

## GENERAL VIEW, &amp;c.

BUT it may be said, enough of the declamatory kind has been written by others. Much it is true, has been written: yet I beg leave to transcribe, a few lines from a celebrated author, which may be thought to come under that description. After representing the calamitous case of prisoners, he goes on to this purpose, "The misery of Gaols is not half their evil; they are filled with every corruption which poverty and wickedness can generate between them; with all the shameless and profligate enormities that can be produced by the impudence of ignominy, the rage of want, and the malignity of despair. In a prison the awe of the public eye is lost, and the power of the law is spent; there are few fears, there are no blushes. The lewd inflame the lewd, the audacious harden the audacious. Every one fortifies himself as he can against his own sensibility, endeavours to practise on others the arts which are practised on himself; and gains the kindness of his associates by similitude of manners."\*

BESIDES the grievances already mentioned; there are several *bad customs* in Gaols, and relating to them, which aggravate the distress of prisoners. I shall enumerate these distinctly, yet concisely.

\* The Idler, No. 38.

## SECTION

## SECTION II.

## BAD CUSTOMS IN PRISONS.

A CRUEL custom obtains in most of our Gaols, which is that of the prisoners demanding of a new comer GARNISH, FOOTING, or (as it is called in some London Gaols) CHUMMAGE. GARNISH. "Pay or strip," are the fatal words. I say *fatal*, for they are so to some; who having no money, are obliged to give up part of their scanty apparel; and if they have no bedding or straw to sleep on, contract diseases, which I have known to prove mortal.

IN many Gaols, to the Garnish paid by the new comer, those who were there before make an addition; and great part of the following night is often spent in riot and drunkenness. The gaoler or tapster finding his account in this practice, generally answers questions concerning it with reluctance. Of the Garnish which I have set down to sundry  
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prisons, I often had my information from prisoners who paid it. But I am aware that the sum is sometimes varied by sets of succeeding prisoners, and the different circumstances of a new comer. In some Gaols, if a Felon can pay the Debtor's Garnish (which is commonly more than that of the Felons) he is entitled to partake of the Garnish paid afterwards by new-come Debtors. In some places, this demand has been lately waved: in others, strictly prohibited by the Magistrates.

GAMING.

GAMING in various forms is very frequent: cards, dice, skittles, Mississippi and Porto-bello tables, billiards, fives, tennis, &c. In the country the three first are most common; and especially cards. There is scarce a County-Gaol but is furnished with them: and one can seldom go in without seeing prisoners at play. In London, all the sorts that I have named are in use. I am not an enemy to diverting exercise: yet the riot, brawling, and profaneness, that are the usual consequents of their play; the circumstances of debtors gaming away the property of their creditors, which I know they have done in some prisons to a considerable amount; accomplishing themselves in the frauds of gamblers, who, if they be not themselves prisoners, are sure to haunt where gaming is practised; hindering their fellow-prisoners who do not play from walking in the yards while they do, of which inconvenience I have heard them complain: these seem to me cogent reasons for prohibiting

biting all kinds of gaming within the walls of a prison.

LOADING prisoners with HEAVY IRONS, which make their walking, and even lying down to sleep, difficult and painful, is another custom which I cannot but condemn. In some County-Gaols the *women* do not escape this severity: but in London they do: and therefore it is not necessary in the country. The practice must be mere tyranny; unless it proceed from avarice; which I rather suspect; because county-gaolers do sometimes grant dispensations, and indulge their prisoners, men as well as women, with what they call "the choice of irons," if they will pay for it.

THE author of the letter to Sir Robert Ladbroke on prisons (particularly on Newgate, which was then to be rebuilt) cites in page 79, the opinion of Lord Coke, Horn's *Mirror of Justice*, &c. against this oppression; and adds afterwards, "The learned editor of Hale'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 an attempt to that purpose; otherwise, notwithstanding the 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."

THE Gentlemen of the *Gaol-Committee*, who distinguished themselves by an accurate and zealous inquiry into the abuses practised by gaolers\*; in their *Report* concerning the Fleet Prison, 20th March 1728, after mentioning a petition presented to the Judges by one who had been put in irons by the Wardens, inform us, that the Judges reprimanded the Wardens, and DECLARED, that "a gaoler could not answer the ironing of a man before he was found guilty of a crime."---To the plea which gaolers use in defence of this practice, that "It is necessary for safe custody," an answer may be given in the words of Lord Chief Justice King (afterwards Lord Chancellor) to the Wardens of the same prison, when he forbade dungeons, which they had made use of. That Judge DECLARED, "they might raise their walls higher, &c." See the Report of the same Committee.

\* THIS Committee is celebrated by Thomson, in the following lines of his *Winter*, 340, &c. edit. 1738.

