

H. Douglas 2

NORFOLK ISLAND.

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BY CAPTAIN MACONOCHIE, R.N., K.H.,

LATE SUPERINTENDENT.

"Captain Maconochie did more for the reformation of these unhappy wretches than the most sanguine practical mind could beforehand have ventured even to hope. My knowledge of the convict's character warrants my saying expressly, that his views offer the only approximation that has ever yet been made to a correct penal theory, &c."—*Settlers and Convicts, or Recollections of Sixteen Years in Australia*, pp. 412—13.

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JOHN OLLIVIER, 59, PALL MALL.

1848.

IN a recent debate in the House of Commons it was assumed by several Honourable Members, that the System of Convict Management maintained on Norfolk Island between the years 1840 and 1841 failed, and that the recent excesses there prove this. It seems desirable, therefore, to let it be seen with some distinctness at once what that system was, what were its immediate results, and that the excesses in question arose entirely subsequent to its discontinuance. Inference on the subject will be thus made more precise ;—and to attain this, not to indulge in egotistical feeling, is the object of the annexed narrative.—A. M.

NORFOLK ISLAND.

THE condition of our Penal Settlement on Norfolk Island was brought under the particular attention of the Transportation Committee of the House of Commons in 1837-8. It was shown that very undue severities were inflicted in it, and that the necessary result, extensive demoralization among the men, had ensued. In the strong language cited by one of the witnesses, the Rev. Dr. Ullathorne, as having been addressed to him by an unhappy victim of the system on the Island itself, "When a prisoner was sent to Norfolk Island he lost the heart of a man, and got that of a beast instead."

About the same time, a plan of managing prisoners suggested by me in Van Dieman's Land in 1837 was also brought under the notice of the committee, and received its qualified approbation. Its principles are as follows:

1. That the duration of sentences be measured by labour and good conduct combined, with a minimum of time, but no maximum,—instead of, as now, by time only. The purpose of this is to make a man's liberation, when he is once convicted of a felony, depend on the subsequent conduct and character evinced by him, rather than on the quality of his original offence. It is in the first that society really has an interest, and on which depends the security with which he may be again released. The last is an immutable fact. Amidst the varieties of constitution and temptations we can rarely estimate its real turpitude. When we can we are still unable to balance it against a due proportion of pain. And no amount of this last can either recall, or atone for it, or in any perceptible degree, as experience shows, prevent its recurrence.

2. That the labour thus required be represented by marks;—a certain number of these, proportioned to the original offence, being required to be earned in a penal condition before discharge. Then

according to the amount of work rendered, a proportion of them should be credited day by day to the convict; — a moderate charge be made in them for all provisions and other supplies issued to him, — and should he misconduct himself a moderate fine in them be imposed on him, — only the clear surplus, after all similar deductions, to count towards his liberation. By this means it is sought to place his fate in his own hands, to give him a form of wages, impose on him a form of pecuniary fine (instead of flogging, ironing, or shutting him in a dark cell) for his prison offences, — make him feel the burthen and obligation of his own maintenance, — and train him, while yet in bondage, in those habits of prudent accumulation, postponing the gratification of present tastes and impulses to ulterior advantages, which after discharge will best preserve him from again falling.

3. That to strengthen these moral checks and stimulants, when prisoners are kept together in numbers they be distributed into small parties (say) of six, with *common* interests, each man thus labouring and refraining for others as well as for himself. By this means it is hoped to implant and cultivate kindly and social feelings, instead of the intensely selfish ones which usually characterize the criminal, and especially grow up in the solitude of an unconnected crowd. It is thus also sought to create a shadow of domestic ties even when in prison, to give an interest to the strong to assist the weak, thereby equalizing penal inflictions, — and to make offence unpopular because injurious, and good conduct popular because beneficial to several together, thereby gradually creating an *esprit de corps* in all towards good.

And lastly, these several moral impulses being well organized, it is recommended that they be confided in, with as little mixture of direct force in obtaining the ends contemplated in them as possible. The two sources of action are considered essentially antagonistic, and cannot with advantage be in large measure combined. And though wherever prisoners are kept it is indispensable to have physical force present, it is yet undoubted that frequent recurrence to it, being in itself moral failure, will always be found rapidly productive of more.

These principles, then, having been brought before the committee, though they did not receive its unqualified assent, were yet deemed promising, and recommended to be tried. And shortly afterwards I was appointed to the command of Norfolk Island.

I arrived there on the 6th of March, 1840, and found the state of things certainly not better, and in some respects even rather worse, than I had expected. 1400 doubly-convicted prisoners, the refuse of both penal colonies, (for the worst offenders were sent here from Van Dieman's Land as well as New South Wales), were rigorously coerced all day, and cooped up at night in barracks which could not decently accommodate half the number.

In every way their feelings were habitually outraged, and their self-respect destroyed. They were required to cap each private soldier whom they met, and even each empty sentry-box that they passed. If they met a superior officer they were to take off their caps altogether, and stand aside, bare-headed, in a ditch if necessary, and whatever the weather, till he passed, in most cases without taking the smallest notice of them. For the merest trifles they were flogged, ironed, or confined in gaol for successive days on bread and water. The offences most severely visited in them were at the same time chiefly conventional, those against morals being but little regarded, compared with those against an unreasonable discipline. Thus the most horrid vices, with acts of brutal violence, or of dexterity in theft and robbery, were detailed to me by the officers as being exhibited among them, with little direct censure, and rather as anecdotes calculated to astonish and amuse a new-comer,—while the possession of a pipe, a newspaper, a little tea, some article of clothing not furnished by the Government, or the omission of some mark of respect, or a saucy look, or word, or even an imputation of sullenness, were deemed unpardonable crimes. They were also fed more like hogs than men. Neither knives, nor forks, nor hardly any other conveniences were allowed at their tables. They tore their food with their fingers and teeth, and drank for the most part out of water-buckets. Not more than about two-thirds of them could even enter their mess-shed at a time; and the rest, whatever the weather, were required to eat as they could in an open shed beside a large privy. The Island had been fifteen years a penal settlement when I landed, yet not a single place of worship was erected on it. It had been seven years a settlement before even a clergyman was sent. There were no schools, no books; and the men's countenances reflected faithfully this description of treatment. A more demoniacal looking assemblage could not be imagined, and almost the most formidable sight I ever beheld was the sea of faces up-turned to me when I first addressed them. Yet, three years afterwards, I had the satisfaction of hearing Sir George Gipps ask me what I had done to make the men look so well?—"he had seldom seen a better looking set, *they were quite equal to new prisoners from England.*" And this testimony seems to me the more valuable here, because it indirectly attests also the usual effect of the old colonial management, even in its best form, (for assignment still existed when Sir George Gipps arrived in New South Wales), on the aspect of those subjected to it.

