentots firmly believe that there is a God Almighty, and that the soul is immortal (2).

The notion of these profligate people being stupidly ignorant, and of the obduracy of their hearts, is hastily founded on their seeming unconcern, and daring behaviour, when they are doomed to die, and when that sentence is to be carried into execution. But is not this an appearance only? Is it not clear to an attentive observer of their inconsistent actions on these occasions, that their bravery is most commonly spurious? And do not the applauses of their infamous companions, with the large doses of intoxicating liquors, which they are incessantly swallowing, supply this false fire? Deprive them of these aids, and they will no longer place themselves upon the “stool of impudence (3)” in the hour of their trials, and much less in that awful moment, when they are entering upon eternity.

In arguing from particulars to generals a satisfactory conclusion may not be always drawn;

D 3

I cannot,

(1) Plato de Leg. lib. X. p. 947. edit. Ficini.

(2) Modern Universal History, v. XV. p. 508.

(3) In trials among the Athenians, the accuser was placed upon the stool of *Injury*, and the prisoner upon the stool of *Impudence*, or of *Innocence*, according to the correction of an eminent critic. Our law charitably supposes the latter to be the proper term, but culprits frequently discover by their conduct, that the former situation is most applicable. Potter's *Antiq.* b. 1. c. 19.

I cannot, however; Sir, forbear mentioning to you instances of two persons under the circumstances before recited, and which indeed partly led me into this train of writing.

A few years ago a friend of mine was inadvertently carried to a place in the neighbourhood of London, where there was to be an execution. The number of the malefactors who suffered he does not recollect, but one, and only one of them, was a hardened wretch, that was supposed to have conquered all sense of shame and fear. He shewed signs of a bold spirit; many of the rabble pronounced him to be one of the most courageous fellows who had, within memory, passed that road; and, shocking to the last degree as were his words and actions, he did not fail of many admirers, and of the approbation of several for facing death with so great intrepidity. Curiosity tempted my friend to examine closely whether his undauntedness was not counterfeited; and he presently perceived, by the restlessness of his behaviour, that he laboured hard to conceal from his followers the inward excruciating pangs he endured: and had it not been for repeated draughts of what is deemed a sovereign cordial for all pains of the mind, he must, in spite of the applauses of his old associates, to flatter his ambition, have sunk into a state of horror and despair. But, to the reproach of the officers of justice who were guarding the criminals, the cart was suffered to stop frequently that he might recruit his spirits, and, for the last time, within sight of the gallows. It then appeared most evidently from the eager precipitation with which the wretch poured down the inebriating liquor, that he drank it without any degree of pleasure, and that the only comfort he hoped to receive from it was, that it would enable him to stifle his fears,

fears, and perhaps render him insensible. The desired effects were, however, almost momentary. For when he arrived at the end of his journey, and the executioner was preparing to fix the fatal noose, the countenance of this mock hero changed; he uttered no more ludicrous and profane expressions; but left the world dejected and dismayed.

The other instance is of a later date, and you, Sir, might, perhaps, be a witness of the moving scene: the behaviour of Peter Conoway, who was tried last July for the murder of Venables and Rogers. When he was set to the bar, what consummate audaciousness possessed him; and it was for some time imagined, he wanted not resolution to undergo the only torture countenanced by our laws. And though his courage failed him in this point, yet on his being again brought into Court, his insolence was not abated. But the dreadful sentence of death, with its consequences, solemnly delivered, drew tears from his eyes; and, in the height of his concern, that tongue, which was expected to have poured forth the most horrid imprecations, implored a blessing on his Judges for their indulgence to him.

Many similar cases might be collected; but could only a few examples be alledged, they should warn us against determining too peremptorily, that every criminal, who does not immediately betray marks of religious fear, or tokens of remorse, is therefore stupidly obdurate. We should rather devise some untried methods of making an impression upon them; and what are there which seem to be equally speedy and efficacious, as the forcing them to maintain a long conversation with themselves, a communication they have hitherto not dared to hold.

Nor ought we to give credit implicitly to professed freethinkers, who assuring us, that, after searching diligently for arguments to strengthen themselves in a persuasion which may be necessary to their quiet, they are fully convinced
 “ that religion ariseth from the fear of a power
 “ invisible, feigned by the mind, or imagined
 “ from tales publicly allowed.” For though some have pretended to conquer those fears, which a belief in an all-seeing and infinitely righteous Judge of the world must suggest, their endeavours have not probably answered to their wishes. Of this Mr Hobbes was a remarkable instance; who, with all his boasted philosophy, could not, if left alone, bear the darkness of the night. By the relief of company; from the amusement of sensible objects; or, whilst he was engaged in writing against Religion, which was the constant employment of his life, because he always feared it (1); his mind was less agitated and distressed. But no sooner was he obliged to descend into his own breast, than all his natural apprehensions returned. And well might he be averse to an obscure and gloomy solitude, since it must drive him to self-inspection. “ For he
 “ could receive no peace from the divine insti-
 “ tution of Jesus, one of the miracles of which
 “ was, as Mr Pascall observes (2), to reconcile
 “ man to God; to restore him to his own good
 “ opinion; to make him bear the sight of him-
 “ self; and, in some cases, render silence more
 “ agree-

(1) “ The pious man, says Montésquieu, and the Atheist
 “ always talk of religion; the one speaks of what he loves,
 “ and the other of what he fears.” Spirit of Laws, b. XXV.
 c. 1.

