Observations

addressed to

Captain Maconochie, R.N.

on his proposed

System of convict Discipline.

By

No I.

To Captain Macnachie,
Private Secretary, &c.

In returning the Supplement to the Report on Convict Discipline (along with the Answer to Captain Forster’s Objections to that Report)—which we have perused with much satisfaction—we are inclined again to express our conviction of the great benefit that would be likely to accrue, both to the Prisoner population and the public at large, from the adoption of such a system as that projected in these Documents.

This system is simply the application of the principle of Moral Influence, in the place of Coercion;—the same that has been successfully brought into operation in Schools, Lunatic Establishments, &c. and which is equally available for the amelioration of the Convict Population of our Penal Colonies; and would also, reflectively, produce the happiest effects upon the Free Inhabitants.

In carrying the principle in question into operation, we most fully concur in the opinion, that the punishment at the projected Penal Settlements for Prisoners on their first arrival in the Colony, should be considered perfectly distinct from the discipline of the Probational Gangs;—nevertheless, it should be regarded as the first step in the ladder of reformation, and return to forfeited privileges. Such a plan as that proposed would render the certainty of punishment much greater than that at present in
in operation; and would have this important recommendation, that whilst the punishment inflicted would at once be seen and felt to be punishment, its nature would obviously be correction rather than vengeance.

The mode of classification projected in the Supplement is the only satisfactory one that has yet come under our notice. The separation of prisoners through the selection of Superintendents, even when age, sex, and external character are attended to, is still very defective in regard to moral operation; but this defectiveness would be remedied by allowing small groups to agree to attempt ascending the scale of reformation together.

The prisoners who exhibited reformation of character, and were allowed to associate themselves voluntarily, in a room apart from the rest, at the Penal Settlement of Macquarie Harbour, furnished the only practical approximation to this part of the plan that we have witnessed; and though it fell far short of that now proposed, yet it worked well.

It occurred to us, that should this system be adopted, which we most sincerely hope may be the case, more than one Penal Settlement would be desirable; in order that emulation and a diversity of talent in the persons who conduct them may be called into exercise, and that the want of ability in any one Superintendent may not bring discredit on the principle involved.

Were these Settlements to be established in such parts of the Colonies as are heavily timbered, and where the soil is good, the prisoners might be advantageously
employed in clearing the land and bringing it into cultivation
in small Farms: and when this was done to a sufficient
extent, the Farms might be sold; and the buildings of
the Settlements being originally arranged with this object
in view, might form the rudiments of future towns or
villages.

After much consideration during the course of
the last few months, on the practicability of carrying the
System of Penal Discipline into effect, we still remain of
the judgment that there is no insuperable difficulty in
the way, and we are of the opinion, that it would be much
better to try it here or in New South Wales than in a new Colony;
and that for such an experiment Van Diemen's Land possesses
many advantages over New South Wales; the population of
the former country being condensed, and in better moral
order, and the land more generally located.

We have also conversed with several intelligent Set-
tlers in this Colony, on the principles involved in the pro-
posed System, and have found many ready to acknowledge
their inferiority, over those of that now in operation; to the
inconveniences of which they are far from insensible, as is
evident from the very decided conviction that is gaining
ground among them, that the labour of Ticket-of-Leave Men
is more advantageous than that of assigned Convict servants.
The Colonists generally, however, apprehend, are prepared
to expect some material change in the Penal Discipline;
and the public prints have within the last few years
favoured the supposition that the British Government
contemplated even the withdrawal, altogether, of Convict
Labour.
labour from the Colonies.

We remain,

very respectfully,
your friends,

James Backhouse

Hobart Town.
1837.
No. II.

To Captain Macnaghten,
Private Secretary.

Having had our attention strongly recalled to the state of the Prisoner Population of New South Wales and Van Diemen's Land, by our late conversations with thyself on this interesting and highly important topic, we are disposed to submit to thy notice a few more remarks that have occurred to us; and which are founded on extensive observation of the nature and effects of the system of Penal Discipline at present in operation in these Colonies, made during visits of two years to New South Wales, and of three years to Van Diemen's Land: and in the course of which we had interviews with nearly all the groups of Prisoners retained in the employment of the Government, were at all the Penal Settlements; and visited a large proportion of the Establishments of the Settlers in the located districts on which Prisoners are employed as Assigned Servants.

In the first place we may remark, that in New South Wales, as well as in Van Diemen's Land, the Convict Discipline in operation being a system of compulsory Labour, is maintained by coercion; and thus it is also inefficient as regards the essential object of reforming the Prisoner.

