France Looks To Pennsylvania

The Eastern Penitentiary as a Symbol of Reform

RECENT scholarship in the field of historical penology has done much to illuminate the history of one of the most important penal institutions in the Western Hemisphere, the Eastern State Penitentiary in the Cherry Hill district of Philadelphia. Its predecessor, Walnut Street Jail, and Cherry Hill, as the early nineteenth-century prison was sometimes called, have been studied in a number of articles and books. The theory of solitary imprisonment, of which Cherry Hill became the embodiment, has also received adequate attention. But a wider aspect of this subject, the influence of this Pennsylvania penal system abroad, has been largely ignored. Such a study is of interest in several respects.

Transcending local history, the story of the spread of the Pennsylvania system of prison discipline to France, England, Germany, and other countries forms an important chapter in the history of the influence of the New World upon the Old. The impact of Europe on America has long been a subject of interest to American historians. Recently, somewhat more attention has been devoted to the flow of ideas and institutions from west to east. Such studies have been particularly revealing in disclosing the significance of the United States as a symbol of reform in France. Aside from being a chief center of reform movements in the United States, cosmopolitan

Philadelphia was a haven for French refugees in the late eighteenth and early nineteenth centuries. Thus, the institutions of Pennsylvania were in a favorable position to play a significant role in the shaping of new governmental and social institutions in France.2 While the Pennsylvania prison system was studied and adopted in modified form by many European countries, it was the French reformers who displayed an initial interest in it, and it is in France that it still exists today. The history of the Pennsylvania, or solitary, system in France is also of interest because of the relationship of the reform movement to that country's political history. The destruction on five occasions of the plans of the prison reformers by governmental changes in France is illustrative of the close relationship of a nation's political development and its social and cultural history. In this story the European historian might find suggestive leads for the study of social reforms and political revolutions in other countries.

Interest in the individual confinement of prisoners first was indicated during the French Revolution. Prisons of eighteenth-century France were organized on the congregate plan under which all prisoners, regardless of age, sex, offense or sentence, were confined together in large cells. The earliest attempt to correct these conditions was a law of October 6, 1791, which decreed that every person sentenced to prison "shall be locked up alone in a place, into which daylight shines, without irons or fetters; he shall not have any communication with other convicts or with persons without, as long as his imprisonment lasts."3 Providing for the confinement of each prisoner in a separate cell, the law was enacted forty years before the construction of the famous Eastern Penitentiary at Philadelphia, which was to become the "model" prison of this type. Gustave de Beaumont and Alexis de Tocqueville were not far wrong in writing of the law of 1791, "This is exactly the theory of solitary confinement: it is the


system of Cherry-Hill. . . .” Actually, there were other things, such as individual exercise yards and craft labor in the cells to alleviate the monotony of separate confinement, which were important characteristics of the Pennsylvania system of discipline. But the basic principle of that discipline, absolute separation in individual cells during both day and night, with no communication between prisoners, is found in the early French law.

Nevertheless, the Eastern Penitentiary and the earlier Walnut Street Jail at Philadelphia were to be much more important than this French precedent in influencing the French prison system, for the principles enacted in 1791 were not put into practice completely and the law itself passed into oblivion. Under the Consulate it was allowed to languish, for as soon as “Bonaparte had been invested with consular dignity, he decreed the establishment of ‘central houses of detention,’ without taking the pains to cause the abolishment by the constitutional powers, of the laws contrary to this decree.” Thus, for the first of several times, a change in France’s government resulted in the destruction of a projected program of prison reform.

The visit of François, Duc de la Rochefoucauld-Liancourt, to the United States, but a short time after the experiment of 1791, marks the beginning of the celebration of Pennsylvania penal theories in France. La Rochefoucauld was a prominent political figure, philanthropist, and agronomist who had sat in the Estates-General and later was elected president of the National Assembly. In 1793 he visited America and studied the reforms which the prison society of Philadelphia had introduced at the Walnut Street Jail. The society attempted to reform convicts by religious instruction, by separation of the sexes, “by the prohibition of spirituous liquors, by exclusion of improper connexions from without, and by confining the refractory