(2) See *Pensees de Paschal*, c. 26. as translated by Mr Basil Kennet.

“agreeable than all the intercourse and action of mankind.” Nor would Mr Hobbes’s faith carry him thus far to God, as to support him under a sense of his miseries, with the hope of an assured and compleat deliverance in a better life. It is not, therefore, strange that he, who had often openly derided the doctrine of a future state of existence, should dread any discourse of death; and, when told that his dissolution was unavoidable, should express a desire of finding a hole out of which he might creep out of the world.

The report of this unhappy man’s dislike to the solitude of the night, because he was afraid of spectres, was treated by his friends as a false and malicious accusation; and they ridiculously insinuated it was from a fear of assassination. This may be well considered as a groundless and childish surmise. For whom had he to fear? The religious principles of those, in whom he imagined the pernicious tendency of his writings had excited a rancorous and inveterate enmity to his person, would not suffer them to fix a poniard in his heart; and his followers must be far from offering the least injury or insult to a man, who had kindly laboured to free them from all disquieting apprehensions. His advocate, Mr Bayle, admits the fact which his friends deny, and attempts to account for it from the structure of the brain (3).

From these different methods of defending the Malmesbury Sage in this case, most impartial people will be apt to conclude, that he had not been able by the light of his philosophy to chase away the notion of a world inhabited by spirits.

(3) See Biographical Dictionary under the article Hobbes.

spirits. There is, however, no necessity of determining, whether he suspected he might be haunted by an apparition, if he had no person in his company; we may be well satisfied that he avoided being alone, because he could not venture to encounter his own tormenting thoughts. “ Thus he that promised to drive away terrors, “ and troubles from a sick soul, was sick himself “ of fear (1).”

But it may be proper to observe with regard to the poor wretches, on whom I suppose the separate retirement in a gaol may, at last, operate to their amendment, that scarce one of them is confirmed in infidelity and irreligion from a studious misapplication and perversion of their reason. If they entertain any such opinions, it is from a want of thought; and therefore reasonable instruction and due consideration may dispel the mists which vicious habits have brought over their minds. Yet, supposing there are really any, who, like the prince of the apostate spirits, carry into their prison,

A mind not to be chang'd by place or time (2),

This must of itself be an incontrovertible reason for shutting them up from all society with others.

We should be apt to accuse Dr Battie of unpardonable neglect, was he to suffer patients committed to his care, who were incurably mischievous, to be confined with many as violent as themselves, and much more with those who were not so untractable, but gave hopes of a recovery. Nor is this an unapt comparison. For writers of all ages, countries, and denominations;
poets,

(1) Wisd. c. XVII. v. 8.

(2) Milton's Paradise Lost, b. I. v. 253.

poets, philosophers, and divines, have ever considered vice as a kind of madness; and, if my memory does not deceive me, the skilful physician just mentioned, in his treatise on this complaint, asserts, that if any desire by indulgence becomes so violent as to be irresistible, the person subject to it may very properly be, and indeed is generally said to be mad. If so, these villains, whose passions drive them on with impetuosity to commit the grossest acts of violence and injustice towards their fellow creatures, may be truly said to be seized with a distraction of the most alarming kind.

The seat of the disorder in these persons is very different. In the one, it is owing to a preternatural state of the instruments of sensation; in the other, of the appetites and passions, which have acquired an ascendant over reason. And this further distinction must be likewise made between them. The unhappy persons, who are visited with the most melancholy calamity to which our nature is exposed, are innocent sufferers: whereas the phrensy of the others, if I may be allowed the expression, is voluntary, and consequently criminal. They have either cancelled their rational powers, or only employed them to qualify themselves the better for perpetrating their wicked designs; and therefore deserve to be treated like animals of an inferior rank; like beasts of prey, to which level they have reduced themselves.

However the danger is very great both from the intellectual and the moral lunatic; and it must be the duty of the medical, and the civil, practitioner to endeavour to work the cure; and when that cannot be obtained, to prevent, if possible, their doing future harm to themselves
and

and the rest of the world. Physicians always direct close confinement of the poor sufferers; debar them of the sight of every object that will increase the malady; and enjoin strict temperance. And would it not be advisable for the Magistrate to pursue a similar method in treating their, generally, more refractory patients; since it would most likely correct the malignity of their peccant humours, if it did not work a compleat alteration. Evacuation, and particularly by opening of a vein, is also found a salutary rule, where the rational faculties are disturbed; and we read in an antient writer, that “for most of the faults
 “ of which the Roman Soldiers were guilty, loss
 “ of blood was prescribed as a remedy, and in-
 “ flicted as a punishment; because their delin-
 “ quency shewed them to be insane (1).” It may not be prudent to establish this singular penalty by an Act of parliament; but if solitude and a cool regimen were always followed, there is room for believing that it would soon restore many of our criminals to a sound mind.