It is impossible here to state in detail the means by which I

accomplished this great change, indicating, as it did, other changes still greater and more important. Besides introducing most imperfectly my own system of management among them, (for my marks never had a fixed value towards liberation assigned them, which could alone make their accumulation really important), I sought generally by every means to recover the men's self respect, to gain their own wills towards their reform, to visit moral offences severely, but to reduce the number of those that were purely conventional, to mitigate the penalties attached to these, and thus gradually awaken better and more enlightened feelings among both officers and men. I built two churches,--got a catechist added to the establishment to assist the chaplain,--almost every Sunday during all my four years read the service myself, with a sermon, at some one or other out-station,--established schools,--distributed books,--gave prizes for assiduity,--was unwearied myself in my counsels and exhortations wherever I went,--and went everywhere, alone and unattended, showing confidence, and winning it in return. I also gave every man a small garden, which was a boon to the industrious, but none to the idle: those whom I camped out in the bush I encouraged also to rear pigs and poultry, thereby improving their ration, and, still more, infusing into them by the possession of property that instinctive respect for it which makes it safer in a community than any direct preservatives. I thus also interested my police, who were all prisoners, in the maintenance of order, their situations, which were much coveted, being made to depend on their success. I gave the messes knives, forks, a few cooking utensils, tin pannekins, &c. I allowed the overseers, police, and other first-class men, to wear blue jackets, and other articles of dress not portions of usual convict clothing; and nothing contributed more than this to raise their spirits, revive their self-respect, and confirm their good purposes. And on one occasion I gave a glass of rum-punch to all hands to drink the Queen's health, and had two plays acted the same evening,--one of the wisest, and best-considered acts of my whole administration, and which has been the most pertinaciously censured.

It was on the first recurrence of Her Majesty's birth-day after my arrival on the Island, that this act of high treason against existing notions of prison discipline occurred. I had then already organized my police, and got my men into comparative order and good humour. I had very early observed, and with great regret, in the penal colonies generally, the hatred existing in most prisoners in them towards their native country and all her institutions. They have for the most part known little of her, but

the vicious social combinations which plunge so many of them inevitably into crime, and then the vindictive penal institutions which convert them ultimately into fiends. They thus almost to a man resent their position, rather than acknowledge its justice; ---and among other of my objects I wished much to overcome this feeling. The anniversary of the birth of a young female sovereign, who had only recently ascended the throne, appeared to me precisely the occasion to call out different emotions: and after consulting with my officers, police, clergymen, and others competent to form an opinion, I felt convinced that I could do it with perfect safety. I accordingly made the necessary preparations, and began the day with issuing a fresh ration, instead of a salt one, with a measure of flour to mix with the maize meal in making their bread. These several articles I also issued raw, so as fully to occupy the people throughout the morning in cooking, cleaning, and other preparations. At twelve they went to dinner; and at one I repaired with the principal officers to the several barracks, and having previously mixed twenty gallons of rum with two thousand half-pints of lemonade prepared from the island lemons, I gave each man in succession, in my own presence, about half a tumbler of the mixture to drink the toast of the day. It scarcely smelt of spirits, and went, as was intended, to the hearts, not the heads, of those who drank it. After this every description of national game was engaged in, prizes being offered in each;---and towards evening, when I wished the men again collected, yet did not wish it done by authority, those unlucky plays* were acted, which gave so much after offence. Would it have been better to have undone the whole effect of the day by showing jealousy and suspicion at night? or to have omitted the celebration altogether? I am still of the fixed opinion that circumstanced as I was, dragging up two thousand of my fellow men almost by the hair of the head from perdition; sent expressly to the Island for this purpose, with the highest of all moral objects thus in view, possessed of the requisite authority, the requisite means, a clear perception

* One at each principal station in order to keep the different classes of prisoners separate. And I may here ask, whether the acting of a good play before an unlettered audience is very different from reading aloud to them? This latter exercise I systematized on the Island by every means possible in the gaols, hospitals, schools, wards, huts, &c. And with extraordinary advantage; even a high class of books becoming latterly acceptable.

of the object, and of its importance, even had the result proved unfavourable I could not have been justly or severely censured. But when not a shadow of disorder occurred,---when bell and bugle recalled every poor fellow at night to his dungeon, or still more horrid ward, with a precision and punctuality that were to the last degree affecting,---when for four years afterwards, by like means, that is to say by a careful combination of moral means, not neglecting, yet not obtrusively employing, physical ones in their stead, I preserved absolute tranquility on the Island,---it may be conceded that my measures were at least not unwise, not ill-calculated to attain their end. I may have attached too much importance to that end;---the recovery of Norfolk Island from the state in which I found it, and to which it seems to have reverted immediately on my departure, may be considered not to have been worthy of so many, and such great deviations as I made from ordinary practice. These positions I shall not here dispute;---I shall only record my own unabated conviction that, even if questionable as an isolated fact, yet as one of many similar measures, this was a wise and proper one, within the just scope of my discretion, and not deserving of any censure. Its immediate effect was prodigious. Men out of number have since declared to me that it chiefly contributed to win them. It inspired confidence, affection, and many collateral feelings. It revived the memory of home, and home festivals, which had long been forgotten. I never afterwards repeated the punch or the plays, but always celebrated the day in other respects in the same way. I also gave half holidays on St. George's, St. Patrick's, and St. Andrew's days, and on the anniversaries of Waterloo and Trafalgar. I had almost a dozen Waterloo men with me, to whom I also on this day gave a fresh dinner. I do not think that a more important point exists in regard to our distant colonies than thus maintaining home associations in them. And with a devoted attachment, almost a veneration, for these associations myself, I yet do not think they can be more usefully employed than in occasionally mitigating the harshness, and neutralizing some of the other results, of that cup of bitter suffering which has so long overflowed in the hands of the remote exiles of our laws. Loyalty and love of country are among the purest and least selfish of all the sentiments of our nature, and thus too among the most improving;---and in a reforming system of Penal Discipline, even much nearer home, it will be found well, I am persuaded, to recognize the wisdom of directly cultivating them.