—— Can I forget the generous few,  
Who, touch'd with human woe, redressive fought  
Into the horrors of the gloomy jail?  
Unpitied, and unheard, where misery moans;  
Where sickness pines; —————

Hail Patriot Band! who, scorning secret scorn,  
When Justice, and when Mercy led the way,  
Dragg'd the detected monsters into light,

Wrench'd

mittee. To what Lord King suggested of *raising the walls*, one might presume to add---The number of turnkeys should be increased in proportion to the number of prisoners\*.

THE Marquis Beccaria, in his *Essay on Crimes and Punishments*, page 75, observes that "Imprisonment being only the means of securing the person of the accused, until he be tried---ought---to be attended with as little severity as possible." The distress occasioned by chains is increased by

VARYING the TOWNS where Quarter Sessions and Assizes are held: so that prisoners have to walk in irons ten or fifteen miles to their trial: and sometimes to towns that have no prison: where numbers of both sexes are shut up together for many days and nights in one room. This oc-

VARYING  
TOWNS.

Wrench'd from their hand Oppression's iron rod.

—————  
Much still untouch'd remains —————  
Much is the Patriot's weeding hand requir'd.

\* If the daring character of our felons should seem, after all, to make it necessary to confine them in irons, it would be right, at least, to bring them into court for their trial without irons. When I was in Scotland, I was informed that every prisoner there was tried out of irons, and when acquitted, discharged in open court.

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cafions such *confusion and distress*, and such shrieks and outcries, as can be better conceived than described. Surely prisoners ought to be conveyed in carts; or else committed at first to the town where the Sessions or Assizes are to be held. And in that town a proper prison ought to be built.

GAOL  
DELIVERY.

GAOL DELIVERY is in some counties BUT ONCE A YEAR. What reparation can be made to a poor creature for the misery he has suffered by confinement in a prison near twelve months (sometimes twice as long) before a trial, in which perhaps he is at last declared by his country *not guilty*?

THE judicious Marquis whom I quoted but now asserts, that "Privation of liberty being a punishment, "ought not to be inflicted before condemnation, but for as short a time as possible." And in cases of guilt, his doctrine is, "The more immediately after the commission of a crime, a punishment is inflicted, the more just and useful "it will be." This sentiment is illustrated by a variety of acute remarks in the chapter of *the Advantage of immediate Punishment*.

ONE cause of Gaol Delivery being so seldom, is *in some places* the expence of entertaining the Judges and their retinue. At Hull they used to have the Assize but once in seven

seven years. Peacock a *murderer* was in prison there near three years: before his trial the principal witness died; and the criminal was acquitted. They now have it once in three years.

ALTHOUGH acquitted prisoners are by the late act in their favour\* cleared of Gaolers Fees; they are still subject to a similar demand made by CLERKS OF ASSIZE and CLERKS OF THE PEACE †; and detained in prison several days after their acquittal—at Assize, till the Judges—at Quarter Sessions, till the Justices of Peace leave the town; in order to obtain those fees, which the gentlemen say are not cancelled by the act. And yet the express words of it are, *Acquitted prisoners*. "shall be immediately set at large in open court."

CLERKS OF  
ASSIZE, &c.

SINCE the said act the Clerks of Assize in some circuits have started a new demand upon the gaoler for the Judges

\* 14th George III.

† SEE the Table of the Fees of the Clerk of Assize at the end of the book.

THE Clerk of the Peace in one county demands as follows:

For larceny and acquitted,	£1 : 7 : 0
Petty larceny,	1 : 8 : 4
Whipped publicly,	1 : 3 : 4
Bastardy,	0 : 17 : 4

certificate

## BAD CUSTOMS.

certificate of acquitment; viz. six shillings and eight-pence for the first prisoner acquitted; and a shilling for each of the rest: or two shillings for every one. I know some of these gentlemen do not make any such demand. Where it is made, some gaolers refuse to pay it; others submit murmuring. I have copies of two receipts given by the Clerk of the Western circuit to the gaolers of Exeter and Salisbury\*.

I WAS informed at Durham, that Judge Gould at the Assize 1775 laid a *fine* of fifty pounds on the gaoler for *detaining* some acquitted prisoners, for the fees of the Clerk of Assize. But upon the intercession of the Bishop (proprietor of the Gaol) the fine was remitted; and the prisoners set at large: the Judge ordering the Clerk of Assize to explain to him in London the foundation of his demand.

ONE pretence for detaining acquitted prisoners is, that "It is possible other indictments may be laid against them

\* ONE of them is as follows.

"RECEIVED 1 April 1775 of Mr. Sherry gaoler one pound eight shillings and 8 pence for his certificate entitling him to his gaol fees for the county of Devon

" per

\* \*\*\*\*\*

" Clerk of the Assize."

THE gaoler told me this was for twenty-three acquitted prisoners.