From a view of the numberless evils which have certainly arisen from a promiscuous confinement of criminals, and of the advantages which might have been expected from assigning to each a different room; one is of course led to enquire into the reasons why a plan, in appearance so eligible, has not been adopted, and to suspect that some weighty objections must have prevented it. Such, Sir, as have been mentioned to me shall now be considered; and, possibly the answers to them will suggest other very prevalent motives for an alteration.

With regard to the hope expressed of an abatement, or annihilation, of the gaol fever, from
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(1). A. Gellius, lib. X. c. x.

the separation of the criminals ; it will be asked, whether, though this should happen, they might not be rendered liable to different complaints from the chilliness and moisture of the cells ; which must be intense and profuse, where the walls are of an immoderate thickness, and there is only the breath of an individual to warm the air. May not, however, the dampness be, in great measure, avoided by windows, grates, and ventilators ? and if this noxious quality of the air is corrected, the cold, though in a sharp season, it may be uncomfortable, will not, if we may judge from experience, occasion any dangerous disease, or certainly not so soon as the pestilential effluvia proceeding from many other bodies.—But as the density of the walls is the ground of this apprehended unwholesomeness, I would further remark, that, upon the scheme proposed, there cannot be the same necessity there now is for inclosures of such an amazing solidity. The judicious advice of the worthy Chamberlain has, I doubt not, been attended to ; which was, not to let the apartments of the prisoners adjoin to any other edifice ; since he has declared, “ that he could not within memory recollect but two instances, except in disguise, of escapes that were not owing to a contiguity of the buildings(2).” And when a competent space is allowed, so huge a pile of brick and stone cannot be requisite. For if a single prisoner should break out of his ward into the press-yard, or any other area, without being overheard at his work, he will find it almost impossible to proceed any further before he is discovered ; and he will not then be able to make any effectual resistance.

(2) Janssen's Letter, p. 9.

resistance. Whereas at present, when a dextrous and daring fellow plans a scheme for his deliverance, he has many coadjutors. And if, either by art or violence, they can so far succeed as to get out of the room in which they are locked up, they become a powerful corps, and sometimes force their passage: but the insurrection is never quelled without difficulty, and frequently with bloodshed.

Many attempts have been made by resolute fellows in every gaol in the kingdom to recover their liberty; and scarce one which may not be attributed to their having opportunities of combining together. The cells, now used in Newgate for confining capital convicts, were, I have heard, first fitted up, because a desperate set of them had barricadoed themselves in the old condemned dungeon, and refused to surrender till they were almost suffocated. From the time of this prudent alteration there has not, I am told, been more than one disturbance among the prisoners under sentence of death; and this was owing to the negligence of the keepers, who suffered them to have access to one another (1). Since then the scheme has been thus beneficial in one instance, why should it not be extended to all criminals? The answer probably will be, that the circumstances of the persons are very different, and they ought not therefore to be subject to the same rigid restraint. And this appears to have been a principal reason for not changing the mode, as there is an express order from the court of Aldermen to the keeper of Newgate not to put any, except the condemned felons, into the cells (2). Now

(1) On the 20th of March, 1752. See the London Magazine for that year, p. 143.

(2) This, with other prudent resolutions, were made July 7, 1735. See London Magazine for that year, p. 399.

Now Sir, it must be allowed, that by the construction of our laws, confinement in gaol is not deemed a punishment, where a person is only suspected of, or even charged upon oath with a criminal offence. It is however, a very nice distinction, because it is the only penalty inflicted for many misdemeanors: and such is the exalted notion our countrymen have of liberty, that if you lay them under any such restraint, though but for an hour, you will not easily convince them that you do not punish them. Indeed whenever any of them cease to have that dread; when the ideas of imprisonment and punishment are separated; they lose a powerful check upon their conduct, and soon become dangerous fellows. But since the innocent, as well as the guilty, may at times undergo imprisonment, let us consider whether the mode here contended for is, in all respects, more severe than what is constantly practised, and when it is really so, whether it ought not on that account to be preferred.

That society is one of the principal enjoyments of life cannot be disputed; and a person must be singularly framed, to whom solitude would not be insupportable. But

“ Solitude is sometimes best society (3). ”

Or according to an eminent stoic, “ It is not the sight of a man that removes solitude, but of an honest man; and that we must call ourselves solitary when we fall among thieves (4). ” There is, I am satisfied, no man of an ingenuous disposition, who will not thus far subscribe to the philosopher’s opinion, as to acknowledge, that the company of such miscreants as swarm in our gaols, would not relieve him from the uneasiness, but
that

(3) Milton’s Paradise Lost, b. IX. v. 249.

(4.) Epictet. Arrian. Comm. lib. III c. XIII.

that he would judge it be a cruel aggravation of his restraint. He must therefore be inexpressibly thankful to be parted from them; nor could the hours of his retirement be very painful to him, while his spirits were supported by the consciousness of his own integrity.

