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Thorsten Sellin

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## DOM JEAN MABILLON—A PRISON REFORMER OF THE SEVENTEENTH CENTURY

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THORSTEN SELLIN<sup>1</sup>

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In the literature of historical penology, the student now and then runs across the name of Jean Mabillon, Benedictine of the Congregation of Saint Maur, but if he should wish for some information about him and his contribution to the development of penal treatment or to the history of prison reform, he will search in vain. His curiosity may be pardoned considering the liberal claims made by writers who, impelled by a spirit of patriotism or of religious zeal instead of by a desire for accuracy, have made Mabillon the architect of the famous San Michele reformatory in Rome, the inspirer of William Penn, and the father of the penitentiary system as we have known it applied in the United States and elsewhere for the last century and a half. To what extent can these claims be justified? What is Mabillon's place in the history of penology? In this essay an attempt will be made to answer these questions in so far as hitherto available material permits it.

Jean Mabillon was born in 1632 in the diocese of Reims, France. After the necessary preliminary studies, he received the priesthood in 1660 and four years later he became the assistant of Dom d'Achéry, librarian of the Benedictine monastery of Saint-Germain des Près in Paris. His great intelligence and his scholarly inclinations now received an opportunity for development. After having published some works together with his chief, he launched an undertaking of his own in 1667, an edition of the works of Saint Bernard, which made him a reputation in Rome. The recognition of his ability was later justified by his writing on the Saints of his Order although this production was severely criticized due to his historical veracity, which caused him to exclude some saints falsely attributed to it. In 1681, he published his most famous book, *De re diplomatica*, a pioneer work in historical criticism, which he dedicated to Colbert, who was a great admirer of his learning and his character. After employing Mabillon in various missions requiring historical and genealogical researches, Colbert wished to show his esteem for him in some tangible way. His offer of a substantial pension was refused, but finally some one sug-

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<sup>1</sup>Assistant Professor of Sociology, University of Pennsylvania.

gested an excellent way of rendering the learned Benedictine both honor and service. In 1683, therefore, Colbert sent him to Germany to visit the libraries and the monasteries of his Order. This journey, made in company with Father Germain, yielded many documents and books of historical value but while it lasted Colbert died. The Archbishop of Reims, who became Colbert's successor with regard to "everything concerning literature" at least, was also a great admirer of Mabillon and soon after the latter's return to France he proposed to him a voyage in Italy for the purpose of visiting libraries and "gather what he might find in the way of curiosities to enrich the library of the King." Temporary ill-health forced him to defer this trip until 1685. Before his departure he was presented to the King by the Archbishop, who introduced him as "the most learned man in the kingdom," a statement which caused Bossuet, who was present, to add, "And the most humble," judgments which seem to have been entirely justified.

The Italian voyage of 1685-6 lasted fifteen months and was extremely fruitful both in historical discoveries as well as in honors, which were showered on him and his companion by dignitaries of the Church and by princes, the Duke of Tuscany, in particular. Even before the journey Mabillon had been in assiduous correspondence with officials of the papal court and historians and now he made many new friends, whose names often appear in his later correspondence.

After his return to Paris with several thousand books and manuscripts for the library of the king, he continued his authorship, the last efforts of which were put into a history of the Benedictine Order. At the time of his death in 1707 this work had reached four volumes, bringing the history of the Order down to the year of 1066. (25, *passim*)<sup>2</sup>

Among the papers left unpublished at the time of his death there was a brief essay entitled *Reflections on the prisons of the monastic orders*. This essay, around which a veil of secrecy has been drawn by his biographers and friends, appeared in print for the first time in 1724 (1). Ruinart (25) makes no mention of it in 1709. He either did not know of its existence or was anxious to ignore it, for reasons which will be discussed later. It is quite possible that no one except Mabillon's literary executor had any knowledge of it until it was published.

The *Reflections* are of great value, intrinsically and historically. They are filled with pertinent and sometimes truly remarkable sug-

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<sup>2</sup>Numbers within parentheses refer to the bibliography at the end of the article.

gestions for the improvement of criminal law and procedure and of penal aims and methods of treatment. In addition they give a brief but suggestive view of the evolution of punishments in canon law.<sup>3</sup>

#### REFLECTIONS ON THE PRISONS OF THE MONASTIC ORDERS

"It is necessary to punish crimes. Justice, good order, and the example demand it. This has always been the practice in all states, not only in the secular ones but even in the ecclesiastical ones, although the punishments inflicted by these two Tribunals have greatly differed from each other.

"This diversity is a result of the difference in the ends pursued and of the difference in the attitudes which should be present in the minds of the judges. In secular justice the principal purpose in view is to conserve and repair order and to instill fear into the criminals, but in ecclesiastical justice one considers above all the welfare of the soul; therefore, one should always employ means that are most conducive to such an end.

"In secular justice severity and rigor ordinarily preside but in ecclesiastical justice the spirit of charity, compassion, and mercy should rule; and, far from approving harshness, saintly prelates have, by pious efforts, been seen to force secular judges to forego punishing the guilty, even employing miracles to get them out of prison.

"That is the reason why, in the choice of punishments, which the ecclesiastical judges should employ, the latter are obliged to prefer those which are most capable of filling the hearts of sinners with a spirit of compunction and penance. Therefore, the great number of ecclesiastical punishments consist only in humiliations and in some afflictive punishments, such as fasting, suspension, demotion, excommunication, but not in infictive punishments, which are suitable only for the secular courts.

"The justice practiced in monasteries against criminals should imitate the conduct of the Church and harshness should be banished from it. All should be paternal since it is the justice meted out by a father to his son. Finally, the spirit of charity and of mercy should above all preside in these judgments.