4 Ibid., 99 and note. This law has been generally overlooked in investigations of the origins of the separate system in France. Most scholars have assumed that the French reformers were first influenced by Pennsylvania institutions. This law seems to have been enacted before knowledge of the reforms at the Walnut Street Jail in Philadelphia reached France. It appears more probable that the law was influenced by John Howard’s State of the Prisons (published in 1777), rather than by either early Pennsylvania or Italian institutions, such as the papal hospice of Clement XI at Rome. See John H. Cary, “Solitary Confinement and the Prison Reform Movement in France” (unpublished M.A. thesis, Pennsylvania State University, 1951), 16–19.

to solitude, low diet, and hard labor.” These Pennsylvania reforms La Rochefoucauld supported in government circles upon his return to France and brought to the attention of the French public in a small pamphlet on prison reform. Napoleon, however, was engaged in his great European war and had little interest in prison reform. It was the government of the restored Bourbons which was to mold La Rochefoucauld’s proposals into law, not the government of the First Empire.

Louis XVIII was personally interested in prison conditions, and shortly after the restoration he attempted to ameliorate them. A royal ordinance of August, 1814, recognized the unfortunate state of France’s penal institutions, and another, dated September 9, provided for the construction of an experimental prison at Paris modeled on the Philadelphia plan. The similarity of the aims of this second act to those of the Walnut Street Jail is clear from the preamble. A regime was to be introduced in the prisons which would correct the vicious habits of criminals and prepare them to be peaceful, useful citizens of society upon their release. The convicts were to be made good citizens by discipline, work, and religious and moral instruction. All prisoners under twenty years of age were to be confined in a special prison to be designated by the minister of the interior. Evidence of the king’s sincere interest in reform was his appointment of La Rochefoucauld as director general of this experimental prison. Once again, however, the prison reform program was disrupted by political revolution. The turmoil of the Hundred Days prevented the execution of the law of September 9, 1814, and the second major attempt by France to reform her prisons through the separation of convicts failed.

The attempt was not, however, entirely forgotten. By an ordinance of April 9, 1819, Louis XVIII created the Royal Society of Prisons to work for the improvement of penal institutions. This group, under

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6 Negley K. Teeters, They Were in Prison (Philadelphia, 1937), 49.
7 François, Duc de la Rochefoucauld-Liancourt, Des prisons de Philadelphie (Philadelphia, 1796).
8 The law is quoted in Charles Lucas, Du système pénitentiaire en Europe et aux États-Unis (Paris, 1830), III, lxxvi.
9 Ibid., lxxvii.
the presidency of the Duc d'Angoulême, a nephew of Louis', fought for many of the reforms that La Rochefoucauld had advocated. Of greatest interest here is the society's promotion of a plan to separate convicts by categories. This was not the Pennsylvania system as it was later developed in the Eastern Penitentiary at Philadelphia, but it was a long step in that direction in comparison with the congregate system of France. The Royal Society proposed the separation of first offenders from hardened criminals, of males from females, and of other classes of prisoners into different cellblocks.

Aiding the Royal Society in its struggle to introduce a penitentiary system into France was the famous Parisian barrister and economist Charles Lucas. He believed that the penitentiary system was necessary if capital punishment was to be abolished and recidivism decreased. Part of a petition addressed by him to the chambers was a demand "for the execution of the ordinance of September 9, 1814, relative to the adoption of the penitentiary system in France." Lucas favored this plan of La Rochefoucauld, because, according to him, it had prevented escapes, remarkably reduced the number of second offenders, and decreased the maintenance and construction costs of prisons in the United States.

Like the preceding attempts at reform, the efforts of Lucas and the Royal Society miscarried and were forgotten by most people in France by the 1840's, when the adoption of the Pennsylvania system became the leading issue. The Royal Society was dissolved when the Bourbon government that had established it fell in 1830, and the proclamations of the new monarchy provided more pertinent reading matter than did Lucas' three large volumes on prison reform.

Fortunately for the supporters of the separate system, the governments which came to power after these revolutions were also interested in prison reform. In fact, it was between 1830 and 1848 when Louis-Philippe was on the throne of France that the lines of combat were drawn in the fight over prison reform which was to be waged throughout the rest of the century. And directly in the center of the struggle stood the new Eastern State Penitentiary at Philadelphia. Scarcely one debate was conducted in French legislative halls,
scarcely one pamphlet was published in the large, controversial literature on the subject, in which the Cherry Hill prison was not the focal point of controversy. There were proposals for other types of punishment, such as transportation to penal colonies, but whenever the question concerned the discipline to be used within French prisons, the solution proposed was either the separate system of Pennsylvania or the silent discipline of Auburn prison in New York.