It would also be no small alleviation of his misfortune to consider, that after he had by an open trial exculpated himself of the offence imputed to him, his character would not be stigmatized; from a presumption of the corruption of his morals by too close a converse with some of the worst of men; a degree of infamy which is not now easily escaped. The Marquis of Beccaria has observed, that though in these days, this be the hard lot of many persons, yet that among the Romans, those who had been confined, tried and acquitted, were frequently esteemed, and honoured with employments. One of the reasons he assigns for this difference is, that the accused and convicted are thrown indiscriminately into the same prisons (1). The bad consequences of which will be obviated by the scheme proposed of not suffering them to have access to one another. And if innocent men will be much benefited by the alteration; when the suspected persons are really guilty of the crimes laid to their charge, it will surely be a mark of false tenderness to them to forego this early discipline calculated for their good; and which, whether they are cleared or not, may secure them from greater evils to come. They ought therefore to consider it as a blessing instead of a punishment.

If I am not mistaken, the prejudice against this method of confinement has partly, perhaps wholly, arisen from its being made an engine of oppression.

(1) Essay on Crimes and Punishments, p. 119.

this malevolent view, the as insensible keepers are to watch their countenances, and to catch every unwary expression; and others are suffered to try every art to draw them into an acknowledgment of guilt in themselves, and to an accusation of others. But in this kingdom it is felony for a gaoler to make any prisoner become an appellant against his will (3). And such is the benignity of our laws, and so tender are the guardians and interpreters of them, not to let criminals accuse themselves, that they frequently recommend, and earnestly press it upon them to withdraw a plea of Guilty, and to take every advantage which the law allows of escaping (4). There can therefore be no danger of any such unfair practices resulting from the introduction of this scheme: and, if it should be a means of bringing the guilty to a voluntary confession of their past offences to their supreme Judge, no serious person will surely offer this as an objection.

Your active Chamberlain has, Sir Robert, in his seasonable Letter to the committee for rebuilding the gaol of Newgate, hinted one more difficulty that may prevent this alteration (5). I should, however, hope that no narrow consideration will impede a plan which may be of so much utility to the public. The necessary enlargement of the building to allow a single room for each prisoner will perhaps occasion an increase of expence. But as we do not perceive the least symptom of penuriousness in the several changes and improvements that have been, and still are, carrying on through the cities of London and

(3) Blackstone's Comment. v. IV. p. 129.

(4) The same, p. 324.

(5) Page 9.

Westminster, a few thousands more will certainly be well bestowed in rendering the new gaol healthy, secure, and convenient. And should there be a deficiency in the sum already granted by parliament for that purpose; should it be hereafter found that the charge of cleaning the prison, and maintaining the criminals in a more decent and comfortable manner than has hitherto been observed, will rise higher than it does at present; is there no unexceptionable resource for this additional burden?

A tax upon places of public diversion is often a topic of conversation, and has been the subject of many essays. Other countries have imposed it; and some Ministers of this nation are said to have entertained thoughts of making them contribute to the expences of government (1). But it will be difficult to point out an use, to which an assessment of this kind can be so fitly applied, as in defraying the expences of those mansions, which they so plentifully fill. And why might not gaolers receive from this fund an adequate compensation for executing their troublesome office? and then let the Magistrates be invested with a power of abolishing oppressive fees, and the enormous perquisites made from the sale of the immense quantities of strong liquors consumed within our prisons.

To give the greater weight to the reasons here offered, I must, Sir, likewise observe, that so far from being singular in my opinion of the
many

(1) Can any reasonable objection be alleged against levying a tax upon all taverns, inns, and alehouses, for this useful purpose, for they certainly increase the number of malefactors? And if only a small sum was paid on renewing annually the licence to every publican within a county, the amount of the duty would nearly answer the charge of the gaols.

many salutary effects likely to arise from the separate confinement of criminals, some writers have recommended the mode. Dr B. Manderville, particularly, after having given a very exact, but frightful representation of the licentious behaviour of prisoners in this country, and especially in Newgate, shewed some of the advantages of depriving felons of all opportunities of conversing with each other (2): though, perhaps, it may be thought, that all the restrictions he advised cannot be justifiable before conviction.

But the sentiments of a writer of much more eminence, the late excellent Bishop Butler, highly deserves our attention. They were, Sir, delivered in a Spital Sermon, preached (3) before the Magistrates of your city, and published at the request of the Court of Aldermen. — “ As,
 “ said the good Prelate, the only purposes of
 “ punishments less than capital, are to reform
 “ the offenders themselves, and warn the inno-
 “ cent by their example, every thing which
 “ should contribute to make this kind of pu-
 “ nishment answer these purposes better than it
 “ does, would be a great improvement. And
 E 3 “ whether

(2) In a pamphlet entitled, “ An Enquiry into the Causes
 “ of the frequent Executions at Tyburn,” 8vo. 1725, ch. II.
 and V. Though the compilers of the Biograph. Britan. have
 not inserted this tract in the catalogue of the works of the au-
 thor of the Fable of the Bees, and of some other pieces not
 penned with the same good intention as what is here referred
 to; yet from the initial letter of the christian name, from the
 degree of his profession, and from the date of its publication,
 it was probably wrote by him. That inimitable artist, the late
 Mr Hogarth, seems to have had in his view the twentieth and
 four following pages of this treatise, when he painted the pro-
 fession of the Idle Prentice to Tyburn.