"This charitable spirit consists in keeping hidden the faults which are not public, in not making hurried searches for faults of which no certain sign exists, but on the contrary to let the culprits see that one wishes to spare them as much as it is possible. It also consists in managing their reputation with care, in the thought that the shame which remains for these miserable ones after the crime is the most difficult thing in the world to support and the worst temptation to sustain. It consists in making them realize, through the sentence pronounced against them, that in the trial, charity and compassion have won over rigor and severity. It consists in proportioning the penance imposed upon them to their forces and dispositions; and, finally, it consists in having a feeling of mercy for them and paternal

<sup>3</sup>The rare authors, who have found Mabillon sufficiently interesting to quote or have known of his existence, have consistently cited only the last paragraph of the *Reflections*. (Cf. Wines, F. H.: *Punishment and Reformation*, p. 143. N. Y., 1895.) So far as the writer knows no complete English translation exists.

care during the time of their penance so that it might be useful and salutary for them in accordance with the spirit of the Church.

"Such are the views expressed by Saint Benedict, particularly in his Rules, when he speaks of the conduct to be pursued with respect to those who have fallen into grievous sins. The punishment which he indicates for them in the twenty-fifth chapter is that they should be excluded and cut off from Community, Church, table, and work. In chapter twenty-seven he speaks of the care which the superiors should give to the monks, whom he calls the excommunicated ones and commands that from time to time some sage and virtuous monks be sent to them to console them, in the fear that the excess of their sorrow might overwhelm them and render their penance fruitless, and for the purpose of raising their courage and make them suffer the penance imposed on them with a brave heart. Briefly, he wants the superiors to spare nothing to recall them to their duties, following the example of the Good Shepherd.

"During the divine service these penitents remained at the gate of the oratory, as we learn from chapter forty-four of the Rules, and at the end of each canonical hour they were forced to prostrate themselves at the feet of their brethren leaving the oratory. They ate later and less than the others, according to the charitable prudence of the superior, and what they received to eat was not blessed.

"It does not appear that Saint Benedict placed these penitents in a prison. He says nothing about it in his Rules, although in chapter twenty-eight he makes an exact enumeration of all the precautions and of the degrees of penance which he proposes for trial before expelling the incorrigibles from the monastery.

"Such just moderation was shortlived, and the harshness of some priors went to such an excess (it seems difficult to believe it) that they mutilated the limbs and sometimes stuck out the eyes of those of their monks who had fallen into considerable errors. This forced the monks of Fulda to have recourse to Charlemagne in order to suppress such excesses in the future and it also gave rise to the prohibition which this great prince made in his capitularies of the year 780 and to that of the Council of Frankfurt held five years later, which condemned such tortures, permitted only in the secular courts, and reduced matters to the terms of the Rules and to regular discipline. *Abbates, qualibet culpa a monachis commissa, such are the regulations of the Council, ne quaquam permittimus coecare, aut membrorum debilitatem ingerere, nisi regulari disciplina subiaceant.*<sup>4</sup>

"It was as a result of this prohibition that all the priors of the order, assembled at Aix-la-Chapelle, in 817, ruled that in each monastery there should be a separate habitation, *domus semota*, for the culprits, that is, a heated chamber and a workroom, *qua in hieme ignis possit accendi, atrium juxta sit, in quo valeant quod eis injungitur operari*. They also forbade the exposure of these poor creatures in a naked state, to be whipped before the rest of the monks, as had previously been the practice.

"From the first of these regulations, it appears that the place to which these penitents were condemned was more a retreat than a prison since

<sup>4</sup>The date is erroneous. The Council of Frankfurt was held in 794. Cf. 20, p. 76.

there was a heated room and a workshop. This regulation is the more important because it was passed in an assembly of all the priors of the empire, that is, of France, Italy, and Germany.

"The second Council of Verneuil held soon after, that is, in the year 844, prescribed no corporal punishment against those who, having left the habit or having been driven from the monastery due to their incorrigibility, returned of their own accord; it only ordered those, who were retaken by force put into prison, *in ergastulis*, and mortified by suitable penance, which a charitable pity might suggest to their superiors, *pietatis intuitu convenientibus macerentur operibus*, until they showed sign of repentance and conversion, *donec sanitatem correctionis admittant*. This shows the spirit of the Church and of Religion, which does not employ such punishments except to bring its children to a salutary correction.

"In the course of time, a frightful kind of prison, where daylight never entered, was invented, and since it was designed for those who should finish their lives in it, it received the name *Vade in pace*. It appears that the first person to invent this horrible form of torture was Matthew, Prior of Saint Martin des Champs, according to the story of Peter the Venerable, who informs us that this superior, a good man otherwise, but extremely severe against those who committed some error, caused the construction of a subterranean cave in the form of a grave where he placed, for the rest of his days, a miserable wretch, who seemed incorrigible to him.<sup>5</sup> In spite of the respect which I have for the memory of this great man I am not afraid to say that in doing this he seems to have passed the limits of humanity even though it is claimed that the affair justified the harshness and that the poor fellow was brought to repentance.

"It is true that Peter the Venerable adds that this rigor was practiced only once during the time of Matthew but, since such examples have sad consequences, other superiors, less charitable than zealous, did not fail to use it with respect to guilty monks, and this harshness, inhuman as it appears, went so far and became so common that it caused Etienne, Archbishop of Toulouse, to lodge a complaint, through his grand vicar, with King John, *conquestus de horribili rigore, quem monachi exercebant adversus monachos graviter peccantes, eos conjiciendo in carcerum perpetuum, tenebrosum et obscurum, quem Vade in pace, vocitant*. The measure of unhappiness of these unfortunates was caused to overflow by their being cut off from all human consolations and that was at least as hard for them to bear as their inability to see the light of day.

"The king was horrified by this inhumanity. Touched with compassion for these wretches, he ordered priors and superiors to visit them twice a month and to give, in addition, their permission to two monks of their choice to visit them twice a month; that is, he ordered that they be visited at least once a week. He caused Letters Patent to be drawn up and in spite of efforts made, among others by the mendicant monks, to have the Ordonnance revoked on grounds of injustice, its exact observation was constrained, his Majesty and his Council holding with reason that it was inhuman and barbarian to deprive poor wretches, overwhelmed by sorrow

<sup>5</sup>See Petrus Venerabilis: *De Miraculis, Liber II, Caput IX*, in Migne, J. P.: *Patrologiæ cursus completus, Tomus CLXXXIX, col. 919-20*. Paris, 1854.

and pain, of all consolation. *Barbarum enim est incarceratos, et sic afflictos omni solatio et confortio amicorum privare.* This we learn from the Registers of the Parliament of Languedoc in the year 1350. Certainly it is strange that monks, who should be models of gentleness and compassion should be obliged to learn from secular princes and magistrates the first principles of humanity which they ought to practice toward their brethren.