But great objection has been also made to my allowing my

men knives;—and yet what was the result? They were in daily, hourly, use, in every one's hands, yet scarcely ever with injury, or any bad effect. Could I possibly raise the self-respect of men to whom I at the same time said that I could not trust them with knives even to divide their food? These physical disabilities are pure nonsense, the devices of rude management, and consequent want of courage. When we seek only physically to coerce men, we desire to disarm them as a necessary preliminary;—but if we seek morally to influence them, which is the only true ambition, we are indifferent to such matters. Men may have fallen very low, yet still desire to recover; and, whatever their past life, they are then no longer ill-disposed. From a very early period mine were in this state almost to a man.*

It has been further alleged, that I had no secret in my management except indulgence, and that the prisoners behaved well with me because they had all their own way. They little know prisoners who say this. Mere weakness never guided such men yet. They behaved well with me because they were reasoned with, not bullied,—because they were sought to be raised, not crushed,—because they had an interest in their own good conduct,—and because they knew that if, notwithstanding, they behaved ill, besides incurring the censure of their companions, they would be otherwise vigorously repressed. In individual cases, especially of moral offence, I was even more severe than any of my predecessors; and through the good spirit which I succeeded in infusing into the mass, I obtained evidence in such cases when no one else ever had. As an example of this, Mr. Stewart, in his recent Report on Norfolk Island, observes, that it is not possible to obtain evidence against certain offences there;—nor has it ever been possible either before or after me. Yet, at different times, I brought six men to trial before commissions for these horrors, and established their guilt in every case;—and when I came away I left full evidence against other two, who were subsequently directed by the Van Dieman's Land authorities *not to be brought to trial*. So also with gambling, and so with theft, and other similar offences. They were alleged by those who were prejudiced against my measures to have increased

* I may also add that knives are allowed in the model prison at Pentonville;—and it is among other prison anecdotes that one man got his knife so sharp that he could shave with it. My men had razors as well as knives. I laid no restriction on either.

with me, because they were more successfully prosecuted;—and numerous proofs might be adduced of this, but I refer rather to my official reports (No. 40 Lords Papers, 1846.)

It has been said, too, that many of my results were owing to my own personal influence, and I willingly admit this to have been great; but it must have terminated when the men left the Island, and yet what are the undoubted facts as to their conduct then? In four years I discharged 920 doubly convicted men to Sydney, of whom only 20, or 2 per cent., had been re-convicted up to January 1845, the latest period to which I have any returns. Of 538 whom I discharged to Van Dieman's Land in February 1844, sixteen months afterwards, viz. in July 1845, only 15, or under 3 per cent. were under punishment, by which I understand had committed grave offence. (See Return No. 36, Commons Papers, 1846, p. 57.) At the same time the proportion of Van Dieman's Land trained men, in the same circumstances, was 888 out of 10,365, or 9 per cent. (same Papers, p. 54);—and in England, France, and Belgium, during the last five years, the proportion of discharged prisoners re-convicted, has varied from 33½ to 35 per cent.—while in Middlesex and Lancashire it was last year 47 per cent.;—and among men discharged from the general prison at Perth, a separate prison of the most improved construction, during the last four years it has been 67 per cent. Of the men sent to the colonies from Pentonville, there have as yet been no specific returns. All statements regarding them have been general. But the latest is certainly not flattering, for it consists of a confident anticipation expressed by Dr. Hampton, that "*if they are placed in favourable circumstances a large proportion of them will do well.*" (Papers presented 14th May, 1847, p. 6.) Lower praise than this could scarcely be bestowed; and some previous statements in the same communication do not contribute to raise it.

There seems to me, indeed, to be a source of delusion in the separate system to which attention is not usually paid. It is the most perfect form of mere coercion that has been devised. Men are utterly helpless in its grasp;—they thus make excellent prisoners;—and those who manage, and those who view, them in this position, are thus enamoured of their success with them. But it is scarcely possible to conceive that the most perfect form of bondage, however useful in its place, in the beginning of a course of discipline, can be the best preparation for entire return to liberty,—or that to fit a man for the difficulties of active life, it is wise to sequester him for a prolonged period from its duties, under the plea of protecting him from its temptations.

Is the virtue worth having that rests only on physical disabilities?—or is it men, or children, that we train, if we make it a condition of their afterwards doing well, that they be placed only in favourable circumstances?

Much is currently said of the necessary demoralization attending the association of prisoners together, and I readily admit that if, on the usual principles of management, only their worst feelings are called out, their accumulation cannot but aggravate the evil. But if we will bring their better impulses into play instead,—and it is quite easy to do this by proper combinations without sacrificing any portion of reasonable punishment,—then prisoners will be found just like other men. They are born social beings, so fashioned by the hand of their Creator; and it is in society, the society of their equals, not in seclusion from it, or in exclusive contact with superiors, that their most valuable qualities will infallibly be called out.

My own opinion thus is, that there was more manly purpose, and a higher quality of moral agency in any six of my better men on Norfolk Island, than in all the separate or other exclusively coercive prisons that ever were invented;—although having had no fair trial of my system there, my immediate results were individually less striking. But in dealing with prisoners we habitually make a variety of mistakes, each more important than another, yet to which professed disciplinarians are all zealously attached. We draw no proper distinction between moral and merely conventional offences. By minute regulation we multiply the number of these latter, and at the same time exaggerate their importance. We thus wear out the spirits, and exhaust the feelings of obedience and submission in our men by incessant demands on them for pure frivolities. We also sear their consciences by familiarizing them in this way with petty offence. We trust altogether to force to compass our ends. We seek to bend men like osiers, or to cast them, as we would dough, in stone moulds. We allow the higher principles of human nature to lie dormant in our prisoners;—we afford no scope for their exercise; we make no appeal but to immediate submission; we give no charge to men of their own destiny; we keep them as automata in our hands; and having thus done every thing in our power to weaken them, we look to make up for our blunders by placing them afterwards in “favourable circumstances.” Is this a school of virtue, or of pure dandling? Is not the whole process an absurdity? *Nititur in adversum* is the real road to improvement; and we give our prisoners neither opportunity for making this manly struggle, nor the chance of acquiring energy and in-

dependence of character through its means. We make them look and act exclusively to order while in our hands, and we wonder, and exclaim at their perverseness, when they afterward fall through the weakness that we have ourselves induced.