There is nevertheless, a considerable difference...
between the state of the Convict population of New South Wales and that of Van Diemen's Land: that of the former country is decidedly the more reckless and insubordinate, and over them is exercised a more rigid coercion, and a less degree of moral effort is made for their reformation.

Flagellation is one of the principal punishments resorted to in New South Wales; and so copiously is it applied, that in the Prisoners' Barracks at Sydney, about the expiration of last year, upwards of one thousand men had been flogged within eighteen months! and in some of the ironed gangs in other parts of the Colony (which are most closely confined, and rigidly guarded) in about the same period, the whole of the men composing them had, on an average, been flogged four times! and had received at each time, tied up to the triangles, from twenty-five to one hundred latches (or, in some rare instances, more) by a regularly appointed Flagellator, with a Cat-o'-nine-tails.

Very few cases of reformation occur among the Prisoner Population of New South Wales. Before visiting that Colony, we remember being shocked on being told, that a Clergyman in Sydney, with whom we afterwards became acquainted, and whom we found an estimable man, had said, he despaired of seeing a Prisoner reformed on religious principle in New South Wales. Our own observation, however, we lament to say, brought us to much the same conclusion.
For where, in an exceedingly small number of instances, such cases of reformation came under our notice, they were the result of an influence unconnected with the regular operation of the Penal Discipline. Most of them were the revival of the better feelings of earlier years—of feelings that had been imbibed with early education and parental religious care; and the remainder were the fruit of incidental counsel from persons, most of whom were wholly unconnected with the Penal Establishments.

There is, however, another description of improvement of character, more frequently, though still seldom to be met with, and which is marked by more orderly habits, notwithstanding enough of habitual evil remains to show conspicuously that the fear of God has no hold of the mind: it appears to result from the introduction of new and interested motives; and is chiefly to be found under circumstances of a partial, or entire escape from under the operation of the coercive Penal System; and in cases where the parties become married, and consequently have the interests of others (their wives and families) blended with their own; or where they become possessed of property, and therefore have something they value at stake.

Chief Justice Francis Forbes, of Sydney, stated to us, that from his own observation he considered the acquisition of property the chief means of reformation, where it did occur among the Prisoners Population of New South Wales. This description of improvement is therefore not to be attributed to the Penal Discipline, but to the operation of a different...
a somewhat moral influence.

In considering the comparative state of the Prisoner population of these colonies it is necessary to take into view, that no persons are transported to Van Diemen's Land from Ireland; and that a greater recklessness appears on an average to exist among Irish Prisoners than among those from other parts of the British dominions; and also, that there is a greater consumption of Spirituous Liquors in New South Wales than in Van Diemen's Land, great as it still is in the latter Colony; and that recklessness and insubordination, both among persons in freedom and in bondage, bear a striking proportion to the consumption of such stimulants.

It is, indeed, our judgment, that the best system of Penal Discipline will not be found very effective if counteracted by a Government sanction of the sale of Spirituous Liquors: and we cannot but regard the numerous licensed public Houses in New South Wales and Van Diemen's Land as countenanced sources for the destruction of the morals of both the free and the Prisoner population. We by no means look upon the galling effect of the present state of bondage as the principal cause of drunkenness among the Prisoners, although it is probably a powerful one: for, in parts of America, where no such bondage existed, but where the places for the sale of Spirits were, as in these Colonies, to be met with at every turn, the drunkenness of the population was nearly, if not quite as great as in New South Wales, and far greater than in Van Diemen's Land. Our native
country, also, as well as others, has proved that, in proportion to the extension of the licensed sale of Spirituous Liquors has been the drunkenness of the Community.

The plea used in this colony, of the expediency of licensing numerous houses to prevent the illicit sale of Spirits, by inducing the parties holding licences to become informers, is, in our opinion, too weak to deserve an answer: it is diametrically opposed to the experience of New South Wales, where the licensing of Public Houses extensively has been found to increase the relative demand for Spirits, and this increased demand has led to the extension of their illicit sale. The same result will, we have no doubt, be found in this colony, unless the vigilance of the Police, who are, or ought to be, efficient for preventing the evil complained of, have prevented it.