"Although the usage of the *Vade in pace* has been in part abolished there remains enough of this kind of abuses to create a need for remedies.

"1. For is it not an abuse that, instead of being content in ordinary cases with a summary procedure and with what may be learned from the evidence of the act and from the ingenuous confession of the culprit, one uses as many formalities, perquisitions, and hearings as if it were a question of a crime of lese majesty in the person of the king? What is the value of delving into the recesses of a conscience or into the secrets of a hidden act for matters which should not be revealed except at the Tribunal of Penance? And if it happens that a poor wretch is ingenuous enough to avow something which should remain unknown to all except to his confessor, is it not an abuse to use it against him in a criminal suit and to make it the object of a sentence? A judge has no right to know that which he has no right to punish and whatever he does on the sole confession of an ingenuous culprit is not subject to his judgment. This does not mean that he could not or should not punish him, not as judge but as father, and impose on him some regular penance. It is in such cases that it is necessary to observe the words of Saint Benedict not to publish, by a defamatory sentence, errors, which a penitent confesses to his superior.

"2. It is lack of charity not to take all possible measures and precautions to proportion the punishments inflicted by the sentence to the dispositions and the physical and mental strength of the culprit, not to mention troubling one's head to learn if he is in a state to bear them or if these penances might be salutary for him.

"3. But, it is an insupportable lack of charity, unfortunately too common, not to spare the reputation of a monk who has fallen into error, but to spread within an entire Order, and sometimes even outside, information about sins that were either hidden or known only to a few persons besides his judges. It is this lack of charity which renders almost impossible the return of these monks to their duties and makes them incapable of persevering in a Company, where they see their reputation ruined forever.

"4. Another considerable defect, which is only too common, is that no care is taken to console them in their prison, which is much harder than that of the laymen, because in the latter, people have usually the liberty to see each other at certain hours and even to receive visits from friends or other charitable persons. Usually they can hear Holy Mass every day. They are often given sermons and exhortations in common, or individually in the case of those kept in deep dungeons. But the prisoners of some monastic orders have none of that. Few or no visits or consolations, rarely a mass, never an exhortation; in other words, a perpetual solitude and seclusion without promenades in the open, without movement, without amelioration, briefly, without consolation, unless one calls consolation a hasty word by a jailer who brings their food or by a superior who asks

about their health without really acquainting himself with their needs and without seriously thinking of the means which would be necessary to make them return to God, or without inspiring them with a true spirit of penance. One would have them convert themselves by their own efforts without the slightest cost to their superiors. All sorts of bodily remedies are used for sick monks, particularly those who have fallen into a lethargic state or some mental trouble; but, for those whose souls have been struck by several mortal maladies, one is content to throw them into a dungeon or to abandon them to themselves, without aid and assistance, later complaining that they do not convert themselves, that they do not cure themselves, that they do not rehabilitate themselves by their own efforts. Is there no fear that God some day may demand of the superiors who have thus neglected them, an accounting for the loss of their souls?

"May no one say that it is good for them to be left alone in order to get time to think about their conscience and seriously reflect upon the sad state into which they have precipitated themselves. Far from that, such a long, violent, and forcible imprisonment should contribute to make them examine their conscience, they are usually incapable of feeling the charm of the state of grace under such conditions, nothing being more opposed thereto than the excess of sadness which overwhelms them and causes them to sigh under the burden of their past sins and even more in the just apprehension of the consequence which they foresee arriving to them, the complete loss of their reputation in a Company where they find themselves engaged.

"But supposing that they should really be filled with sorrow over their crimes, what mind could support during several months, entire years, and sometimes even several years, the sorrow and the thought of its sins, without finally breaking? By experience, one knows but too well that it is sufficiently hard to pass only a few days in silence and spiritual exercises which are voluntarily done, although, besides, one takes part in almost all the exercises together with other members of the Community. And then one imagines that poor wretches, overwhelmed by shame and sorrow, could pass entire years in a narrow prison without conversation and human consolations? Yet one finds judges, that is to say, their brethren, who frequently cannot stay in their chambers even a few days, pronounce against them a penance of several years, not to mention other punishments accompanying that penance. Truly, it makes one sigh to see so much deception and so little justice.

"That is why one sees so little fruit from the prisons and penances imposed by the superiors on those who fall and why these poor unfortunates so often lose their mind or all sensitiveness; in other words, that they either become insane or hardened and desperate. Of this it would be easy to give examples. If, instead, these poor wretches saw that one had compassion with them, that one tried to spare them as much as possible, that one assisted them in carrying their penances, that one sustained them in their shame and humiliation, they might be touched by such charitable behavior and disposed to receive the impressions of grace, and they would have little difficulty in remaining for the rest of their lives in a Company where they felt that one had charity for them.

"Some will perhaps say that these sentences are usually not carried out in full rigor, that the first superiors always have the right to moderate them, and that the apparent severity exists only to inspire with fear others, who would be inclined to commit the same errors. I respond that all this does not prevent an outrageous sentence from always being outrageous, that the mere imposition of this sentence is capable of throwing a culprit in despair, harden him, or drive him insane, when he sees himself treated with the utmost rigor. After all, these mortifications are arbitrary and they depend on the will of the first superiors who, not being on the spot, do not always know the state or the needs of these poor wretches; in a word, ecclesiastical judges must not prefer severity to mercy in order to instill terror in others, nor forget their quality of fathers in making themselves feared.

"5. Finally, it is a great lack of charity not to furnish them with good books to entertain them, sustain them, and fortify them, and to leave them for several months and sometimes for several years without hearing Holy Mass and without occupation or labor.