The opening of the Eastern State Penitentiary in October, 1829, was the culmination of a decade of reform and of careful planning to erect a model prison incorporating the most advanced penological theories of the day. Petitions of the Philadelphia Society for Alleviating the Miseries of Public Prisons brought action by the state legislature in 1821. On March 20 of that year funds were appropriated for a new prison. After an architectural competition, the plans of the English-born Philadelphian John Haviland were approved. Since each prisoner was to be confined alone, with no contact with other inmates during his entire sentence, the cells were extraordinarily large and had individual exercise yards attached. Wings of cellblocks radiated from a central hub, from which guards could observe all parts of the prison. These architectural features set a pattern for many similar European prisons which adopted the separate system of discipline. Within a few years the plan of Cherry Hill was to be nearly as well known in European governmental circles as the theory of solitary confinement itself. Prison commissioners from Europe came to Philadelphia for the express purpose of inspecting the new building, and countless visitors viewed it during their travels. Charles Dickens and Harriet Martineau were but the most famous of those whose travel accounts made literate Europeans acquainted with the Pennsylvania penitentiary.

America's second most important penal institution, that at Auburn, New York, had first been planned as a congregate prison, but was converted briefly to the Pennsylvania plan of solitary confinement. Soon, however, official thinking changed again. Believing that total separation was too rigorous for the sanity of inmates, a compromise was settled upon. Convicts were isolated at night, but during the day worked together in shops and ate in common dining halls. Complete silence was to be maintained at all hours, however, this “silent” discipline, as it was called, being enforced by the whip.
After 1830, when the relative merits of the Pennsylvania and Auburn systems were under discussion in France, the leadership in the prison reform movement was divided among a score of prominent men. Alexis de Tocqueville and Gustave de Beaumont were the first and most noted of the supporters of the separate discipline. In 1831 these young magistrates persuaded the minister of the interior to commission them to visit the United States and report on the prisons there. During their tour of this country, they discovered a storm raging in American prison circles as to the value of the disciplines used in its two leading prisons.\(^{14}\) Auburn officials tried to convince the French commissioners that France should adopt the silent system, since separating each convict during his entire confinement made madmen of many of the prisoners at Philadelphia. On the other hand, the officials at Eastern State Penitentiary argued that the Auburn prison was too lax, and that the solitude of their own system actually reformed the convicts by giving them an opportunity to meditate on their crimes and, by their gaining an "inner light"—one of the central tenets of Quaker theology—to correct their evil dispositions. In the official report of their trip to America, Tocqueville and Beaumont tried to remain nonpartisan and to avoid committing themselves to the support of either of the American prison disciplines. Actually, they gave their support to both.

The French commissioners felt that both systems, by forbidding talking, prevented the mutual corruption among prisoners which was a salient aspect of the congregate prisons in France. However, they felt that the Eastern Penitentiary was more likely to eradicate such corruption since it did not allow convicts even to see each other.\(^{15}\) They also believed that the Philadelphia institution did more to reform convicts, though they found "every reason to believe" that, by preventing all social intercourse, it would prove more injurious to the health and sanity of prisoners.\(^{16}\) They stated that "if the question were only on a theoretical point," they should prefer the Pennsylvania to the Auburn system.\(^{17}\) But, since the expense of constructing

\(^{14}\) For an account of the travels of Tocqueville and Beaumont, see George W. Pierson, *Tocqueville and Beaumont in America* (New York, 1938). It was on this trip that Tocqueville observed the customs and institutions of which he was to write in his classic *Democracy in America*.


\(^{16}\) Ibid., 51, 59, 47.

\(^{17}\) Ibid., 90.
prisons on the Auburn plan would be much less, it was that discipline which they “should wish to see applied to... [French] prisons, if the question were only to choose between the two.” Yet it was but a short time after this that Tocqueville and Beaumont, because of severe criticism of separate confinement in France, were defending the Pennsylvania prison in the Chamber of Deputies and creating in the European mind an image of it as the most important penal institution in the Western Hemisphere.

The report of Tocqueville and Beaumont set the stage for the struggle over adoption of the separate system. Other writers and reformers took their cue and entered the fight, some in support of and others in opposition to individual confinement. The French government decided that further investigation of foreign prison systems was justified, and appointed two more commissions to undertake this task.