The system that I advocate avoids all these errors, and does not, I think, fall into any others worth naming. It may be improved in its details, but I doubt if any of its principles can be advantageously dispensed with. It seeks to grant no weak or unmeaning indulgences; but it desires to gain soul as well as body to influence, and not merely coerce. It draws the line of duty under the guidance of religion and morality, not of conventional regulation. It seeks to punish criminals by placing them in a position of severe adversity, from which only long sustained effort and self-denial can extricate them; but it does not desire to aggravate this position by unworthy scorn, or hatred, or contempt; and, on the contrary, it respects our common nature however temporarily fallen or alienated. It does not encourage a man approaching his freedom by an abatement of task, or improvement of diet, the low rewards of existing low systems which flatter the spirit of self-indulgence that leads most criminals to their first fall; but it at once proves, and stimulates and cheers him on, by an increasing, and ever increasing, scope of free agency, with motives to guide it, yet not unmingled with difficulty to resist its temptations. And seeking thus to train men for discharge into any circumstances, it is not afraid of being able to qualify them for even the most difficult.

Nothing could be more unfavourable than my position at Norfolk Island for conducting a great moral experiment;—and yet, guided by these principles, none could easily be more successful. Of all stations in the Penal Colonies this was confessedly the most demoralized. My powers in it were limited. My immediate superior, Sir George Gipps, only partially convinced of the soundness of my views, frequently hesitated, and not unfrequently even refused, to support me in them. My machinery on the Island was raw. Much of it was theoretical even in my own mind;—and being the development of a new idea, some mistakes were probably unavoidable in its first organization. My officers were not all cordial in their support of me;—trained to the previous system it was difficult to induce them to look with favour on one which shocked so many old prejudices, which by raising the prisoner lowered the relative *status* of the free man and which, by compelling private work to be paid for, diminished many long established advantages. My marks also never had the only value given them, that towards liberation, which could

make their accumulation an object of steady pursuit to the men. My physical means were always deficient. I never had above 160 soldiers in garrison with me, instead of from 200 to 300 who have since been maintained there. I had only five inferior free officers engaged in the active business of the establishment, instead of from 20 to 30 who have since been attached to it. And my police and overseers were selected by myself from the ordinary prisoners, instead of being free or probationers as since sent from the mother colony. Yet amidst all these disadvantages the moral means employed by me were fully equal to their task. I found the Island a turbulent, brutal hell, and I left it a peaceful well-ordered community. Almost the first words of Sir George Gipp's Report on it (in spite of some strong previous impressions in his mind against my plans) are--- "Notwithstanding that my arrival was altogether unexpected, I found good order everywhere to prevail, and the demeanour of the prisoners to be respectful and quiet." Besides this, the most complete security alike of person and property prevailed. Officers, women, and children traversed the Island every where without fear;---and huts, gardens, stock-yards, and growing crops, many of them, as of fruit, most tempting, were scattered in every corner without molestation. I confess that I have since looked back even with wonder at the scene, familiar as it then was to me. There were flaws in the picture doubtless;---but they were fewer and more minute than, without tracing the causes, may easily be believed.

My task was not really so difficult as it appeared. I was working *with* Nature, and not against her, as all other prison systems do. I was endeavouring to cherish, and yet direct and regulate those cravings for amelioration of position which almost all possess in some degree, and which are often strongest in those otherwise the most debased. Under the guidance of right principle they rose with me easily to order and exertion, while, under mere controul, they not unfrequently either explode in violence, or, being crushed, drag the whole man down with them. I looked to them for success, and in them I found it. I did not neglect the object of *punishment* in my various arrangements: but I sought it within the limits assigned alike by the letter and spirit of the law, not by excesses of authority beyond them. The law imposes *imprisonment* and *hard labour* as a retribution for offence; and these in the fullest sense of the words my men endured. Every one of them performed his government task, besides the labour that he bestowed, as he could catch an opportunity, on his own garden or other interests. But he was saved, as far as I could save him, from unnecessary humilia-

tion, and encouraged to look to his own steady efforts for ultimate liberation and improved position. And this, not the efforts of an individual, zealous as they doubtless were, was the real secret of the altered aspect of Norfolk Island in my time from what either preceded or followed it.

Her Majesty's Government has already intimated its intention to give the system thus attempted to be explained and justified, at least one fair trial. I wish that it could be persuaded to give it several! Let it be tried in Middlesex and Lancashire,---in the Hulks,---in Scotland, where, contrary to all usual experience, the alacrity in falling seems at present so great,*---with old, and with young,---with those destined to be ultimately exiled, and also with those to whom another chance is to be given at home! Anywhere a man may be required to earn a tale of marks, (in which case also even the most unproductive labour will excite interest, for it will at least earn him his own wages);---and being charged in them at the same time for his food and prison offences, he may be thus made to owe his liberation to his industry and self-command, not to flux of time only. I am a little afraid of desertion from the proposed home parties. With all my imputed indulgence my men on Norfolk Island were constantly trying to leave me; and perhaps nothing is more irksome to a yet unregenerate mind, whose habits of industry are unconfirmed, than the constant pressure of a motive which compels to effort, however paramount that motive may be while it does press. But for every other result I will readily answer. I fear neither bad habits, nor any other difficulties. I believe that while life and sanity are spared, recovery is always possible, if properly sought. There is indefinite elasticity in the human mind if its faculties are placed in healthful action, and not either diseased by mal-treatment, or locked

* Besides the statement already made regarding re-convictions from the general prison at Perth, the governor of Edinburgh gaol has declared in his evidence before the Lords' Committee now sitting, that only one-third of those under his charge are first-convicted men, the remaining two-thirds being old offenders. Are these figures, then, favorable to Scotland, or not? Do the caution and morality of the people aggravate the lot of discharged prisoners there, and keep down the supply of new offenders?---or is it really the prison management that is unsuccessful? The answer might be obtained from existing returns, and would be interesting. The proportion of re-convicted prisoners who are recognized as such is probably high in Scotland.

up in the torpor of a living grave. These latter courses may intimidate outside, but they must even in their best form injure the sufferer himself. And the Christian morality seems more than doubtful that would sacrifice the known for the unknown,—the actual patient for the supposed looker-on. Every difficulty would, I feel assured, be removed from the administration of penal law if we would but recognize the principle, that to seek *well* and *wisely* the reform of our criminals, we *must* inflict on them all the suffering that is really necessary for example, and *that we are not entitled to do more*. We may not do evil that good may come. There is no qualification to this precept.