"How is it possible for persons, who have sometimes committed great crimes, to rehabilitate themselves, if they are deprived of all those aids which could inspire them with a spirit of penance and compunction? I would like to see them given books sometimes. But what kind of books! Often the refuse of a library which one would hardly waste time in picking up. What aid, what impressions can be gained from such reading?

"By what right are they deprived of the holy sacrifice of the Mass during a long period? May that right be proved from the Rules or at law. It is true that some legislators exclude these penitents from the oratory in accordance with the ancient usage of the discipline, but they demand at least that they should remain during the service at the door of the oratory, to prostrate themselves at the feet of their brethren when the latter come out. Let them stay out of the church, then, well and good, but may they at least be given a gallery from where they can hear Mass, and even the divine services. Such indulgence would be useful to them, not only due to the comfort they would thus receive for their souls, but because it would greatly ameliorate their penance in diminishing the severity of their prison, which few minds can support.

"How can one support an imprisonment of several months or of several years without labor or occupation? Even though one had intelligence and a free mind and all the books one could wish, that would be impossible. One cannot always meditate and read, one must have some other exercise to rest the mind. But how can persons who are loaded down with sorrow and distress remain for a long time in a narrow prison without any other exercise than constant reading and meditation? No one can persuade me that this is possible short of a miracle. What could a poor wretch do for days, weeks, years without consolation, spiritual aid, or occupation? What could the most virtuous members of the Community do under similar sad conditions? Is it not an almost insupportable temptation, infallibly ending in despair, in insanity, or, at least, in dejection?

"In this connection the much vaunted prison of Saint John Climacus should not be brought in, because I claim that the prisons of some monas-

tic Orders are in a way more severe and less supportable. It is true that one was condemned to that prison for life and that for food one received only some bread and some raw vegetables to eat and water to drink, but this prison was at least common to several penitents and therefore exempt from the shame which everywhere follows him, who is alone guilty in a Community. Besides, two could be placed together in a cell, where they were occupied in labor. And, finally, they had a vigilant and charitable superior, who took care to fortify and console them and never left them idle. In contrast, the prisoners of whom I speak are alone in prisons that are frequently very dark, unhealthful and infected, almost without consolation and with little spiritual assistance, without occupation and labor, that is, exposed to all the inconveniences which can be feared from such a deplorable state. It would certainly be much better to send them to the galleys. They would at least see the day, while the company of their equals, working with them, would render their state more bearable.<sup>6</sup>

"It would, therefore, be proper to remedy these inconveniences in order to prevent what might arrive, should it again be found necessary to appeal to the clemency of rulers for the review and modification of sentences pronounced against these poor wretches and for the moderation of prisons and other punishments to which they have been condemned.

"To this the answer is heard that one must show severity against such individuals or impunity will increase their number. But, are there no other means of avoiding impunity except that of throwing miserable men into despair? Certainly one must show what appears to be harshness with respect to some hard and inflexible minds but cruelty should never be employed. The heart of a judge should always be penetrated with compassion and charity in his judgments. He should always choose the most proper means to melt the hardness of their hearts, which can be softened by a prudent and temperate severity more quickly than by extreme rigor, which is capable of making them still more insensible. The prayers of the Community are necessary to obtain from God in their behalf a spirit of

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<sup>6</sup>Here Mabillon's indignation seems to have gotten the best of his critical judgment. The "prison" of St. John Climacus was hardly comparable with the monastic prisons of Mabillon's day, the conditions for admission being quite different. Nor could the regime be favorably compared with that of the later institutions, judging from the description we find in St. John Climacus. This Father of the Church seems to have lived in the 6th century. In his *Holy ladder, or Steps for mounting to Heaven* he describes a "prison" which had existed for at least two centuries near Alexandria as an annex to a large monastery, where he spent some time. In the "Fourth Step: On Obedience" he says, "One of the monks, having been expelled from the monastery by the excellent superior for having falsely accused one of his brethren of spending all his time in idle gossip, remained for seven days at the gate, praying for readmittance and pardon. When the prior heard this, he told him that if his desire was firm he should accept being placed with the Penitents. Having accepted . . . the superior ordered him conducted to the special monastery for those who bewailed their crimes. . . . It was about one mile distant from the great monastery and was called 'The Prison.' It was a place from which all human consolations were banished. No smoke was ever seen to issue from it. There was neither wine, nor oil, nor food except bread and very simple vegetables. There the prior sent those who, after taking the monastic vows, had fallen into some notable sin. They were not lodged together; they lived apart, alone, or at the most by twos. And they remained imprisoned there without ever going out, until God had given

compunction; this is an efficient and salutary means much too neglected in spite of the fact that it should be regarded as the most considerable and important one. Finally, all means must be tried to bring them to God, and ameliorations made to keep them from falling into despair.

"What ameliorations could be made? This would not be difficult and still less impossible if the wish to make them existed. Several means could be found. It seems

"1. That with regard to those who fall for the first time and particularly those who seem to have an honest mind and whose errors are not so crying, one might proceed summarily without observing all the formalities of a criminal trial. By such means their reputation would be spared and they would not be so infamous in an Order or a Community. It is with regard to these that one should practice the counsel of St. Paul, *vos qui spirituales estis, instruite hujus modi in spiritu lenitatis, considerans te ipsam, ne et tu tenteris*.

"With regard to those who have a more inflexible spirit or whose errors are much more manifest, more apparent severity is needed, but gentleness and discretion should always moderate its excess. Fasts and bodily labor, were it possible to exercise them therein, would be more suitable to transform them than any other penance. For a prison without occupation is more likely to maintain them in their inflexibility.