(3) April 14, 1750. The extract is made from the twen-
 tieth page of the Sermon.

“ whether it be not a thing practicable, and
 “ what would contribute somewhat towards it,
 “ to exclude utterly all sorts of revel mirth from
 “ places where offenders are confined, to sepa-
 “ rate the young from the old, and force them
 “ both in solitude, with labor and low diet, to
 “ make the experiment how far their natural
 “ strength of mind can support them under
 “ guilt and shame and poverty, this may de-
 “ serve consideration.—Then again some reli-
 “ gious instruction particularly adapted to their
 “ condition, would as properly accompany those
 “ punishments, which are intended to reform,
 “ as it does capital ones.—Since it must be ac-
 “ knowledged of greater consequence, in a reli-
 “ gious, as well as civil respect, how persons
 “ live than how they die: it cannot but be even
 “ more incumbent on us, to endeavour, in all
 “ ways, to reclaim those offenders, who are to
 “ return again into the world, than those who
 “ are to be removed out of it. And the only
 “ effectual means of reclaiming, is to instil into
 “ them a principle of religion.”

Mr Henry Fielding not having, in his useful
 Tract, mentioned the abandoned profligacy of
 our gaols as a cause of the increase of the cor-
 ruption of the felons committed to them, we
 must not wonder that he should not suggest a
 method of preventing it. But that it should
 escape the notice of so judicious, and penetrating
 an observer, is rather matter of surprize, since
 he has expatiated upon the insufferable manage-
 ment of houses of correction. — “ He termed
 “ Bridewell a very severe punishment, if being
 “ confirmed in every vicious habit may be
 “ esteemed so” — pronounced them “ to be no
 “ other than schools of vice, and common-shores

“ of

“ of disease” — asked “ what good consequence
 “ could arise from sending persons to a place,
 “ where with the conversation of many as bad,
 “ and sometimes worse than themselves, they
 “ were sure to be improved in the knowledge,
 “ and confirmed in the practice, of iniquity” —
 declared “ that the behaviour of those wretches
 “ was the most impudent and flagitious, who
 “ had before been acquainted with the discipline
 “ of Bridewell; a commitment to which place,
 “ though it often caused great horror and la-
 “ mentation in the novice, was usually treated
 “ with ridicule and contempt by those who had
 “ already been there (1).”

It is a very obvious remark that these several complaints hold much stronger as to gaols: and since this is the case, though this able Magistrate had assiduously “ endeavoured to shew whence
 “ the evil, he wished to see removed, originally
 “ sprang, yet he did not trace all the supplies it
 “ received (2).” For to pursue his own metaphor, Newgate seems to be the grand reservoir, which, at stated seasons, overflows its banks, and, like a rapid torrent, spreads around a horrid devastation. When the dikes hitherto raised are found insufficient; it must be the duty of every man, who wishes to preserve his country from ruin, to offer, with deference, what he believes may prove a more secure mound against such an alarming inundation. And were I not sensible of the strong prejudices with which most
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(1) Fielding's Enquiry, p. 61, 63, and 64. The writer has lately been informed, that the magistrates of the city of Westminster, being fully determined to rectify all these abuses, have prepared single cells for the safe custody of the several persons committed to Tothill-Fields Bridewell.

(2) Fielding's Enquiry, p. 126.

of us are apt to view any scheme which has long engaged our attention, I could be almost tempted to advance, that this which is here recommended, has a more promising appearance than many others formerly proposed.

If sanguinary laws would have prevented the various species of felony, the practice of it must have been long abolished, and the name nowhere to be found but in the Statute-books of this kingdom. For, as was before observed, One hundred and Sixty offences are by the Acts of our Legislature subject to the penalty of death. But laws, it will be said, are mere words, if not strictly put in force; and that it is by the remissness and tendernefs of the Magistracy that criminals grow more daring.

From this consideration, Sir, in the year 1744; when some gangs of desperate villains spread terror through the streets of the metropolis; your respectable corporation thought it necessary to present an address to the late King, in which they expressed their hopes of the good effects of a rigorous exertion of the laws against those who should fall into the hands of justice. And his Majesty, unwilling, as he always was, to be debarred of the use of his darling prerogative, the power of shewing mercy, promised to punish rigorously such heinous offenders. Soon after, large private, as well as public, rewards were offered for discovering and taking these notorious disturbers of the peace. What was the result? Were not the number of robberies increased instead of lessened? And was it not, in some degree, owing to the means used to suppress them? Insomuch that Mr H. Fielding found it requisite to submit to the Privy Council, whether it would not be advisable to forbear the publication
of

of any gratuity for apprehending robbers (1). That Gentleman was, however, of opinion, that the prospect of a pardon was an encouragement to malefactors (2).