Louis Moreau-Christophe was instructed to visit England, Scotland, Belgium, and Switzerland, where some separate prisons were already in operation. In his report of 1836 to the minister of the interior, Moreau-Christophe clearly sided with the advocates of solitude, rather than with the supporters of silence. He believed that the Pennsylvania system did much more to prevent corruption and to reform the inmates than did that of Auburn. “The one,” he wrote, “is a fiction; the other is a reality. But the fiction of the one is a tribute rendered to the reality of the other.” Moreau-Christophe was inspector general of French prisons, and used the experience gained in this capacity, as well as information collected during his trip, as the basis of two further works. One was an exposé of the bad conditions in French prisons; the other was primarily a defense of the Pennsylvania system against the charge that it fostered insanity.

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18 Ibid.
19 For the development of their ideas, see the later editions of their report, particularly the lengthy preface to the second edition, *Système pénitentiaire aux États-Unis* (Paris, 1836).
21 Ibid., 242.
22 Moreau-Christophe, *De l'état actuel des prisons en France, considéré dans ses rapports avec la théorie pénale du code* (Paris, 1837), and *De la mortalité et de la folie dans le régime pénitentiaire* (Paris, 1839), particularly pp. 10–11. Two Geneva doctors had claimed that the separate system was injurious to the health and sanity of prisoners, and Moreau-Christophe issued his second work to refute their arguments. The two works in which these charges appeared were M. Coindet, *Observations sur l'hygiène des condamnés du pénitentier de Genève*, and M. Gosse, *Examen médical et philosophique du système pénitentiaire*. 
The other French prison commission went to the United States to check the conclusions of Tocqueville and Beaumont. Two almost equally famous men served on this commission—Frédéric-Auguste Demetz, a prominent political figure and philanthropist, and Guillaume Blouet, the most celebrated French architect of the day. Demetz was to gain fame as the founder of an important agricultural reform school at Mettray; Blouet headed several government commissions on architecture, was a professor at the School of the Fine Arts, and was responsible for the final form of the Arc de Triomphe. In visiting the United States Blouet expected to investigate the architecture, construction, and expenses of the prisons, while Demetz studied American penological theory. They wrote separate reports of their investigations for the minister of the interior, which were published in one volume in 1837.

Demetz declared his sympathy for the theories practiced at Eastern Penitentiary because further corruption of prisoners there seemed improbable, while “improvement [was] probable, and in a large number of cases certain.” Also, solitude appeared to him to be conducive to “reflection, meditation, prayer, and reading,” and to give officials an opportunity to study each inmate’s character and background individually. Finally, he advocated the separate discipline because isolating the prisoners allowed a man to leave prison without the fear of meeting an old cellmate on the street who might lead him back into crime.

Guillaume Blouet’s report was a description of the physical plants of each of the American prisons, together with plates of the architectural plans and a comparative analysis of the expenses of construction. This last forced him to admit that the Auburn system offered a substantial saving in building costs. However, he ingeniously argued that the danger of riots and escapes in prisons with the silent discipline was much greater than in institutions on the Pennsylvania plan. This, according to Blouet, raised personnel costs to ensure security, thereby offsetting the difference in construction expenses.

24 Ibid., 43-44.
25 Ibid., 44.
In 1838 another publicist, Victor Foucher, came to the aid of Demetz and Blouet with a book in which he claimed that the Pennsylvania discipline was the only one which effectively punished crime, prevented corruption of prisoners, and also reformed them.\(^{27}\) He, too, attempted to answer the usual arguments against solitary confinement, including the charge that it was injurious to health and sanity.\(^{28}\) For the Auburn system Foucher had nothing but criticism. "The capital vice of the Auburn rule is to not prevent acquaintance among the prisoners, and to subject them to a regime of force [the whip] in order to stop all communication between them, without even attaining that result."\(^{29}\)

Not all of the writings on prison reform during the first decade of the Orleanist Monarchy were by supporters of separate confinement. The year 1838, for example, also witnessed the publication of a three-volume work by Charles Lucas, the most distinguished of all French penal reformers. Lucas attempted to answer the arguments for individual imprisonment which had been put forth by Beaumont and Tocqueville, Demetz, Blouet, and certain foreign observers.\(^{30}\) He believed that life in common was absolutely essential to the preservation of the mental and physical faculties of man. "Man is born sociable . . . [and solitude is] a state against nature."\(^{31}\) Lucas would have permitted the use of separate confinement, but only for those awaiting trial, for those sentenced to two years or less, and as an extraordinary punishment for incorrigibles and convicts who violated prison regulations. And, even in the case of persons sentenced to two years or less, if the term was served in solitary, Lucas recommended a reduction in sentence to a maximum of eight months. He also felt that prisoners subjected to this discipline should be allowed to speak

\(^{27}\) Victor Foucher, *Sur la réforme des prisons* (Rennes, [1837]), 43.