" before

## SECT. II. BAD CUSTOMS.

" before the Judge leaves the town." I call it a *pretence*, because it is often waved upon paying the fees. Another is, the gaoler tells you, "He takes them back to knock off their irons." But this may be done in court: in London they have an engine or block, by the help of which they take off the irons with ease in a minute or two; the machine is brought into court, and the acquitted prisoner is immediately discharged. If, according to what I formerly proposed, prisoners were tried out of irons, this pretext would be entirely removed.

CLERKS of Assize, and of the Peace, ought most certainly to have a consideration for their service to the public: and I do not wish to lessen many other emoluments of those gentlemen. The only thing I complain of is, what I am led to by my subject, the demand that is made directly or indirectly upon prisoners.

SOME gaolers live DISTANT from the prison, in houses that do not belong to the county. Non-residence is not consistent with the attention that is requisite for securing the prisoners; and preserving good order, cleanliness, &c.

GAOLERS  
NON-RESI-  
DENT.

DEBTORS CROWD the Gaols (especially those in London) with their WIVES and CHILDREN. There are often by this means, ten or twelve people in a middle-sized room: increasing the danger of infection, and corrupting the morals

WIVES AND  
CHILDREN.

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rals of children. This point ought (no doubt) to be treated with tenderness. Man and wife should not be totally separated. Yet the little probability there is of an industrious woman being of much service to her family in a prison: the number of men in the same room; and of lewd women admitted under the name of wives; prove that this affair needs some regulation.

GAOLS  
PRIVATE  
PROPERTY.

SOME Gaols are PRIVATE PROPERTY: in these the keepers, protected by the proprietors, and not so subject as other gaolers to the controul of magistrates, are more apt to abuse their prisoners, when a temptation offers. One of these Gaols some years ago was quite out of repair, and unsafe; and the proprietor not choosing to repair it, the gaoler to confine his prisoners took a method, that to all who saw it was really shocking. Some years before that, a prisoner in another of these Gaols was tormented with thumb-screws. The grand jury took up the case, and remonstrated to the proprietor; but in vain. I had the account from a worthy friend of mine, who was upon that very jury.

OF the complaints which I have hitherto made only in general terms, I shall give instances in the account of particular prisons. To that account I refer, for *evidence* and *fact*.

NUMBER

NUMBER OF PRISONERS.

IN the Spring 1776, I summed up carefully the total number of prisoners in the sundry prisons. I have not altered the list since my latter visits, in which I saw the number in several prisons greatly reduced by the insolvent Act. My list was as follows,

	Debtors.	Felons, &c.	Petty Offenders.	Total.
1. IN Middlesex, i.e. London and Westminster; together with three prisons in Southwark, viz. the <i>King's-Bench</i> , <i>Marsalsea</i> , and <i>Borough-Compter</i> ,	1274	228	194	1696
2. IN the other thirty - nine counties of England,	752	617	459	1828
3. IN the twelve counties of Wales,	67	27	----	94
4. IN City and Town-Gaols,	344	122	----	466
	<u>2437</u>	<u>994</u>	<u>653</u>	<u>4084</u>

PETTY Offenders in the Welch County-Goals, blank in the third column, third line, are included in the preceding number of Felons 27: most of the Goals in those counties being also the County-Bridewells.

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PETTY

## NUMBER OF PRISONERS.

PETTY Offenders, blank in third column, fourth line, are included in the number 459 of Petty Offenders in the thirty-nine County-Gaols; and in the number 122, second column fourth line.

ALL that were in the County-Gaols besides *Debtors*, I have reckoned in the list of *Felons*. Although many were *Petty Offenders* and *Fines*.

IN the third column, under *Petty Offenders* are included a few *Felons* occasionally committed to Bridewells.

I HAVE found by carefully examining fundry Gaols, that upon an average *two dependants* (by which I mean wives and children only\*) may be assigned to each man in prison. My computation is confirmed by the account which we have from the Benevolent Society at the *Thatched House*, October 9th, 1776, as follows. Since their institution in 1772,

Discharged Debtors,	3980
Who had Wives,	2193
And Children,	6288
Persons immediately benefited,	<u>12461</u>

\* I do not include *Parents*, many of whom I have seen sorrowfully attending at prisons, and deeply sharing in the distress arising from the confinement of their children.

And

## SECT. II. NUMBER OF PRISONERS.

And by the account from the *Bristol Society*; who in their list published May 31st, 1775, have

Persons discharged,	73
Their Wives,	45
----- Children,	<u>120</u>
Total,	<u>238</u>

EACH of these totals is considerably larger than the respective products of multiplication by my rule: the first exceeds by 521, the latter by 19. There is indeed commonly a surplus among Debtors; but a deficiency among Felons, &c. reduces the average of Dependants to that which I stated.

If then to the total number in England and Wales,	
that is,	4084
You add twice that number of Dependants,	<u>8168</u>
The number of the distressed is,	<u>12252</u>

IT appears from the foregoing Table of Prisoners, that their number has been greatly magnified by conjectural computations; but surely the real number, with that of those partaking their distress, is an object well worthy the farther attention of the Legislature.

SECTION