But let it be duly considered what a dreadful list are yearly cut off by the hands of the executioner. And though Mr Judge Blackstone furnishes, “that, among so many chances of escaping, the needy and the hardened overlook the multitude that suffer (3);” yet, he has more than once intimated his doubts of the justice and propriety of inflicting death, even were that punishment proved by experience to be a sure and effectual remedy (4). It is asserted by the humane author of the Essay on Crimes and Punishments, who appeals to the experience of all ages, that this penalty has never prevented determined men from injuring society (5). And to add to the particular instances he has cited, that of our own nation; I will observe, that it was not found to have this good effect in the reign of our King Henry VII. Of this fact Sir Thomas More is an unexceptionable voucher: who has declared in his Utopia (6), “that the penalty was too extreme and cruel a punishment for theft, and yet was not sufficient to restrain and withhold them from that offence.” Sir William Temple likewise remarked, at the close of the last century, “that as capital laws seemed not to agree with the mildness and
“ clemency

(1) Plan for preventing robberies, &c, by John Fielding, p. 6.

(2) Fielding's Enquiry, p. 117—120.

(3) Comment. v. IV. p. 19.

(4) Comment. v. IV. p. 10, 11, 17, 18.

(5) Page 104.

(6) Page 24, 25.

“ clemency of our Government in the rest of
 “ its composition, so the worst of the custom,
 “ or institution, was, that they had hitherto
 “ proved without effect, and had neither extin-
 “ guished the humour or practice of such crimes,
 “ nor lessened the number of such criminals (1).”
 And to obviate the supposed continuance of the
 evil from the frequency of pardons, the former
 of these great men farther advanced, that, in the
 times of which he was writing, “ Justice was so
 “ rigorously executed, that few escaped.”

Well worthy of our notice is another intima-
 tion of the benevolent Marquis Beccaria on this
 subject, “ that clemency should be excluded
 “ only in a perfect legislation (2).” For the
 most enthusiastic admirer of the system of English
 laws must allow, that the branch of it relating
 to capital punishments falls far short of this
 standard of excellency. Pardons, therefore, must
 be frequently extended where this penalty is en-
 joined for crimes so trivial and disproportioned,
 and even for a most doubtful offence. Within
 these ten years has a man been made subject to
 all the terrible consequences of an attainder de-
 scribed by the author of the Commentary in his
 lively manner (3); since old Acts of parliament
 had declared (4) that “it was clear beyond dispute
 “ that the criminal ought to have the black note
 “ of Infamy set upon him, as a creature no
 “ longer fit to live upon the earth, but to be
 “ exter-

(1) Sir W. Temple's Miscell. 8vo. 1701, v. 3. p. 62, 63.

(2) Essay on Crimes, &c. p. 175.

(3) P. 373.

(4) 1 & 2 Phil. & M. c. 4. and 5 Eliz. c. 20. according to
 Sir Matthew Hale, no less than thirteen gypsies were executed
 upon these statutes, at one Suffolk assizes, a few years before
 the restoration. Black. Comm. v. IV. p. 165.

“ exterminated as a monster and a bane to human society,” and for what cause? because he had been proved to have transformed and disguised himself as an Egyptian, and to have talked in a canting, unknown language. Happy was it for the man, and to the honor of the nation, that a power resided in the breast of the Sovereign to restrain the ill directed zeal of the prosecutor.

Instead then of desiring to see a multiplication of the sanguinary laws, or an unrelenting execution of those which are now enacted, is it not a more rational and a more charitable wish, that many of them were annulled? But as there are some crimes, which the divine laws of nature and revelation determine to be capital, and a few other against the rights of society, when it may not be safe to spare the lives of the guilty, the point is, how to make the infliction of that severe penalty of the greatest utility.

Were judgment to be executed with speed and solemnity, or with privacy; it has been imagined, that it would be attended with surprising advantages. The first has already been partly tried upon murderers, but without the benefit expected: and this, probably, owing to the indecent manner of all our public executions. Nor does it seem practicable to render them more solemn, while people of the lowest degree claim a right to be present; not only as silent and mournful spectators of the dying pangs of their fellow creatures, sacrificed to the justice of the laws; but to encourage and applaud villains, who pretend to despise, and will even turn into ridicule their ignominious and fatal exit. The notion of criminals being
dispatched

dispatched privately would, it is likely, be much more shocking even to the croud without, as well as excite the utmost horror in the guilty sufferer; but this is as much contrary to our laws as a secret trial would be; and should it ever be allowed, might produce all those dreadful consequences, which nations, who enjoy not the advantages of a public execution, sensibly feel.

With a view of remedying these inconveniences, Mr Henry Fielding proposed that there should be an adjournment of the Court at the Old Bailey, for four days after the trials were ended; and that when that term was expired, sentence should be passed and the convicts immediately executed in an area within view of the Judges (1). He attributed the infrequency of executions in Holland to the solemnity of them, and to the Magistrates being always present at them. But may we not assign one more reason; that great care is probably taken of offenders during their confinement. Their houses of correction are certainly houses of labor; and we may well conclude that this politic nation observe the same wise regulations in their prisons.