\(^{28}\) *Ibid.*, 59–82.

\(^{29}\) *Ibid.*, 43.

\(^{30}\) William Crawford of England and Nicholas Julius of Prussia, both of whom had visited the American prisons as commissioners for their governments. Charles Lucas, *De la réforme des prisons* (Paris, 1836–1838), III, 510–522, 531–551. Harriet Martineau’s famous analysis of American society was published at Paris in 1837, but her comments on prisons probably had little influence, since Lucas did not bother to refute her statements that reform was impossible under the Auburn rule and that the Pennsylvania discipline was the best method of punishment that had yet been tried. Harriet Martineau, *Society in America* (Paris, 1837), II, 195–196.

\(^{31}\) Lucas, *De la réforme des prisons*, III, 471.
to each other, to families, and to friends with permission, and to attend chapel services together.\textsuperscript{32} 

In 1838, Lucas received support in his fight against an absolute separate system from Léon Faucher, a noted French economist and political figure. In a small book bearing the same title as that of Lucas', Faucher severely criticized the Pennsylvania system. However, in comparing the two American disciplines, Faucher made it clear that he did not favor an unmodified Auburn plan either.\textsuperscript{33} In applying the silent system to French prisons, he recommended that only prisoners of the same category be allowed to work in common. Thus, first offenders would be in one shop, more hardened criminals in others.

Despite the opposition of Lucas and Faucher, the supporters of the Pennsylvania system were making headway. Such changes as they desired could be introduced in two ways, by legislation and by administrative decree. As early as 1836, the minister of the interior had been persuaded to try the latter method. On October 20 of that year, a circular was issued which introduced a form of solitary confinement.\textsuperscript{34} It was not, however, enforced in most of the departments, and agitation for a new decree continued. Such a decree was finally issued on August 9, 1841.

The circular of this date from the minister of the interior outlined the regulations for departmental prisons, ordering all such institutions to “rigorously satisfy the conditions of this program which concern[ed] individual separation by day and night.”\textsuperscript{35} Provisions were to be made for meeting all the needs of the prisoners—including circulation of air, toilet facilities, sustenance, and religious services—without allowing them to leave their cells or communicate with other prisoners. Individual exercise yards, as at Eastern Penitentiary in Philadelphia, were also to be provided.\textsuperscript{36}

\textsuperscript{34} George Vidal, \textit{Cours de droit criminel et de science pénitentiaire} (Paris, 1928), 29.
\textsuperscript{36} \textit{Ibid.}, Articles 3 and 10. For the complete instructions to the departments, including architectural designs and construction programs for solitary prisons, see France, Ministère de l'Intérieur. \textit{Instruction et programme pour la construction des maisons d’arrêt et de justice} (Paris, 1841).
Even while the separate system was achieving this apparent triumph, its advocates were pressing for something more. Feeling that a legislative act would be more permanent and authoritative than an administrative circular, they supported legislation in the Chamber of Deputies for the introduction of the Pennsylvania discipline in French prisons. In 1840 the Deputies had rejected a government bill providing for the creation of a system of prisons on the Auburn plan. Since the supporters of the separate system were not strong enough to force through an unadulterated version of their scheme, a compromise bill was brought back. As finally accepted by the Deputies, the bill provided for isolation by day and night for the first ten years of imprisonment, after which convicts would be transported to a penal colony. Before this was adopted, however, a protracted struggle was to be waged both within and without the Chamber.

The supporters of the bill were large in prestige as well as in numbers. No less a figure than Alexis de Tocqueville introduced the bill on July 5, 1843. Aiding him in the fight within the Chamber were two of the ablest defenders of the solitary system, Beaumont and Alphonse Bérenger. Outside the Chamber the supporters of the plan were equally strong.