A. M.

London, June, 1847.

NOTE.

At page 11, I have slightly adverted to the ordinary opinions regarding keeping prisoners in numbers together. But as the subject is important, and much defective observation and reasoning appear to me to prevail respecting it, I shall here recur to it.

A well organized army is not less orderly or moral than one of its regiments, nor the crew of a line-of-battle-ship than that of a sloop-of-war. On the contrary, it is well known to *practical* men, that other things being equal, *with a right organization* the balance is in favour of numbers, not against them. It is the rope of sand that crumbles as it extends;—and hence one reason, *among many*, for my attachment to the principle of mutual responsibility in managing prisoners. By its means any impression made may reasonably be expected to be combined and pervading.

The error in the probation system in Van Dieman's Land was not, then, as has been represented, the congregating men in masses together, but the doing this *without any suitable organization*. Had it added some modification of the Mark system to its other arrangements, I am persuaded that it might have succeeded as signally as it has failed. Men sent to Norfolk Island to earn a definite number of marks, (or other notation indicative of exertion,) previous to being removed, with their food and local offences charged in these, and only the surplus accruing towards their liberation, especially if supported by a mutual interest in good conduct,—would have been as anxious to labour, economize, and otherwise command themselves, as under their time-sentences, and without a common interest, they were to do nothing, eat fully, and yield to each headstrong impulse. And so in the probation and hiring parties in Van Dieman's Land;—the training in them might have been perfect had the maintenance and progress of their men been made to depend exclusively on their own combined exertions. And the minds of all being incessantly exercised in the practice of the active, prudential, and social virtues, instead of in the slavish ones of isolated fear and submission, they would have risen above the gross sensual vices into which they actually fell,—which were not so much kindred to the men, as to their deeply degraded state;—and which mere physical restrictions will always be found to provoke, rather than to check.

And some facts, previously cited, page 10, may be here again referred to as bearing specially on this point. Only three per cent. of men who had passed under

the mere shadow of the Mark system under punishment in Van Dieman's Land contrast favourably with nine per cent. of the locally trained men in the same circumstances;—and both most favourably with the 35, 47, and 67 per cent. of men re-convicted at home. Some part of the difference is probably owing to prisoners in the penal colonies occupying a less degraded position relatively to the free population than they do at home, to their thus encountering fewer difficulties on discharge, and generally speaking, also, to their finding employment more easily, though Van Dieman's Land has not excelled in this particular during the last four years. But very much, I am convinced, is further owing to the greater hardihood of body and manliness and independence of temper and character caused by out-door labour, by the necessary relaxation of discipline inseparable from it even under the strictest regulation, and by *continued intercourse and collision with their equals*;—and this last position is borne out by a fact which appears in the latest French returns of Crime, viz.,—that re-convictions among prisoners discharged from the Bagnes are five per cent. fewer proportionally than among prisoners discharged from the central prisons, the respective numbers being 30 and 35 per cent. It would be interesting to know in like manner the exact proportion of prisoners re-convicted after passing through our hulks at home, and at Gibraltar and Bermuda;—but my own opinion is, that the same result would appear in them. The *coercive system of managing men* appears to me so essentially vicious, that precisely where most perfect it will generally be found ultimately most unsuccessful. Mind can only be gained by appealing to mind. Fettering the actions of the body is even directly opposed to this. It has its immediate and apparent advantages, but these are dearly purchased. The past abuses arising from congregated labour are on the other hand not inseparable from it. They have arisen *mainly*, I repeat, from defective organization, from consequent idleness and want of preservative stimulus, and in some degree, though much less than is usually imagined, from deficient accommodation. (Soldiers and sailors are generally as ill accommodated without the same results). If we will actively employ our prisoners, and by suitable means cultivate in them the daily practice of manly and social virtue,—they will protect themselves from degrading vices much better than we can protect them by walls and bolts. And the moral triumph thus achieved, will be as improving and strengthening to them, as the physical one, even when attained, is deeply humiliating and enfeebling.

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APPENDIX.

Since the previous pages were printed an article has appeared in the Edinburgh Review,—on which (comparatively indifferent to personal praise or blame, but very anxious to be understood, and to have my views on this subject admitted) I beg to offer a few remarks.

1. The Reviewer has mistaken my opinions regarding the *object* of punishment. I think that its *immediate* and *direct object in every case* should be the *reform* of the criminal. I contend that we have not even a *right* to employ means having a different tendency;—*we may not do evil that good may come*;—and until this Christian principle is fully recognized, in penal as in all other administration, I am persuaded that we shall neither be, nor deserve to be, successful in it. But on the other hand I think that this object can only be comprehensively obtained through the medium of a *well arranged adversity*;—and *thus*, while seeking reform, we shall attain also deterring influence. Reform, besides being a worthy *end*, will be found a powerful *means*,—and also a *sure guide*. Experience shows that if we seek *first* to make punishment *detering*, we are almost certain *in practice* to exceed every just measure of infliction that in cool blood we propose to ourselves;—while by seeking *first* to *reform through the medium of adversity*, we incur no such risk, and in case of error will always be met by the practical check of *not reforming*.

2. In his antithesis, p. 219, the reviewer contrasts the possible with the impossible. By right arrangements, and with God's blessing, we may approach indefinitely near to the reform of *all* our criminals;—but by mere severity of punishment we cannot, beyond a very narrow limit, even advance towards the prevention of crime. On the contrary, it is known to all practical, and now even to most speculative, men,—that undue severity provokes crime, and demoralizes in almost a more rapid ratio than any other agency. This is become even proverbial. And the difference noticed, p. 220, between a well or ill organized school, army, or other community does not proceed from difference in the *severity* of punishment, but in the certainty and punctuality of that and *all other* arrangements.