Another method frequently urged for stopping the increase of robberies is, the changing of the penalty of death to a temporary or perpetual slavery, according to the malignity of the crime; and thus compelling malefactors to make some compensation by their labors to the injured sufferers, and to their country (2). But Slave being
a word

(1) Enquiry, &c. p. 125;

(2) Sir Thomas More, and Sir William Temple, were of this opinion: and the latter of these able men advises, "that
" the

a word unknown to our constitution, it has been no less frequently a matter of debate, whether the subjects of it would patiently bear the sight of their free-born brethren chained to the oar, the barrow, or the tarring-wheel. The House of Commons in the year 1752, did not judge such a punishment incompatible with the generally received notion of the liberty of Britons; nor were they sensible of any dangers likely to ensue from introducing this kind of servitude; since they passed a Bill for changing the penalty of felony in certain cases to confinement and hard labor in the Dock-yards. However, the Act was, after mature deliberation, rejected by the Peers; and of several reasons given for their Lordships's dissent, one was, that it would be a great discouragement to the shipwrights and other artificers, who would think it scandalous to be fellow-labourers with men of such infamous characters.

It was a proposal of Dr Manderville (3) that capital convicts should be used for the redemption of slaves in Morocco, Tunis, Algiers and other places on the coasts of Barbary. On which scheme one remark will be sufficient, that as he himself confessed it to be a very severe punishment for felony, it was rather extraordinary that he

“ the usual punishment of short and easy deaths, should be
 “ changed into some others of painful and uneasy lives, which
 “ they will find much harder to bear, and be more unwilling
 “ and afraid to suffer than the other.” *Miscell. v. III. p. 64.*
 The writer begs leave to submit once more to the consideration of those who have it in their power to try the experiment, whether any punishment more painful, or what criminals would be more unwilling and afraid to bear, can be contrived than what is the subject of this Letter.

(3) In his Enquiry, ch. VI.

he should ever conceive it would be admitted by his compassionate countrymen. And if the cruelty of this plan raises an aversion to it, the most distant hint of any kind of torture must make a reader tremble; who is not dead to all those tender feelings which the God of nature has impressed upon the mind of a Being created in his image. Nor is it easy to account for its being so long used in other countries, when no good, and many ruinous consequences have proceeded from it.

But, Sir, though these new prescriptions cannot be safely followed, or, at least, too great a hazard must be run in trying the experiment; we ought not to despair if there is a likelihood of obtaining relief by a strict observance of one long since established. In the political, as in the natural body, a variety of medicines may be hurtful; may, instead of palliating, increase the malignity of the disease; when a due attention to an old plain family recipe might have very salutary effects. It is well known that luxury has enlarged its compass soon after every modern Act of parliament for restraining it: and some have asserted, that the multiplication of penal laws has accumulated offenders, when a reasonable, steady, and vigorous exertion of the authority with which the Civil Magistrate was long ago invested, might have diminished them. And this appears to be no inconsiderable advantage of the regulation here proposed; since it will be only a revival of the powers intrusted, by our ancestors, to the Officers of Justice, for the suppression of wickedness.

If a Gaoler has in his custody a man who is refractory, turbulent, and dangerous; he, with-

out

out scruple, and without fear of censure, enforcés the absolute command with which the laws have armed him, and locks his prisoner into a close dungeon. And Justices of the Peace frequently order a strict and separate confinement, when they want to detect the ringleader, or discover the dark deeds, of some formidable gang. And if this mode of imprisonment is not contrary to our laws, why should it not be generally followed, when many good purposes, and no bad ones, can be served by it?

Among the former, there is another which ought certainly to be added to those already recited; that, as there will be less probability of an escape than there now is, there will not, except in extraordinary cases, be the same plea of necessity which is at present too commonly used, for loading all suspected criminals with irons of an enormous weight, unless they can afford to buy a lighter pair. Lord Coke is express, “that by the common law this ought not to be done;” Horn, in the Mirror of Justice, saith, “that it is an abusion of the law, that prisoners are put into irons, or other pain before they are attainted (1),” or as a passage from the book is cited by Bishop Ellys (2), “it is lawful for Gaolers to fetter those they doubt, so as the fetters weigh not more than twelve ounces.” The learned editor of Hales’s History of the pleas of the crown likewise declares, “that fetters ought not to be used, unless there is just reason to fear an escape, as where the prisoner is unruly, or makes any attempt to that purpose; otherwise, notwithstanding the
“ common

(1) Burn’s Justice under title Gaol.

(2) On Liberty, Part II. p. 14.

“ common practice of Gaolers, it seems altogether unwarrantable and contrary to the mildness and humanity of the laws of England, by which Gaolers are forbid to put their prisoners to any pain or torment.” And I must further observe, that it will be generally found that in those countries, where there is a separate confinement, fetters are disused; and that even the savage Officers of the Inquisition do not harass and torture their prisoners with chains.