In 1843, Guillaume Blouet used his early experiences in America to write a second work. His *Projet de prison cellulaire* was, in fact, a much better work than his official report of 1837 to the minister of the interior. He advised against building prisons on the Auburn plan, since, if the government should ever decide to introduce separate confinement, the cells would be too small for continual separation. Thus, new buildings would have to be constructed at great expense, whereas, if solitary prisons were constructed initially, their large cells could easily be adapted to the Auburn or any other discipline. Blouet also argued that maintenance and personnel costs of separate prisons would be lower, since more convicts were reformed by this discipline and since the severity of the rule would allow a diminution.

37 Vidal, 28.
38 Pierson, 713.
in the length of sentence.\footnote{41} Blouet favored the theory of separate confinement as well as the architectural advantages of prisons built on this plan. He denied that silence was maintained at Auburn Prison and stated that, even if silence could be preserved, the convicts could see each other and be corrupted in that way.\footnote{42} Moreover, it was actually the Auburn rather than the Pennsylvania discipline which bred insanity, because of the smaller cells and lack of exercise at Auburn.\footnote{43} After stating his arguments for separate confinement, Blouet turned to his specialty, architectural design. He outlined a plan for an eight-wing “model” prison, based on the radiating-spoke design which had been used in the Philadelphia prison. He explained the cells, infirmary, sanitation system, and other aspects of the prison in detail, and stated that it was meant to accommodate from five hundred to six hundred convicts in separate cells at a very low cost.\footnote{44}

The year following the publication of Blouet’s book—and while the Deputies were debating the proposal of Tocqueville—Louis Moreau-Christophe re-entered the fight by rushing a book to press which defended the bill in the Chamber. He attempted to refute the standard criticisms of the separate discipline: that it was too expensive, that it prohibited celebration of the Catholic Mass, that it was responsible for increased recidivism, and that it was injurious to health and sanity.\footnote{45}

In 1844 the prominent German reformer George Varrentrapp also came to the aid of the legislative supporters of separation by publishing a refutation of the arguments of Lucas and Faucher. He claimed that these writers did not base their conclusions upon statistics. Or, if they did use figures, they used them selectively to prove their point and ignored any which might be used against the Auburn system.\footnote{46}

\footnote{41} Guillaume Blouet, \textit{Projet de prison cellulaire pour 585 condamnés} (Paris, 1843), 15.
\footnote{42} Ibid., 8.
\footnote{43} Ibid., 12.
\footnote{44} Ibid., 17-40.
\footnote{45} Moreau-Christophe, \textit{Défense du projet de loi sur les prisons contre les attaques de ses adversaires} (Paris, 1844), 133-144. Part of this work was devoted to a refutation of the devastating criticism which Charles Dickens had leveled at Eastern Penitentiary. Dickens had investigated the prison during his visit to America in 1842, and recorded his impressions in the journal of his trip. In the literary idiom which only he could summon to the aid of the oppressed, he described the tears streaming down the cheeks of more than one prisoner at Cherry Hill. Charles Dickens, \textit{American Notes} (Vol. XXVIII in Andrew Lang, ed., \textit{The Works of Charles Dickens} [New York, n.d.]), 121-122, 124.
\footnote{46} George Varrentrapp, \textit{De l'emprisonement individuel} (Paris, 1844), 1-3.
Varrentrapp devoted most of his work to demonstrating how statistics could be used equally well to prove the superiority of the Pennsylvania discipline.47

The supporters of the separate system thus had strong batteries firing rounds in defense of their bill. Lucas was forced to face this barrage almost alone, although he could summon the aid of Faucher’s pen for the propaganda campaign. Lucas did not categorically oppose the separate system, but objected to its use for long sentences. Because of the opposition Lucas was able to muster, it required more than forty sittings of the Chamber for the supporters of the bill to gain their victory. Though the bill was introduced in July, 1843, the general discussion did not end until April 26, 1844, and the discussion of specific articles continued until May 18.48 On that day a vote was called on the bill as a whole; the tally showed 231 ayes and 128 nays, only 180 votes being necessary for passage.49

While still rejoicing over their victory in the Chamber of Deputies, the Tocqueville forces were to meet defeat. And for this defeat they could blame neither a political upheaval, as before, nor the opposition of Charles Lucas and other opponents of separate confinement. It was a group of their fellow reformers who destroyed the work which the Deputies had accomplished. When the bill was sent to the Chamber of Peers it was rejected, not because it was too strong, but because it was too weak. The advocates of the Pennsylvania system in the upper house wanted all or nothing, and demanded that individual confinement be applied to convicts for the full term of their imprisonment rather than for the first ten years only.