"2. One should do something to ameliorate the prisons by permitting those shut up in them to take promenades in the open from time to time, by giving them means to keep occupied, by visiting them at least once or

the prior a sure sign of each one's reconciliation. He had put them in charge of a superior, a great man named Isac, who required of those he had been selected to guide an almost continuous prayer. They had a quantity of palm leaves of which they wove baskets in order to keep from being bored or from losing their religious spirit. . . . And in the "Fifth Step: On true and sincere Penance," he says, "Penance is the purification of the conscience . . . a voluntary suffering of all kinds of punishments and labors. The penitent is an ingenious artisan who forges the instruments of his own punishment. . . . When I was still in the monastery of which I have spoken, I learned to my shame, being feeble and imperfect, that an extraordinary life of rare humility was practiced in a special monastery called the Prison, annexed to the former." He received permission from the prior to spend some time in this annex and describes the regime and the various forms of self-imposed penance used by its lodgers. "In this place a bed was unknown. Never did one see clothes that were either whole or clean; they were torn, dirty, and covered with vermin. What is the suffering of the possessed in comparison with such pains? What is the sorrow of those who weep over the deaths of their relatives or friends? What is the suffering of the exiled? What is even the torture of the murderer? Surely the involuntary torments and punishments of all these persons cannot be compared with the voluntary ones of the penitents. And I pray you, brethren, not to believe that I am telling you a fable. . . . They often begged . . . their superior . . . and the prior . . . to put chains around their necks and wrists and put their feet in stocks, as is done with criminals, to remain there until they were ready for the grave. . . . They even asked the prior . . . that they be refused the honor of burial accorded to other men and that their bodies be thrown to the beasts or into the river or exposed in the fields to serve as food for dogs and wolves. . . . What was the construction and appearance of this place? Everywhere nothing but darkness, vile odors, dirt, and impurities. It was justly named the prison or the dwelling place of criminals. . . . I spent an entire month in this prison monastery." (10, pp. 71-3, 107-9, and 117-23.)

twice a week, by making the prisons less uncomfortable and unhealthful so that those who go to visit the prisoners are not driven away, since that is one of the principal reasons why they are so rarely visited and why the visits last but a moment. It would also be desirable to have, in each province, or in an entire Congregation, a place destined and built expressly for those who fall into such errors and almost on the model of the prison described by St. John Climacus, to which I shall return later.

"3. In the church it would be necessary to have a safe place from where they could sometimes hear Mass and divine services in conformance with the Rules. Otherwise one withdraws from them the aid they might receive from the Holy Sacrifice of the Mass in order to be able to rise from their state. Taking no part in these exercises they might gradually become accustomed to do without religion.

"4. When a visit is paid to them, it should last more than a moment; one should listen to them, hear their troubles and their complaints, revive them, console them, fortify them. A superior should carefully study all means which he might usefully employ for their conversion, persuaded that superiors are principally established to cure the sick and not to dominate the healthy.

"5. As for the length of the imprisonment, it should depend on the nature of the offense and the disposition of the culprit. One would be more punished by six months in prison than another by several years there. If one year does not suffice to correct a monk, several years will only serve to make him worse. There are other penances more useful and humiliating than imprisonment. Suspension from the Order, inability to receive sacred orders and particularly the priesthood, the last place in the assemblies of the Community, the privation of active and passive voice, some extraordinary labors might, with respect to many, have better effect than prison.

"To this is objected that if they are not shut up for several years or forever, they would return to their early errors and leave the monastery. It would be much preferable to have that happen than to plunge them into despair or drive them insane. Saint Benedict commands that those who are incorrigible should be chased from the monasteries. Pope Honorius III makes the same rule, but Gregory IX desires that every year the fugitives be searched for, even those driven from the monastery, and brought back to their own monastery or transferred to some other within the Order. If they do not wish to return, he orders that they be excommunicated and that other prelates be asked to denounce them as such until they humbly return to their duties.

"From the regulations of Gregory IX it appears that if it should make it easier for them to return to their duties, one could accord to these monks the liberty of transfer to some other monastery of the Order, provided the Observance were kept there. As is seen from these regulations and from those of the second Council of Verneuil, searches were made from time to time, even for those who had been expelled from the monastery due to their incorrigibility, and expulsion was one of the last means used to recall them to their duties. As a matter of fact, Saint Benedict demands that they be received as many as three times, after which they are to be given no hope of returning.

"Briefly, it is necessary to take care that too great an indulgence does not give occasion to the fall and its repetition, but it is equally necessary to avoid too great severity, which hinders the return of those who might wish it, and often makes apostates, not from the Faith alone but from Religion. One who has fallen due to weakness begins to reflect on his fall and feels the first desires for a prompt return, but the rigor of the punishments imposed on those who err forces him to go into hiding and precipitates him into a double apostasy. Of this we have only too many sad examples.

"To return to the prison of St. John Climacus mentioned above, one might establish a similar place for the penitents within a monastic order. In this place there would be several cells similar to those of the Carthusian monks, with a workshop to exercise them in some useful labor. One could also add to each cell a little garden which would be open to them at certain hours and where they could be made to work or walk. They would be present at Divine Offices, to begin with, locked in some separate gallery and later united with the rest in the choir, as soon as they have passed the first tests of penance and given signs of amendment. Their food would be simpler and coarser and the fasts more frequent than in other Communities. They should be frequently exhorted and the superior or some one in his place should take care to visit them separately and console and fortify them from time to time. Laymen and outsiders should not be given entrance in this place, where a strict solitude should be maintained. If this were once established, such a place would appear far from horrible and insupportable, and I am sure that most monks would little regret seeing themselves shut in there, even if it should be for the rest of their days and that good monks would enjoy dwelling there in order to practice a stricter penance and solitude. I am sure that all this will pass for an idea from a new world but whatever is thought and said about the matter, it will be easy whenever the desire arises, to make these prisons both more useful and more easy to endure."

Mabillon proved to be a good prophet. Like many other ideas from new worlds, these failed to gain recognition. When one looks back from the vantage point of an age, which has since put some of them into practice, one wonders what would have happened if some person with worldly authority and a power of expression had recognized their importance and had drawn the obvious parallel between ecclesiastical and secular courts, between monastic and secular prisons. In that case, Beccaria's sun might never have risen and John Howard might have been born too late. But that is idle speculation. The *Reflections* did contain remarkably advanced ideas for the time. Long before individualization of punishment had become part of penological terminology, Mabillon advocated it. No other interpretation can be placed on his demand that punishments should be "proportionate to the dispositions and the physical and mental strength of the culprit." This individualization he wished extended even to the courts, where, for instance, he proposed special procedure for first offenders.