By the alteration proposed, persons under only a suspicion of felony may be released from this grievous oppression, without paying for the indulgence; and if they are innocent, this ease and indulgence will be no small mitigation of a temporary confinement. That there may be some trivial inconveniences from adopting this scheme shall be admitted; and what plan is exempted from them: but if they are fewer and less than what we now visibly perceive, it must shew a want of true policy not to embrace it. I am not so sanguine as to suppose that it will work an universal reformation; but if a tenth, if a fiftieth, part, if only one in a hundred of the thousands who are committed to gaol were to be reclaimed by it, you would so far lessen the number of rogues; and restore so many useful members to the public. And, considering it in a religious view, let us remember, that he, who is the happy instrument of reclaiming an offender, has the promise of a future reward.

The learned author of the Commentary has pronounced it “ to be a peculiar honor to the laws of this country, their furnishing the title of a chapter of the means of preventing offences,

“ fences, and misdemeanors, since preventive
 “ justice is of every principle of reason, and of
 “ humanity, and of sound policy, preferable in
 “ all respects to punishing justice (1).” The
 surety usually required for keeping the peace,
 and for good behaviour when an offence is ap-
 prehended, is the subject on which this orna-
 ment of his profession has enlarged in this divi-
 sion of his useful work. However, on failure
 of this, as prisons are the remaining security, not
 only before, but after the commission of crimes,
 so they may be properly said to be used as a
 precaution against a repetition. But the mis-
 fortune is, that these means of prevention are,
 by gross mismanagement, become causes. That
 which was designed as an antidote is become
 rank poison. “ And when a people are cor-
 “ rupted by the laws, says a celebrated master
 “ of Jurisprudence, it is an incurable evil, be-
 “ cause it is the remedy itself (2).” Should it
 not then be the first endeavour to rectify this
 legal corruption?

There is no prison in the kingdom, where
 there are so great a number of abandoned cri-
 minals as inhabit Newgate; in no one there-
 fore can the abuses complained of have arisen
 to so great a height. Here then the alteration
 should begin, and if the city of London do but
 set a laudable example, it will, probably within
 a few years, be generally followed.

This, Sir Robert, was one of the reasons for
 my mentioning Newgate so frequently in this
 Letter. The other is, that as a new gaol is
 F now

(1) Vol. IV. p. 248.

(2) Montesquieu's Spirit of Laws, v. I. p. 123.

now erecting, a most favorable opportunity offers of establishing a regulation which before might not be practicable. Notwithstanding all the precautions which could be taken against the gaol fever, it was formerly the opinion of the Lord Mayor, all the Judges, and the Court of Aldermen, as well as of the most skilful and philosophical men, that the building of another prison would be the only effectual remedy (1.) And it might perhaps be as truly asserted, that all the other evils I have enumerated were as desperate, and irreparable, while the present infernal mansion continued to be the common receptacle of the malefactors. This obstruction will not, however, long remain. And it is a duty which the Magistracy of one of the most renowned cities in the world owe to their country, to guard against any such complaints being made hereafter. As the edifice is designed to last for many ages, let not posterity have cause to censure, and to lament in vain, the inattention, the neglect, or ill-timed oeconomy of their forefathers.

Far be it from my thoughts to insinuate the most remote suspicion of an unwillingness, in the Gentlemen employed to direct and superintend the rising structure; to avail themselves of every useful hint submitted to their examination, from whatever quarter it may come. They will, doubtless, discharge with fidelity and spirit the important office with which they are intrusted; and with such superior knowledge, that the inscription, placed by Pope Innocent X. over the entrance of a prison in Rome, may be, with
equal,

(1) Janssen's Letter, p. 4.

equal, perhaps more, propriety engraved on the frontispiece of the New Gaol, expressing it to be a Building dedicated To CLEMENCY AS WELL AS JUSTICE, AND FOR THE MORE SECURE AND MILDER CUSTODY OF CRIMINALS (2);

(2) Keyfler's Travels, 8vo. edit. vol. I. p. 370.

I am, with the truest respect,

S I R,

Your obedient

and humble Servant.

Jan. 24,
1771.

P O S T S C R I P T.

IT is a mortification to the writer, to perceive several inaccuracies in the stile of his Letter, which had escaped his notice. When a man presumes to deliver his thoughts in print, haste
is

is rarely allowed to be a justifiable plea for mistakes; but the author is willing to hope, that, after his readers are apprized of the cause of his impatience, they will candidly admit it to be a plausible, though not a sufficient excuse. A friend had acquainted him with the progress made by the workmen employed on the intended prison; and it was intimated, that if the scheme proposed should be approved of, an additional expence might be incurred by his delay. He was likewise told, that as the Corporation of Dublin had come to a resolution of erecting, very speedily, a new gaol in that city; they might, from a representation of the utility of a separate confinement of criminals, be prompted to adopt a plan that would effectually answer that purpose.

E R R A T A,

- Page 26. Line 6. *for of, read as.*
 42. 14. *twelve, read two.*
 43. In the note (3) *for 157, read 86.*
 (4) *for Mosheim's Eccles. Hist. read*
 Baretti's Journey.
 51. Line 20. *dele in.*
 62. 14. *of.*