To carry out their plan, the Peers began consideration of a bill proposed by M. Duchâtel, minister of the interior, in a volume issued in 1846. Duchâtel formally gave his bill to the Chamber of Peers on January 25, 1847.50 The government proposal was referred to a commission, slightly revised by it, and presented to the Chamber on April 30 by Alphonse Bérenger, together with his report on the bill.51 Article six of the bill provided that accused persons, as well as convicts, should be separated, “the ones from the others during the day

47 Ibid., 13-15, 31-34, for example.
48 Le Moniteur Universel, Apr. 27, 1844, pp. 1109-1116; May 19, 1844, p. 1419.
49 Ibid., May 19, 1844, p. 1419.
51 Ibid., Apr. 26, 1847, p. 920; May 1, 1847, pp. 1006-1017.
and night." While Article Seven ordered that the prison rules should determine the necessary means "to prevent all communication between the inmates," there were a number of ameliorating provisions, such as allowing visits from the doctor, the chaplain, and from families and friends.

Though the bill was more severe than that over which the Deputies had struggled, the chance of passage by the Peers seemed bright. Several things contributed to this optimism. One was the publication of a new book in support of the separate system by Frédéric Demetz. Once again he denied the charge of high insanity and mortality rates at Eastern Penitentiary in Philadelphia. With more direct reference to the bill in the Chamber of Peers, Demetz pointed out that the proposal was for a modified separate discipline. Unlike the practice in the Philadelphia institution, visits by a prisoner's family would be allowed in the new French prisons.

Of even more importance than the support given the bill by publicists at home was the march of events in other European countries. France had been the earliest leader in the separate movement, having sent Tocqueville and Beaumont to study it in America in 1831. England, Prussia, and other states followed France in sending investigating commissions. But these countries soon wrested the leadership in the movement from France by actually experimenting with separate prisons. England in 1835, Belgium in 1838, Sweden in 1840, and Denmark in 1846, all adopted the solitary discipline in whole or in part. The advocates of separate confinement in France could thus cite the prisons of all these countries, as well as their model at Philadelphia, as examples of the efficacy of the discipline. Furthermore, at its Frankfort meeting in 1846, and again in 1847, when it met at Brussels, the International Penitentiary Congress unanimously adopted resolutions favoring the Pennsylvania prison discipline.

The fact that an overwhelming share of the most important countries of the western world favored individual imprisonment was bound to lend impetus to the movement in France. These factors made it seem quite probable that the Peers would enact into law the

52 Ibid., Jan. 30, 1847, p. 175.
53 Ibid., Articles 7, 33-37.
55 Ibid., 26.
56 One of these resolutions is quoted in Teeters, *They Were in Prison*, 189-190.
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bill providing for absolute separation of all convicts in French prisons. But, once again, political revolution was to interfere with social reform. The bill was on the point of being debated when the revolution of February, 1848, overthrew the government which had sponsored it.

Not all was lost for the supporters of the separate system, however. The circulars of the minister of the interior, issued in 1836 and 1841, had never been revoked, so that throughout the forties something had been done in some of the departments toward the establishment of solitary prisons. On August 20, 1849, M. Dufaure issued another circular, which confirmed the earlier two, by ordering both the continuation of work already begun and the construction of new departmental prisons on the separate discipline plan. Thus, by 1852, despite the legislative defeats, forty-seven departmental prisons had been established on the solitary plan and fifteen more were in the process of construction.57

The belief of the supporters of the Pennsylvania system that legislation would prove safer and more permanent than administrative decrees nevertheless proved to be correct. Under the Second Empire, M. Persigny, the new minister of the interior, wiped out all the victories these men had achieved. By a circular of August 17, 1853, he abrogated the previous instructions of 1836, 1841, and 1849, on the grounds that individual confinement had not been sufficiently studied.58 One student believes that the real reason for Persigny's destruction of the separate system was to promote a system of transportation to the colonies.59

Whatever the reasons for the abolition of the Pennsylvania system, it was effectively suppressed for more than twenty years, as was the entire prison reform movement, whether it was for the separate, the silent, or any other system. During the Second Empire there were none of the legislative proposals and prolific writings which had been characteristic of the Orleanist Monarchy. The reasons for the suppression of the prison reform movement are relatively clear. The ruler of the Second Empire was in many respects more authoritarian than his uncle who had ruled the First. These totalitarian tendencies