3. In his account of the Mark system the reviewer almost uniformly represents it as a system of *indulgence*;—and yet, separating its theory from what may have been its practice on Norfolk Island, regarding which the testimony appears to him conflicting, there is nothing in it to warrant such a representation. It proposes to place criminals in a state of utter poverty, destitution, and bondage, from which *nothing* but their own steady, persevering, unflinching, exertion can extricate them. They are to be at the bottom of a well, with a ladder provided by which they *may* ascend if they *will*, but without any bolstering, or dragging up by other than their own efforts. If they even halt they are made to descend, for their maintenance from day to day is to be

charged to them. Are there not here, then, sufficient elements of suffering to produce a deterring effect?—yet every thing is strictly conducive to reform;—and why, therefore, go farther? Why introduce, in addition, chains, and dungeons, and factitious offences, and all the other apparatus of slavery, so much clung to in ordinary prison discipline, yet so injurious alike to officers and men? Why stigmatize that system as over indulgent which merely rejects these, while substituting at the same time far harder conditions to a degraded mind than they constitute? A fallen spirit can easily put up with a little more degradation, a little more contumely, a few harsh restrictions which there is always a contemplated pleasure in evading;—to set his shoulder to the wheel, steadily to struggle out of his position, to command his temper, his appetites, his self-indulging propensities, all *voluntarily*, all from an *inward* impulse stimulated by a moral necessity, this is a far harder imposition.

“Facilis descensus Averno

* * * * *

Sed revocare gradum, superasque evadere ad auras

Hoc opus, hic labor est.”

4. In the same spirit the reviewer quotes all my intellectual apparatus as though meant as mere “solatia.” I propose them uniformly for the expressed purpose of awakening, stimulating, and keeping the mind active, as well as the body, storing it, at the same time, with better thoughts than the disgusting images otherwise most familiar to prisoners. And in this light they cannot be too highly valued. It is in the intervals of entire repose, which in ordinary management are allowed to alternate with severe physical toil, that such men corrupt each other. My music, readings aloud, schools, novels, and other similar machinery, then kept many a devil out,—and, perhaps, introduced some angels in. They were negatively beneficial at all events: and, I feel assured, in very many cases positively advantageous also.

5. One portion of my system, however, the reviewer considers really too hard. To give prisoners an interest in each other’s good conduct is to burthen them beyond all power of their endurance. And he quotes in proof my own admission that in some respects this failed with me. But he does not observe that I impute my partial failure under this head, not to my adherence to this principle, but to my departure from it. Alone, unassisted, pursuing a previously untrodden path, on a voyage of discovery rather than guided by positive knowledge, without a precedent, and anxious by yielding some points to those around me to gain others, I relaxed in this, which gave both my officers and men some extra trouble, and *suffered for it accordingly*. There is no part of my whole system to which I am now more attached, though I readily admit its *early* practical difficulties. The men themselves will never, in the first instance, *like* it, though they speedily accommodate themselves to, and are benefited by it. Very few of my parties practically separated, even when released by their advance to tickets of leave from its imperative obligations. It was

rather a reproach to them when they did. All in a degree lost caste when a hut party broke up. And some very remarkable instances of the most disinterested self-sacrifice were elicited, while the sentiments which they indicated were in a degree implanted, through this means.

6. But the reviewer throughout takes too low an estimate of the capabilities of prisoners of being awakened to such feelings. (He says that I take too high a one; but I am a practical man, he probably only a speculative one; and surely, then, my opinion is worth something against his.) I know that criminals are usually selfish; and that their early habits, destitution, and other circumstances tend to confirm them in this. But the reviewer argues that the way to cure them is to urge their consequent sufferings to a maximum,—to make them really feel that “the wages of sin is death,”—and he endeavours, (pp. 239-40), to illustrate the analogy of this recommendation with the doings of Supreme Intelligence in the effects of continued intemperance on the bodily frame of a drunkard. Yet what is the real analogy in this case? So long as a drunkard continues to besot himself, his bodily sufferings and decay increase;—but if he turn from his infatuation, after the necessary pain of the first effort is over he gains health and ease from day to day. And so with criminals under the Mark system. They come in selfish, unwilling to trouble themselves about their companions, desirous only of ease, and evasion, and self-indulgence, and thus ready to fall into all those horrors incident to prisons under the present management; but under the strong impulse afforded by the system, they gradually become social, generous, active, and well-purposed throughout. “They wash and are cleansed.” Religiously, I repeat it, they may not be converted. In this respect too many of us all are as Ethiopians and leopards, and may not change our skin or cast our spots. But even in this respect many may come through their temporal good to see also their spiritual; and it is beyond all contradiction, that a right agency will make improved social agents of even the worst,—or if this is considered doubtful, it will be time enough to pronounce authoritatively to such effect when a right agency shall have been for some time tried. That period is certainly not yet arrived.

7. All past systems have been different modifications of FORCE. Whether separation, or silence, or compulsory labour, or physical disabilities, or factitious privations, or whatever else may have been their details or leading principles, still authority has been their exclusive reliance; and *they have all signally failed*. In the spirit of the 19th century, and in harmony with its other innovations, the Mark system now pleads for a trial being made of *systematized persuasion* instead; and in the absence of every other feasible proposal, shall such a trial not obtain national sympathy and approbation?

8. It is through undervaluing the essential change thus contemplated, however, that the reviewer makes so unfortunate a criticism (pp. 248-9) on my proposal, that prisoners shall be allowed to exchange their marks, *if they please*, for personal indulgences. Without this I

do not see how they are to be trained in self-command at all. What will be the value of their temperance if it is compulsory? On such a principle they will just fall again on discharge as they do now. It is by strengthening the will, *not by fettering it*, that free men will be trained, equal to meet the trials and difficulties of active life.