What extraordinary penetration he showed in his criticisms of the prison system. Had some of the pioneers of our penitentiary experiments been familiar with his comments on unmitigated solitary confinement, they would have spared themselves much useless labor and many bitter lessons. As to his ideas on the internal regime of prisons, all that can be said is that we are still striving to put some of them into practice. Some day in the future, possibly, "useful labor and occupations" will be furnished to all prisoners. It is a still farther cry to the day when "superiors" will be "principally established to cure the sick and not to dominate the healthy." Such ideas convince us that it was a tragedy that Mabillon did not openly and definitely lend his great reputation and authority to the cause of penal reform. Alas, there were forces at work which silenced him. It is probably failure to understand these forces that has given rise to the many speculations about his essay. These speculations are invariably characterized by a reckless freedom of all factual restraint. It is a desire to cut short these flights of fancy and to investigate Mabillon's place in the history of penology which has prompted the writing of this article.

First of all, what caused Mabillon to write the *Reflections*, which were quite out of harmony with accepted penal theories of the day, even though they were not entirely original so far as some of the practical reforms proposed in them were concerned? Secondly, what effect, if any, did they have on methods of punishment, in vogue or to come? The answer to these questions would probably meet the purpose announced above.

It is hardly necessary to do more than mention the opinion held by De Broglie (12, v. 2, pp. 303-4), who accounts for the *Reflections* by attributing them to a sudden and genial inspiration. "The heart," he says, "often has inspirations which cause it to look into the future. Alone, without experience, without commission or inquiry, the pious Benedictine traced, without realizing it, the picture of a model prison such as it has been conceived by the philanthropists of the nineteenth century." This theory is too simple in our age of conditionalism. We must therefore assume that some powerful incentive, some strong reason, some heartfelt experience gave rise to the *Reflections*. Some authors have claimed that it grew out of the Italian journey, during which Mabillon is said to have visited the house of correction instituted by Filippo Franci in the Hospice of San Filippo Neri in Florence. Already about 1677 Franci had begun to use solitary confinement for the

<sup>1</sup>Riviere (23, p. 758) adopted the same view to begin with, but after a few years of thought he changed his mind. See above.

avowed purpose of reforming delinquents (26, *passim*) and Passerini (22, pp. 625-6), Rivière (24, pp. 776-7), and Cuhe (11, p. 300, n. 3) all claim that the ideas expressed in the essay under discussion were actually borrowed from Franci. It is difficult to find any justification for these claims. It is quite true that in March and April, 1686, Mabillon spent about five weeks in Florence, but he seems to have been largely occupied with his studies in the libraries and archives of the various churches and monasteries. Neither in his correspondence from Florence (29), nor in the description of the journey in the first volume of the *Museum Italicum* is there the slightest hint that he knew of Franci's institution. Not even his diary (2) contains any mention of it, but since for the thirty-seven days in Florence, there are only twenty-three entries and since Mabillon came into contact with many friends and patrons of Franci's hospice, particularly the Duke of Tuscany and his sons, there will always remain a possibility of a visit to it or of conversations regarding its work. This cannot be ascertained, however, so far as the writer's material goes.

Passerini, who appears to have been the first to launch the claim, was probably led astray by unreliable sources. He expressly states that "it was the desire to know the Italian institutions of charity which led Colbert to send the celebrated Benedictine to Italy" (*loc. cit.*), where he visited Florence, "knew Franci . . . and admired the correctional department of the Spedale di S. Filippo Neri, which had already been in existence for eight years." He is mistaken both in the purpose for which he claims that Mabillon came to Italy as well as in the person who sent him. Had Mabillon come to study charitable institutions, he probably would have visited the hospice in Florence, which enjoyed more than local fame, and Passerini audaciously assumes this, unless he quotes from a source of which the writer is ignorant. Were it not for the fact that Passerini at least knew the date of Mabillon's journey, he might have relied on the statement of Cerfberr (8, p. 1), who, in the thirties, made a journey in Italy at the request of the French government "to examine in detail the different systems relative to prison administration followed in the various states composing Italy." In the report which this investigator presented in 1839, we find this precious sentence, fairly bristling with historical errors. ". . . Father Mabillon made a voyage in Italy toward the beginning of the last century (*false!*) by the orders of the great Colbert (*who died in 1683 before the journey had been planned!*) to fulfil a mission similar to the one confided to me (*false!*) He could see

the prison of San Michele (*built seventeen years later!*) and it was probably after this visit that he wrote the remarkable words," etc. (*sic!*) (8, p. 6).<sup>8</sup>

So much for the indebtedness of Mabillon to Franci. In a little known essay, Jadart (15), in 1885, advanced another theory of the origin of the *Reflections*, a theory which is extremely plausible. His study was based on the correspondence which Mabillon for many years carried on with one Mr. Marquette, councillor at the presidial of Laon. The beginning of the acquaintance between these two men seems to date to the period immediately following Mabillon's return from Italy and its inception was due to a person, whose history gives us the most likely clue to the essay in question. In examining the letters written by Mabillon to his friend, we find already in 1687 a note in which the author reproaches his correspondent for "wasting time so precious to the public in writing to me" and apologizes for sending him his works, something he would never have presumed to do "had not Brother Denis made me do so" (3, v. 1, pp. 76-7)<sup>9</sup> This Denis was a close relative of Marquette and evidently a young man of whom Mabillon was very fond and who lived in the monastery of Saint-Germain des Près. From internal evidence, the letter quoted is probably the second written, nor was the correspondence very active until some years later when Brother Denis fell into evil ways and deserted his duties. In June 1690, Mabillon writes saying that he would like to have the pleasure of making a personal visit to Mr. Marquette. "Perhaps I can make a journey in your direction; I do not dare to say so far as Laon, not having the heart to see a place, which would cause me too much sorrow by augmenting the chagrin which I feel over the step taken by our poor brother and friend. Alas, he has not returned, the wayward child, and I do not know if I dare hope for his return soon. He writes me now and then. He realizes his sin but his heart is not yet sufficiently touched" (*op. cit.*, pp. 105-6). And three weeks later, "I know that he is in Paris and that he often passes entire days without anything to eat. But he has no more confidence in me, I who have given him so many signs of friendship and would willingly give my blood for his soul and his welfare." (pp. 107-8.) A week later he writes that Denis has demanded an interview (pp. 109-10) but this was idle talk for fourteen days later Mabillon had had no further news from him.