57 Vidal, 29.
58 Ibid., 29-30.
59 Pierson, 714. Transportation was, in fact, introduced into France in 1854, partly because it fitted in well with the imperial ideas of Louis Napoleon.
made it almost *de rigueur* that any reform proposal emanate from the
government. Also, the government in power was not actively inter-
ested in prison reform, and, in any case, had its hands full with other
domestic problems and a rather badly muddled foreign policy. But
in largest part, the inactivity in prison reform during the period from
1850 to 1870 was the result of the mid-century politics which ended
the political careers of three of the major reformers. Alphonse
Bérenger retired to private life when the revolution of February re-
sulted in the suppression of the Chamber of Peers. The political
careers of Beaumont and Tocqueville were ended because of their
protests against the *coup d'état* of December 2, 1851. While these
reformers retired from politics, others were lost by death, Blouet in
1853 and Faucher the following year. With the passing of these five
men much of the interest in the prison reform movement passed too.
Thus, until 1870, when France underwent another revolutionary
change in government, the movement lay dormant. By that time,
only Charles Lucas was in the field to hand on the tradition of prison
reform to the new group of men who were to be active during the
Third Republic. As a result, it was the moderate, compromise plan of
Lucas, rather than the full separate discipline of Philadelphia's
Eastern Penitentiary, which was embodied in the famous prison
reform law of June 5, 1875.\textsuperscript{60} Only offenders sentenced to one year
and one day or less were to be confined in the "solitary" prisons.
Significantly, it is this same law, in substance, which regulated the
penal institutions of France during the first half of the twentieth
century. And, in the provision for short-term convicts, the law re-
ffects the influence of the prison erected in Philadelphia during the
third decade of the nineteenth century.\textsuperscript{61}

\textsuperscript{60} Lucas' influence was actually but one, though a very important one, of several factors
that determined which offenders should be subjected to solitary confinement. The weak con-
dition of the Treasury was also important.

\textsuperscript{61} Charles Germain, director general of the French Prison Administration, in an article on
postwar prison reform in France, has written: "... a statute of 1875, the provisions of which
on this point were conserved by the Commission of 1945, prescribed that terms of one year or
less should be served in solitary confinement, night and day, according to the regime which, in
memory of the old Walnut Street Prison, we continue to call Pennsylvanian." He goes on to
mention a "recent limited experiment" made by the department of prisons, not by legislative
act, in modifying the law of 1875. By recent he means sometime between 1945 and 1954, when
the article was written. This was the first important modification of the separate confinement
The importance of the Pennsylvania prison system was, however, much greater than the moderate French law of 1875 would indicate. In the light of twentieth-century criminology, the advocates of separation may appear naïve in their belief that convicts would reform themselves if locked up alone, and their system may seem to be pointless cruelty. Nevertheless, it did stem from the humanitarianism and belief in progress of one of the greatest reform epochs in history. And, in its goal of reforming inmates rather than merely punishing them, it embodied the noblest principle of penology yet conceived by mankind. From the young Commonwealth of Pennsylvania, the theory of this prison system spread throughout Europe and received the unanimous approval of a world-wide penological congress. Several European countries adopted the separate plan, and, in so doing, provided the historian with further evidence of the importance of Young America as a symbol of reform in Europe.

Even in France, the slight provision for separation of convicts that was a part of the law of 1875 belies the great influence of the Pennsylvania system. The adoption of this system was the central issue in French penological circles during much of the century. Vigorous debates in the two chambers had centered on it, and a large and thoughtful literature had been written about it. It had, in fact, been introduced by administrative decree in forty-seven French prisons. The failure to establish a permanent system of solitary confinement for all prisoners was due to French politics, not to lack of support for the plan. It was a political upheaval which destroyed the law of 1791, providing for separate confinement. In 1814, La Rochefoucauld’s experimental prison was forgotten with the return of Napoleon from exile, and the Royal Society of Prisons was dissolved upon the overthow of the Bourbons in 1830. The February Revolution of 1848 disrupted legislation in the Chamber of Peers, and Persigny’s abrogation of earlier circulars establishing separate imprisonment represented the attitude of the new government. Finally, it was the course of French political history which, by thinning the ranks of the prison reformers and leaving Lucas predominant in the field, determined the nature of the discipline in French prisons of the twentieth century.

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