THE CRIMINAL CODE OF VIRGINIA.

The new Criminal Code, framed by the last Legislature, is now published—occupying just 72 pages. We discover still some obscurities, and some adherences to old verbosity; but taking it all in all, Virginia never before saw such a sample of terse, clear, sensible and well arranged legislation. It makes punishable, we believe, a considerably greater number of offences than former laws did; yet fills not a fifth, perhaps not a tenth, of the space which those laws filled. And it contains hardly a hundredth part of the matter for doubt, for utter
perplexity to the reader or judge, that they con­
tained.

There is a great improvement, in the more ra­
tional graduation of punishments to offences. We
are glad to see that offenders may now again be
confined in the penitentiary for one year only, when
the transgression is light enough to justify so short
a term: annulling a rule established by the mis­
taken wisdom of a former law, which made three
years the shortest time.

It is a pity that solitary confinement for part of
the term is not also restored. Despite the senti­
mental whining of Mr. Dickens in his "American
Notes," over the sorrows of a solitary convict in
the Philadelphia Penitentiary, we believe that fea­
ture in the system to be worth all the rest togeth­
er, for reforming offenders, and inspiring a salutary
horror of crime. Against Mr. Dickens, and against
the sickly sensibility of our own legislature, backed­
even by the opinions of our Penitentiary phy­sician.—we place, triumphantly, the statistics of
the penitentiaries in Pennsylvania, and divers other
states, shewing a vast superiority to our own in
health, reformation, and all the other ends of pun­
ishment. Whatever failure there was in our for­
mer experiment, must have resulted from some de­
fect in carrying out the plan. Were the solitary
cells properly aired, lighted and cleansed? Were
they furnished with plenty of clean water, for wash­
ing? Was the convict made to wash himself all
over, every day? Was plenty of clean clothing
regularly brought to him, and did frequent inspec­
tions prove that he put it on? Was work allowed
him, to exercise his limbs and relieve the drear­
iness of solitude? Was there a small court open
to the sky, near his cell, where he might walk
twice or thrice a day, attended by a keeper? If all
these precautions for health were taken, and others
which might be mentioned, then it might be doubt­
ed whether solitary confinement is compatible with
health. If the solar light, the light of day, was at
all excluded, this alone was cause enough for dis­
ease.

The Code has definitions prefixed, declaring the
senses in which certain words shall be taken; and
calculated to prevent the many tiresome and un­
graceful repetitions that puff out ordinary statutes.
There are not enough of such definitions, however:
and their application is unhappily restricted to this
code of 72 pages. They ought to have been made
applicable to all enactments of the Virginia Legis­
lature, criminal and civil; to all indictments, dec­
larations and pleadings; nay, and rules of con­
struction like them should be declared lawful in all
deeds, wills, and other instruments of writing what­
ever. To show the need of such a condenser and
simplifier as those definitions would be, let any
one read an act of the late session to provide for
draining lands, when adjoining proprietors will not
let their lands be entered for that purpose. We
quote a small part of it, italicsizing the redundant
words; and only remarking, that the phraseology
not thus pointed out is often far more circuitous
than is necessary:

"Be it enacted by the General Assembly, That
where any person or persons within this Common­
wealth shall be desirous of draining his, her or their
lands, and it shall be necessary for such purpose to
conduct the water through the lands of another
person or persons adjoining, by means of a canal,
ditch or drain, to be cut or made for that purpose,
and cannot obtain permission from such adjoining
proprietor or proprietors by consent or agreement,
it shall be lawful for such person or persons so de­
siring," &c., &c., &c.

This intolerable rigmarole certainly was penned
by some sub-clerk of a committee—not by the clerk
proper, to whom it is said that the drafting of bills
is often left, far less by any member, unless he were
a pettifoger. The members who so ably second
Messrs. Patton and Robinson in their work of short­
ening the penal code, should not have let such stuff
proceed from the body to which they belonged.
To keep such quackery out of our laws, surely the
Revisors will prefix to the whole Code a set of
definitions, by which the language of all our legis­
lation may be squared. One of these definitions
should say that the singular shall be held to in­
clude the plural; and the masculine, the feminine.
Another, that a general term shall include all things
fairly embraced within it. And so on.*

To specify a few of the new provisions in the
Criminal Code—

Called Courts, for the examination or trial of
criminals, are abolished; and the regular terms of
the county court substituted for them.

The jury-law in criminal cases, which was pass­
ed two sessions ago, and was remarkable for its
clamorously complicated, is modified into more rational
shapes; retaining all its best features—e. g. the
summoning of jurors remote from the scene of the
crime,—calling them from an adjoining county
when competent ones cannot be gotten from the
proper county,—paying those so summoned,—re­
ducing the number of challenges, though not suf­
iciently.—&c.

The venue may be changed, on motion of the
commonwealth's attorney, as well as of the pri­s­
eron.

Robbery, by one armed with a dangerous weap­
on, is punished by five or ten years in the State
prison; if not so armed, by three or ten years.
The former law punished only robbery in or near a
highway. All reference to a highway is now
omitted.

The attempt to commit any crime is punished,
with a severity proportioned to the crime attempt­
ed. Till now, (strange to say,) no mere attempt

* See the article on "Wordiness in Legislation," in the
March No. of the Messenger.

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at crime by a white person was punishable at all!

To take away or secrete another's child, from any person having lawful charge of its person, is punished by confinement in the penitentiary. [We question if the words in italics are wisely put in.]

A stage-driver, or rail-way conductor, boat-captain, or other public carrier, willingly or negligently injuring any person, is punished as for a misdemeanor—i.e. by fine and imprisonment.

"Benefit of clergy" is entirely abolished.

A felony is declared not to merge or stay the civil remedy of any person injured.

Bail in a criminal case is allowed to surrender his principal, as in civil cases.

We would gladly extend this mention of changes in the law; but time and space fail us. The newspapers would do the public a great service, and interest their readers more than any ordinary speech could do, by publishing copious selections from this new code. Constantly, through more than twenty years of close attendance upon courts, and of frequent converse with all sorts of people, we have been freshly surprised by their ignorance of the laws that bind them. Did we edit a newspaper, this is one point on which we would make the light of the Press shine. There are few points about which light is more important.

Indeed the Legislature ought to adopt some means for effectually diffusing a knowledge of the laws among the people. But how can that body be relied upon for any such thing? Even more than half the magistrates are not furnished with a Revised Code, or a Justice's Guide-Book.