<sup>8</sup>It is on the authority of this author that Ives (*A history of penal methods*, London, 1914) relies in determining "the origin of the cell prisons."

<sup>9</sup>Jadart overlooked this letter, putting the first mention of Denis in a letter of 1689.

"Some one told me to-day that the poor fellow is reduced to the worst poverty and that . . . last night . . . he begged for a small loan to pay his lodging. . . . While he certainly is in need, it would be bad policy to give him money which would permit him to continue his life of a libertine." And in a postscript he adds, "I have just received a letter from Brother Denis, in which he says that he wants to speak with me but sets neither date nor place. I am afraid he is making game of me. Perhaps it would be wise for you to give him up for he is unrepentant" (pp. 111-12).

His doubt in his ability to save the "wayward child" lasted only a moment, however. In the next letter, we find him optimistic again." I assure you, Sir, that this is one of the greatest afflictions I have had or could have in my life. I loved and still love him with all my heart and his welfare is as dear to me as my own. . . . Never shall I tire of doing all in my power for the return of this unfortunate friend. . . . I know he still has confidence in me. . . . You may be sure that he recognizes his unhappy state. He is beginning to sigh over it and gives me hope of rejoining us." (pp. 116-7.) A few days later this hope was realized. Denis was arrested and sent back to the monastery and for a brief period Mabillon does his best to console him and strengthen him in his resolve to do penance for his errors. He even writes Marquette for some money so that Denis can pay some of his debts.

His joy over the return of the lost son was short. After a couple of months Denis ran away again, but this time Mabillon took sterner measures. "It seems a century since I had the honor of writing you or hearing news from you. I have thought of writing several times, having matter enough to do it on the subject of our unfortunate friend (for we must regard him as a friend so long as there is a chance that he might convert himself) but I have had so much sorrow and embarrassment with regard to his affairs that I have not had the heart to write you. . . . It is enough to tell you that it was I who had him arrested the second time and that I did it in agreement with Father Germain in order to have the leisure to take the measures which would bring him back to himself. The whole matter would have been secret, had not a gaoler learned of it. . . . This caused the poor fellow to be taken to Mont Saint-Michel, where he is in prison. Imagine, Sir, what sorrow this whole business has caused me. I confess that I have never, in my whole life, had any greater sorrows than those caused me

by this poor boy. God grant that they be not without some effect on his welfare, for which I shall labor all my life" (pp. 141-2).

He immediately set about getting Denis out of a prison which he regarded as infamous and too severe. At the end of July, 1891, he writes, "I do not know how you learned that Brother Denis had escaped once from his prison. I do not count that a sin, as there is nothing more natural for a poor wretch to do than to try to escape from his misery. It has resulted in redoubling his punishments and obliging his guards to put his feet in irons. Think of the sorrow this causes me, considering the very long and hard penance imposed on him. I have received for myself the permission to write him, and for him that of answering me. I have only got two of the four letters he has written but if you saw them they would make you melt in tears. . . . They give me much hope for his return to God. An imprisonment of fifteen years is hardly proper to facilitate the means for such a return; it will rather serve to harden him or drive him insane, for he hardly sleeps or eats, only weeps. I have obtained the removal of the irons and if I do not die soon I shall put an end to his insupportable miseries. It would be better to see him out of this state, even though there would be a danger of his relapsing, than to drive him insane or desperate." (pp. 153-5.) A few letters follow, in which Mabillon particularly emphasizes that Denis is seemingly "on the right road" and that there is hope for him "if he is sincere." "Day before yesterday I received letters from our penitent; they caused me much sorrow. He is losing the use of his legs and is getting deaf. A monk from Mont Saint-Michel assures me that this is so and I have no difficulty in believing it. I have always thought that being what he is he could never stand even one year of penance and that is far from the twenty years to which his sentence condemns him, that is to say, fifteen years in a closed prison and five years in the monastery. I shall do my best to solace him" (pp. 167-8).<sup>10</sup>

It proved no easy task for Mabillon to secure the release of Denis. In attempting it he ran counter to established practices and traditions.

<sup>10</sup>For more detailed information on the monastic prison at Mont Saint-Michel see Dupont (13) and for monastic prisons in general, Krauss (18) and Kahn (17). What could Brother Denis have done to merit fifteen years imprisonment? From the correspondence we may infer that the "crime" must have been the ordinary behavior of most "lost sons," wine and women. In one letter Mabillon writes about the "libertinage" into which Denis had fallen and later he says, ". . . I am writing nothing about that which you already know. You can well realize the cause. Please observe secrecy always . . . with reference to the matter of which you wrote me in your last letter. Not that I am afraid of the judgment of men but it is wise to avoid talk. . . ." (pp. 120-1).

He brought the matter before the general assembly of the Congregation but was turned down. He even thought of using political pull. "I could use other means," he writes, "but it is advisable to use common methods as far as it is possible" (pp. 173-4). The common methods must have failed, however, for in May, 1693, shortly after the meeting of the general chapter of the Congregation, he writes, "A cardinal among my friends had written the general chapter at my request. It was decided that if he repeated his demand for the release of Brother Denis, it would be granted" (pp. 215-6). The goal was in sight when Denis, tired of waiting, escaped. From that time on, Mabillon, whose faith in his protege had been so cruelly wounded, rarely mentions him. We find brief references to him in letters of 1694 and 1695 and a last mention of him in a letter of November 1698, "He whom you mention is at present at. . . . He still asks me for assistance, but I am tired of begging money for him. If he had a little furniture he would be in little need for the future. He will always have great need of the grace of Heaven, which I wish him for his sake" (pp. 321-2).