9. In describing the results on Norfolk Island, the statements of two officers are quoted (pp. 243-4), of whom it is omitted, at the same time, to mention that other statements made by them are in the same volume (Lord's Papers, 1846, No. 40) directly confuted. Their factious spirit is in truth obvious throughout. And with regard to Sir George Gipps's testimony, favourable in the main as it is, it seems due to my argument to observe that he came with strong prepossessions against my management,—that he was only six days on the Island,—that he did not communicate to me at the time the statements made to him,—that many were thus purely and undeniably fabulous,—and that the justice that he did me and my system (and his upright mind was most anxious that it should be justice) was yet thus from the necessity of the case incomplete. He stated as facts what were not facts. He reasoned on and drew conclusions from these, as though they were facts. He reasoned on others which were true as though they admitted of no explanation. His conclusions were thus drawn from incomplete premises, and the imperfection was all against me. Perhaps no officer had ever a more difficult task than that I imposed on myself, to maintain my own views amidst the wreck of their fitting machinery, and the opposition of the principal agents engaged in working it: and most severe was the ordeal of examination to which my conduct was subsequently subjected. But I do not think, notwithstanding, that my experiment will prove, as this reviewer calls it, “a *caput mortuum* added to the mass of putrefaction already loading Van Dieman's Land.” On the contrary, I believe that the more closely it is examined, the more life will appear in it,—the more favour will be shown to its principles,—and the more indulgence will be extended even to its imputed imperfections. I shall be disappointed if this do not prove the case.

10. Being necessarily in some degree an authority on all parts of this subject, I venture to add that I cordially agree with this reviewer's denunciation of the principle of assignment, and of the movement now making in New South Wales towards its qualified revival. Nothing would be more unfortunate, both for the science of punishment and humanity, than success in this;—and so also with tickets of leave, another form of the same erroneous system. By whatsoever plausibilities supported, the existence of a Pariah class in a civilized community *must* morally injure it. However restricted, the strong will abuse their strength, and the weak will supplement their weakness by deception, where such a combination exists. Jealousy and suspicion will extend the injury, and the demoralization become progressive and irrepressible. The whole history of the Penal Colonies when known in detail, will be found to illustrate this.

11. I also concur generally in the analysis here offered of the benefits to be derived from a short period of separate imprisonment in the beginning of a course of penal treatment;—but I think that the average time here proposed (twelve months), is much too long;—and also that the administration of this punishment, as exemplified at Pentonville, is susceptible of many, and very important improvements. Its duration, equally with that of all other stages of discipline, should be fixed by a task, not by mere flux of time; and much more active efforts than are now possible should be made to expel old thoughts in criminals subjected to it, and supply them with new materials for meditation and reflection. In a separate prison that I built on Norfolk Island, an apartment was contrived from which a reader's voice could be distinctly heard in twelve contiguous cells;—and during the greater part of each day some description or other of reading aloud was maintained in it. By closing a sliding pannel in his door, each prisoner could be absolutely alone if he wished it,—while by opening it he was again within hearing of profitable narrative, or other instruction. I am certain that the effect, in a great degree even through this power of choice, was most beneficial. It is vain to talk of ignorant, inert, and corrupt minds profiting by their own unassisted reflections. They sleep over these,—or do worse;—and they cannot be *compelled* to do better, for what is forced on them soon becomes nauseous and thus unprofitable. Really to serve them their occupations and progress must be made immediately profitable, and their time thus important, to themselves. They must be assailed from without also by continuous, rather than by vehement intermitting efforts;—and being for the most part either adults, or very precocious, they cannot be treated with permanent advantage as mere school-children. Any progress they so make will be found on trial deceptive, disappearing with the machinery employed to produce it.

12. Whatever the form given to separate imprisonment, also, and whatever its effect, it ought not to be immediately followed, as here proposed, and hitherto practised; by a long sea-voyage. I have always observed a great indisposition to labour for a time result from it;—and the evidence of the governor of Milbank prison before the Committee of the House of Lords, with much concurrent testimony in Dr. Hampton's, Sir Eardley Wilmot's, and Mr. Forster's correspondence, confirms this remark. On the termination of this stage of treatment, therefore, the stimulants to exertion should for a time be peculiarly strong, or the indolence thus induced will become habitual. And that this is necessary is another indication of that reducing, depletive tendency in this punishment, which makes its prolongation, as I think, so very doubtful an advantage.

13. Like all other exercises of mere authority, authoritative classification, here recommended, will prove, I am convinced, a pure delusion;—and, in fact, very few practical men, I believe, are not ready even now to pronounce it such. There is no rule by which to regulate it. If by offence, this is the mere accident of conviction;—

if by age, the youngest criminals, born and cradled in sin, are very frequently the most corrupt;—if by supposed similarity of temper or character, no one can with certainty pronounce on this, and men are as often, or oftener, improved by associating with their opposites, as with those who resemble them. It is impossible to attain real benefit by such means. To aim at virtue by fencing it from without, instead of by strengthening it from within, is as perfect an exemplification of dropping a substance to pursue a shadow as can be devised. One general difference between prisoners at the same time exists which I think it would be important on many occasions to keep in view, but not with the purpose of separating them: I mean the difference between men who have erred from having more than an average amount of physical energy, and men who have sinned from having less than an average amount of moral principle. The treatment of the two should very considerably differ, and it might not be impossible, or unwise, to subject this to regulation. The first, in particular, should have much more separate imprisonment than the second; but it is impossible here to enter into details.

In conclusion, I am sorry to observe in this Review a considerable leaning in favour of corporal punishments, and generally also of severity of infliction in all cases. Whoever the writer is, he may rely on it, not only that he is abstractly mistaken in this, but that he is demonstrably so, even on his own showing, as being opposed to the tendencies of the age in which he lives. The maxims of humanity are the maxims of English civilization;—they *cannot* be extracted from it;—and even if occasionally misled, they are *never* absolutely without use in it. The sentimentality which laments, however weakly, over the physical sufferings of criminals is yet beneficial, because it checks the inroads of wanton cruelty, and paves the way for progressive improvement;—and much more useful still is that wiser concern for their welfare which desires to guard their morals and higher interests, to develop their better qualities, and to cast their worst into abeyance, not by regulation, or by physical disabilities, but by supplying something better instead. This is not only wise, but it is the *only* true wisdom on the occasion;—and whenever adopted its reflex action will be found not less beneficial on society than its direct one on criminals. Vindictive personal punishments corrupt far beyond their immediate sphere. They appeal to the craven feelings of men, and they much more generally stimulate their ferocious and sensual ones. The indifference to human life and morals which has long characterized our penal colonies is more due to the character of their prevailing punishments, than of their prevailing population. Multiplied and unnatural restrictions have led to multiplied and unnatural transgressions. Lives passed without other object than to cheat time have been devoted to its abuse. Petty offence having been met by violent personal punishment, unmeasured resentment has first ensued, and then horrid murders, followed by barbarous executions. It is all too bad, and yet all bound up in one inevitable sequence of cause and effect.