We are well aware that the practice of licensing the sale of Spirits, was adopted at a period when the evils attending their consumption were little understood; and we are far from being disposed either to give way to, or to encourage a disposition to complain of the proceedings of the Government, but we must honestly confess, with its honoured head in this country, Sir John Franklin, that the falling off in the revenue from Spirits is cause for congratulation: it bespeaks increasing reflection and self-denial among the Colonists; and we hope the same principles will influence the Government, which will then do its part toward the removal of this fertile source of crime, and insurmountable barrier against Prisoner Reforma

The sentiment of Colonel Arthur, who gave a deep
and
and paternal attention to the improvement of both the Free and the Prisoner Inhabitants of Van Diemen's Land, was very decidedly, and often expressed, that the British Government would never effect any reformation among the Prisoner population by transportation, imprisonment, flagellation, or any other description of coercion, without the influence of moral and religious instruction; and under this impression, he grafted upon many of the branches of the present system such means of moral and religious instruction as he found within his reach. Thus we find Catechists attached to the Road-parties, a Missionary to the Penal Settlement at Port Arthur, and attempts to instruct the Prisoners in many of the establishments by means of Schools, as well as injunctions upon the Settlers to impart religious instruction to their Assigned Servants, and orders for Tickets of Leave men to attend public worship at the monthly musters, &c. To these means, in conjunction with a less consumption of Spirituous Liquors, a well supported and active police, a less vigorous coercion, and the absence of Irish Convicts, the better state of the Prisoner population in Van Diemen's Land than in New South Wales may be fairly attributed.

It is, however, to be observed, that in Van Diemen's Land, a very small ratio of reformation has resulted in proportion to the means of moral and religious instruction employed, which are in many respects of very difficult application; and depend for efficiency much more upon the individual interest taken in their objects by the parties.
on whom the application of them devolves, then upon the system on which they are engrafted; which may fairly be compared to an unsound stock, incapable of communicating vigour to its branches, which therefore produce but little and defective fruit.

We fully concur in the sentiment, that the unsoundness of the system of Penal Discipline now in use arises from its involving in its constitution little moral motive for the Prisoner to exert himself for his own improvement and reformation; and from the attempts to restrain him from evil being made by the exercise of mere physical coercion; and hence, it may truly be said, that the moral motives existing, or induced in the minds of Prisoners, as well as the exertions made for their production, have continually to contend with the counteracting influences of the System itself, and these are of a very overpowering nature.

Although Colonel Aikin entertained favourable views of the Transportation System, and of the Penal Discipline now in operation under it, as compared with the practice of jail imprisonment and Penitentiary Labour proposed to be adopted, or now in use in England, which we also esteemed just, as connected with the breaking up of old associations, restraint, and a small measure of moral influence; and expressed our approbation of in our various Reports made to him, (copies of which are in the possession of the Meetings for Sufferings of the Society of Friends, in England, and may be referred to, if occasion requires, at N° 80, Houndsditch, London,) he was by no means blind to many defects in the system; but for these he was
anxious to discover a remedy.

Such a remedy, we need scarcely again say, is, we consider, exhibited in the proposed change in the system of Convict Discipline; by which it would be made to involve a decided moral influence in its root and stock, would carry the same powerful incitement to self-restraint, and consequent improvement of character, into all its branches, and, we entertain no doubt, when sufficiently matured would yield good and abundant fruit; and we do not express this sentiment without making much allowance for the depraved materials the system would have to work upon; and which, it is but reasonable to expect, will in numerous, or perhaps, rather in numberless instances disappoint and frustrate the best directed labours.

Here are two cases which came under our observation within the dominions of New South Wales, that afford a small measure of practical illustration of the operation of moral motives upon Prisoners; which we think worthy of notice here.

The first is the large Road Gang in Illawarra, which is under the direction of a judicious and active Military Officer, Lieut. William Sheaffe; it consists of persons sentenced from England to be worked upon the Roads for specified periods, before being assigned; and whose assignment is also dependent upon good conduct. The conduct of these men is generally good, and punishments are rare among them, in comparison with the gangs consisting of men sentenced to work in irons, for certain periods, for offences committed in the Colony.
The second is that of the Prisoners at the Penal Settlement on Norfolk Island, who have improved considerably in their general conduct under the system of progressive relaxation of sentence, dependent on good conduct, and fostered by moral and religious instruction sanctioned by the Government, in the judicious hands of Major Anderson, the Commandant; and these are of the worst class of Convicts belonging to these Colonies — the second convicted from both.

In neither of these instances, however, is the moral influence used nearly equal to that proposed to be applied by the system; and in the last it may be said to depend not upon the principles of the Colonial Penal Discipline at present in operation, but upon those resulting from the personal interest of Major Anderson on behalf of his charge.

It is also worthy of remark, that at the Penal Settlement at Moreton Bay, which is considered one of milder character, and embraces Prisoners of shorter sentences and less flagrant crimes than Norfolk Island, less moral influence is excited, and there is proportionately less improvement of character.