It is this correspondence, marking, as it does, the most painful experience in Mabillon's life, which Jadart with great reason assumes to be the source from which the *Reflections* sprang. He limits the period of the composition of the essay, portions of which seem to look out at as through the letters quoted, to the years 1692-98. At any rate, it was probably not written before the imprisonment of Brother Denis at Mont Saint-Michel in the beginning of 1691 and not later than the malady which Mabillon had in 1698 and during which he wrote his superiors, humbly asking their pardon for having interfered with discipline in the case of his unworthy brother. (15, p. 17; 25, pp. 272-3.) That much seems certain. There is even a presumption in favor of the thought that the essay was composed before 1695, since the escape of Denis in the first months of 1694 probably discouraged Mabillon and cut short his interest in prison reform.

Assuming that a satisfactory explanation has been offered with reference to the origin of the *Reflections*, there comes another problem. Did they have any of the effects attributed to them?

Although presumably written in order to correct some abuses in the monastic prisons of the day, there is every reason to believe that they remained sterile. A complete secrecy surrounded them. The author's friends seldom mentioned them and when they did, it was almost apologetically. His biographer, Ruinart, makes no allusion to

them although he relates Mabillon's sad experience with Brother Denis, and when Dom Thuillier finally published them seventeen years after the author's death, he makes this brief comment in the preface to the second volume of the *Ouvrages Posthumes*, p. ix, "Dom Mabillon could not learn, without being penetrated with sorrow, of the rigorous treatment used in a certain Order with regard to monks who had committed some crying errors in their essential duties. He immediately took his pen and wrote these *Reflections*, which charity and mercy seem to have dictated. He points out the abuses, the inconveniences of this too severe conduct, and the ameliorations which the Church has employed to moderate its rigor. Finally, he proposes the kind of punishment which he thinks most proper to intimidate those whom fear of punishment alone can retain or to recall the criminals to their duties by a salutary penance." (1). Such indirect evidence, coupled with Mabillon's disavowal in 1698 leads Jadart to say, "The bad end of a protegee does not render the charity of his protector culpable. But, for Mabillon's biographer the appreciation of this delicate point was difficult. If he kept silent on a meritorious work of the master; if, instead of congratulating him on his generous efforts in behalf of a lost sheep, he almost had to accentuate the regrets which he felt, it is due to the fact that his pen was governed by the greatest circumspection. He had to be prudent to excess, not only in view of irritating momentary polemics but regarding decisions in questions of internal government to which Mabillon had remained officially a stranger, his modesty always keeping him from accepting offices or honors" (15, pp. 5-6). Political prudence and a desire to avoid polemics have therefore been given as the reasons why Mabillon did not publish his essay and why his friends made so little of it.

Some writers claim that the construction of the famous San Michele reformatory in the Apostolic Hospice in Rome, in 1703, was directly inspired by Mabillon. Stroobant (27, p. 261) even suggests that Mabillon very likely furnished the plans for the structure to Pope Clement XI. There is absolutely nothing which justifies either claim. Mabillon's views on prison reform were undoubtedly unknown to the Pope, who would certainly have mentioned any such direct or even indirect aid, since he greatly admired the learned Benedictine and more than once commented upon his scholarship and his admirable character. There is every reason to think that the ideas which led to the construction of the San Michele reformatory were of entirely different origin (26, pp. 110-11.)

Others, particularly those who for patriotic reasons have desired to revendicate to France the honor of originating the penitentiary system, regard Mabillon as its ideator. While they do not go so far as to say, with Stroobant, that "Penn was influenced by Mabillon" (27, p. 259) they nevertheless believe that his idea "received as a stranger on the soil which saw its birth, traversed the ocean to the New World, which hurried to adopt it as its own and from where it has later returned to us, formulated, after having grown and borne fruit. . . . Let us only remember that the essay of the monk of Saint-Maur is the first known landmark planted in the field of the penitentiary reform of prisons" (21, p. xix; cf. also 9, p. 453). We are compelled to question these statements due to later researches. The question of priority has been discussed elsewhere (26). While Mabillon's influence in the development of the penitentiary idea in the United States cannot be categorically denied, it probably played no role. The prison reformers of France seem to have been entirely ignorant of the existence of the *Reflections* until Moreau-Christophe resurrected them in 1837. Is there any reason to think that they were better known abroad? In England, Mabillon had numerous correspondents but, even if the essay in question had been openly published when it was written, would it have made much impression on archeologists?

We are, therefore, forced to the conclusion that Mabillon's essay bore no fruit and that when it finally became known, most of its important suggestions had been made by later penal philosophers. But even if it had been freely and frankly published at the time of its composition, its influence would probably have been as small as when it finally appeared in 1724. The great Ordonnance of Louis XIV organizing the criminal law and procedure of France had then been in force only half a century and the period of "enlightenment" was still to come. Briefly, the intellectual atmosphere of the age was hardly ready to absorb ideas which we are, in part, still struggling to realize. It required the work of Montesquieu, Beccaria, Howard, Bentham, and a host of others, to popularize the prison reform proposals, which Mabillon so clearly enunciated.

The ineffectiveness of the *Reflections* does not make them a less interesting historical document. Aside from their revolutionary ideas on penal treatment, they throw light on the real sources of our entire penitentiary system for the correction of delinquents. These sources must be looked for in the Church and particularly in those bodies, which regarded silence, isolation, and self-inflicted mental and physical pain as the true road to salvation. In a sense, therefore, Mabillon was but

the mouthpiece of that "old ecclesiastical spirit of penance out of which grew the penitentiary system, which was later and in another form applied to the worldly prisons" (18, p. 363; see also 5, p. 397).

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