The intensity of the evil, *so much increased of late years with increased severity*, points unmistakably both to its origin and remedy; and shall we reject the lesson, and persevere at home in principles which have led us thus astray abroad? Let that worldly wisdom which regulates the future with reference to the past, and that religious sentiment which looks upwards for a higher guide, alike forbid it! The blot is now on our criminal administration,—but if not removed, after so much painful instruction, it will remain on our judgment and name.

“SEEK *FIRST* THE KINGDOM OF GOD AND HIS RIGHTEOUSNESS, AND ALL THESE THINGS WILL BE ADDED UNTO YOU.” It is nine years since I first used these words in support of this argument,—and now, as then, I cannot conceive how either the precept, or this application of it, can be resisted. It seems to overcome all difficulties, remove all doubts, harmonize with all analogies; guide and direct all means. REFORM by ADVERSITY,—IMPROVE and DETER,—such is its fundamental precept; and there seems nothing either weak or mawkish in attachment to it. On the contrary, the principle being admitted, it seems even obvious that whatever may, or may not, have been my conduct under its guidance, a much firmer, more consistent, and more formidable system may be founded on it than on arbitrary vindictive punishment. *Res, non verba, querit*;—it leaves little to administration,—and requires higher sacrifices than lip-profession, or external and often hypocritical submission and observance. Contending, then, here mainly for the principle, I have little to say regarding myself, except that I early conceived in the Penal Colonies an invincible objection to acquiescing in the unnecessary, gratuitous, and even to ourselves injurious, wholesale *moral destruction* prevailing in them of my fellow-men;—and that *this*, much more than any extraordinary sympathy for their *physical* sufferings, guided my proceedings on Norfolk Island, sustained me in my difficulties there, and gave me a steadfastness of purpose, whether in inflicting, remitting, or modifying punishment, which certainly to myself seems more like strength than weakness.* But be it what it may, I trust that it may yet prove contagious, and that the current of English feeling and opinion may soon run swift and clear in the same channel, carrying away at length even my reviewer from his present positions. I thank him for the personal courtesy with which he has expressed his qualified dissent from me;—but I would rather have his entire accordance in any terms.

A. MACONOCHE.

* I may support the representation given above by referring to the statement made by my reviewer himself (p. 245), that “I became latterly more severe than at first;” but he overlooks, as did Sir George Gipps, my often-assigned reason for this. It was not that I found the men less “malleable” than I had expected, for, on the contrary, I found them much more so. But when my Marks lost value, and my *moral* apparatus was thus damaged, I used a greater proportion of *physical* agency with it than was at first necessary. I did enough in this way, yet not too much, which is another proof in my favour. For doing it on principle, and not under mere impulse, the change made was not violent.

It is now forty-four years since I first witnessed the corporal punishment of adults,

and thirty-three since I first administered it on my own authority. Almost uniformly also, though not of late years required to do so by my position, I have *witnessed* what I have administered ;—and so far from having felt too much on such occasions I am conscious of having felt too little. I have not, more than others, been able always to resist the hardening effects of temporary irritation, imperiousness, habit, contentiousness, and the fear of being beaten, or of *appearing weak*,—which each and all beset, and more or less betray, all entrusted with the hazardous power of inflicting at will vindictive punishment.

To guard against their snares I fettered my discretion in administering justice as much as I could. Most minor offences had their determinate punishment fixed by rule, varying according to the degree of aggravation. In grave cases I should have been glad to have had a jury, *preferably of prisoners*, for it is always desirable to interest in the administration of the laws those subjected to them ;—but this being beyond my powers, I was in the habit of consulting on the bench, not formally, but as though casually, those who were about me, both free and bond ;—and after coming to my conclusions I always explained with some care the grounds on which they were founded. In a heavy case I convicted on one court day, and only passed sentence the next. During the interval I reflected maturely on the probable *moral* effect, both on the culprit and the community, of different punishments. I regarded little but this ; and seeking no other guide the following were among the results to which my observations led me.

It was only very rarely that a corporal punishment operated beneficially. If frequently repeated it excited sympathy, kindled resentment, and not seldom provoked even retaliation, or the *imitation by others* of the offence for which it was inflicted. Still, in an extreme case of undeniable *moral* guilt, especially if ignominious, and the offender was of bad character generally, in a community like that of Norfolk Island, where moral appliances were imperfect, and the men were not trained to be systematically moved by them, it had its occasional *rare* use ;—and being generally carried into effect privately, with only officers present, without eliciting sympathy, or bravado, it appealed beneficially to those cautious feelings which being in a degree in all men it is as unwise altogether to neglect, as it is an utter mistake entirely to rely on them. And in like manner, an occasional striking remission was also advantageous, provided that sufficient ground appeared for it, and it did not seem to rest on personal favour. But in general, and especially for offences against discipline, the more steadily and unostentatiously punishment was inflicted, it was the better for all parties ;—and this was another argument to my mind in favour of mild inflictions, and against corporal chastisements, in such cases,—for that which can be carried into effect with little violence to feeling is always most certainly administered, and with least excitement.

When weighing these various considerations, then, in each particular case, I do not pretend to say that on some occasions I may not have struck the balance improperly on the side of abstinence from physical punishment, (the only idea that many around me entertained of punishment at all). My mission was to try moral appliances instead ;—my bias accorded with this ;—and besides that my deliberate judgment went the same way, no one will believe that it was infallible. But I repeat that I do not think that feeling for bodily suffering had much to do with the matter, but an earnest, perhaps excessive, desire to produce moral impressions. And that my mistakes were neither many nor great, seems otherwise proved by my success (*vide ante*, pp. 10. 13.) both on the spot, and long after in New South Wales and Van Dieman's Land.

I add, in conclusion, that the questions which now chiefly occupy public attention on this subject,—questions of separation, transportation, working parties here, or there,—are in truth but the husk of the nut. The kernel is the question "What shall be the spirit, what the apparatus, with which punishment shall be inflicted any where ?"—External circumstances have had hitherto far too much attention paid to them. On the principles of the Mark System, or, more generally, of *systematized persuasion* in any form, I will undertake to get better results in the most unfavourable circumstances than any modification of *force* will in the most favourable. And no great advance seems to me even possible in penal science till this truth is clearly seen, acknowledged, and acted on.