We are decidedly of opinion that gratuitous religious labours have a more powerful influence upon Prisoners than hired ones; the latter being seldom recognized by them as the offspring of a heartfelt interest in their welfare, which the former, being in accordance with the precept of the great Founder of Christianity; “Freely ye have received, freely give,” carry a conviction of upon their face; they ought therefore to be warmly encouraged, and all
impediments to them ought to be removed.

Observing that no particular method of religious instruction is suggested in the proposed plan of convict discipline, we venture to remark, that very little benefit appears to result from the practice adopted in many of the penal establishments of these colonies, of involving prisoners in acts of devotion by no means suited to their state of mind, in connection with the continual repetitions of forms of prayer only appropriate in the months of the year, which was originally used them under the feelings which they indicate, or of those who adopt them under similar feelings; and we conceive it to be an act of intolerance to compel conformity to such services, and contrary to the spirit of the Gospel, which requires that God should be worshiped, not by the use of unfelt expressions, or compelled attitudes of devotion, but, "in spirit and in truth."

The object to be aimed at in assembling prisoners for religious purposes, is an improvement in their principles, in order that they may habitually walk in the fear of God, that they may be converted to Him through repentance and faith in Christ, and learn to act honestly toward their fellow-men. And this, we venture to suggest, would be more effectually promoted by the reading of the Holy Scriptures, to which also some plain narrative or expository treatise might be added, and spending a little time afterward in silence to afford opportunity for reflection. A system of religious instruction so simple and rational, would be easily available in all the
stages of the Penal Discipline proposed in thy plan, and might even be exercised by the Prisoners themselves, when situated inconveniently for the labours of other persons.

On reflecting upon thy proposition to make transportation involve divorce, in certain cases, we venture respectfully to state our dissent from it; because such a regulation would be opposed to a plain precept of Christ; and would, therefore, certainly, be found to work badly, how much severer as a matter of expediency it might promise to the contrary. The evil which the proposition is designed to remedy is evidently a great one, but another means of correcting it ought to be devised.

In conclusion we would remark, that the exertions which have been used under the present System have been ineffectual in putting a stop to the use of prostitute language among Prisoners in either of the Colonies, and generally in suppressing many other vices; but it is easy to perceive, that if upon thy System abstaining from such language were to be one of the occasions of daily obtaining a Ticket, and every oath, or obscene, or other prostitute expression were to be the occasion of the forfeiture of one, and that the acquirement of a certain number of these Tickets were to be essential to the attainment of every step in the progress toward the recovery of freedom, the habit of using prostitute language would quickly be broken. The same kind of influence might be brought into operation upon every other vicious practice, as auxiliary to other measures for reformation. And our own observations have strongly confirmed us in the conviction of this truth.
truths, which indeed may be regarded as self-evident; that the breaking of bad habits is essential as a prelude to the establishment of good ones; and that the reduction of sinful practices is eminently conducive to the reception of righteous principles.

We remain,

very respectfully,
thy friends

Robert Town
29th Nov. 1837.

James Backhouse
George Washington Walker.
No. III.

To Captain A. Macarthur,
Private Secretary,

Having been privileged with the perusal of thy 'Summary' Essay on the Penal Disciplines, and State of the Population of the Penal Colonies; we think it due to thyself and to the cause of Benevolence to express our Convictions, founded on Observations made during very general visits of upwards of six years to New South Wales and Van Diemen's Land, that the sad picture it develops of the effects of the System at present in operation is not overdrawn.

The state of discord and selfishness which very generally prevails among the Colonists, is a subject that soon forces itself painfully upon the notice of visitors among them, notwithstanding the pleasing impression that may be produced, especially at first, by the general intelligence and hospitality of the Community.

We have always been disposed to reject the idea of Slavery as connected with the Assignment of Prisoners, because no property is claimed in their persons; but we must acknowledge the justice of thy comparison between the bondage of the Prisoner in assignment so long as that bondage continues, and that of the Slave, and that its parallel effects are distinctly to be traced, both on the Servant and on the Master, and with these effects, we think, must be identified a large proportion of the
of the evils so lucidly depicted in thy Report on the Convict Discipline, and in the Summary.

Such being our matured sentiments, the introduction of a system which, with much show of reason, proposes to substitute Moral Influence in the place of Physical Coercion, in the correction of criminals, and the incitements to good conduct which in free communities constitute the connecting links between masters and servants, instead of arbitrary authority, in the one and absolute servility or desperation in the other, appears to us to claim the best wishes, as well as the hearty co-operation of every friend of the human race.

We remain, very respectfully,
your friends,

James Beckhouse.
George Washington Walker.

Robert Town.
19 Nov. 1837.