Report on Convict Discipline.

In the following observations I propose to consider our Penal Settlements as at present managed: 1. as founded for the purpose of punishing Criminals; 2. as intended also to promote their Reform; and 3. as Free Settlements. The working of the Convict System established in them cannot be well appreciated without thus connecting it with the whole social edifice of which it forms a part; the different portions of the subject, as will be seen hereafter, throwing a singular light on each other when thus viewed together.

I. As founded, then, for the purpose of punishing Criminals, our Penal Settlements as at present conducted, appear to me to be in one view eminently successful, in another as singularly unsuccessful. They really punish most severely; but they do not appear to do so; and on the contrary very many even on the spot, and much more at a distance, think the punishment inflicted in them lenient. "It is but hard labour," say these observers, "at the worst, which labour is at the same time frequently loaded; while the Convict is in all cases well fed, well clothed, well lodged, and substantially better off in all these respects, and however he may behave, than the industrious labouring poor of the Mother Country." Yet if we look a little below the surface we shall find, I think, the
the punishment almost inhuman, even though all this be admitted.

To say nothing of the pain inflicted by the first shame of conviction, and expulsion from home, which must be differently felt by different individuals, and by the best, most,—the convict on his arrival in the colony has no choice either of master or occupation, but is arbitrarily assigned, as may be determined by a Public Board. His position is consequently for the most part alien, both to his previous habits, and powers; and as he is not allowed to receive wages, and is otherwise placed in a situation in which he is little likely to be moved except by more compulsion, he rather becomes irritated by the effects of his own awkwardness than stimulated to overcome it. His master is, at the same time, rarely indulgent. He is accustomed to find his convict servants evade their work, whenever possible; and he regards all excuses, therefore, with suspicion. A newcomer, accordingly, like all his fellows in their day, even if he does his best, is not thought to do so; and stimulated by no motives to perseverance, on the contrary, probably, advised on all sides to relax, if he ever begins, he soon ceases to try to please.

The intercourse between him and his master is thus hostile almost from the beginning, and it rapidly becomes a continued series of efforts on the one part to evade work, on the other side to resist such evasion. The ill-will which thus on both sides increases, is reciprocally shown by covert injury, and violent punishment and reproach. The pecuniary interests of the superior may be most injured by the result, but the feelings of the inferior are most galled. Intoxication soon becomes his only comfort; and how to procure the means of indulging
in it his chief solicitude. Not receiving wages these can seldom be honestly come by; and the moral principle originally weak, or the wretched sufferers would not be a Convict, is unable to rise superior to any temptation which offers to supply them. All, in any given service or locality, being in the same circumstances, and subject to the same process, they act and re-act on each other in habitual vice, profligacy and petty crime.

Note G. The punishments adjudged to each ascertained offence are severe, even, as I think, to excessive cruelty. Besides corporal punishment to the extent of 50, 75, and even in some rare instances, 100 lashes, solitary confinement, and months, or even years of hard labour in chains (on the roads or at a Penal Settlement) are lightly ordered for crimes in themselves of no deep dye, petty thefts (chiefly in order to procure liquor, drunkenness, insolence, disobedience, desertion, quarrelling among themselves, and so forth. Yet even these punishments are insufficient.

Note G. V. The Convict is, in truth, beyond patient endurance, and the tokens of his wretchedness cannot be kept under. It is in this light, I think, that the greater number of petty offences of these poor wretches should be considered. They are indications of suffering, ebullitions of wounded feeling, ever on the fret, rather than symptoms in all cases of confirmed depravity; (though they certainly do rapidly confirm every previous evil tendency,) and that this is their true character seems to me proved by the examples, numerous enough, of improved moral conduct following on improved physical condition, without instruction, or even any peculiar care.

Note G. VI, VII. Good masters, for example, are rarely without some good, the seldom perfectly steady, domestic servants, and this in a country where all are convicted rogues, and where many of those
in whom most confidence is now reposed, bore once the worst Police characters. And the Port Office's establishment at George Town seems to me to furnish even a wholesale example of the same kind. Several of his men have been returned to the Government from their previous assigned services as incorrigible; yet they are all, under him, reasonably well-behaved, respectful, zealous, obedient, obliging, and submissive to Regulations. Not that their work is now easy, for, on the contrary, it is extremely hard; but they are sailor-bred, and understand it, they are confided in while executing it, they are kind, sympathetic, and of, and feel and know that their labour is appreciated, and themselves, in their degree, respected and regarded by the Officer (Master) over them. They are not, it is true, ever yet immaculate; and liquor is still an irresistible temptation to them. But besides their original education as sailors, they have passed through the furnace of the existing Convict System, and are still in a degree within its influence; they cannot therefore but be scathed and injured by it; not in truth, do I consider their occasional weakness in this respect less full of instruction, if rightly read, than their more general strength.

II. The first remark, then, which seems to me to apply to our Penal Settlements, as at present managed, is, that they punish with insordinate severity, yet do not sufficiently appear, especially at a distance, to punish at all. The victims to public justice are thus unduly, yet as regards

* Lieut. Friend, R.N. almost excellent, intelligent Officer, full of good feeling and humanity.
Note A. Example: to others, to a great extent, ineffectually tortured; while the result of the system, as I shall endeavour to show afterwards, is yet more extensively injurious. A preliminary enquiry however, if indeed, after what has been said above, it can be considered still an enquiry, is, whether any compensation is made to these poor creatures themselves for the sufferings thus inflicted on them; are they substantially improved, or reformed by the agency to which they are thus subjected? And this appears to me a very serious enquiry indeed! I am no sentimentalist. I most fully subscribe to the right claimed by society to make examples of those who break its laws, that others may feel constrained to respect and obey them. But the individual who has thus sacrificed to what is at best but a high political expediency, (for vengeance belongs to another,) have their claims on us also;—claims only the more sacred because they are helpless in our hands, and, thus helpless, we condemn them for our own advantage. We have no right to cast them away altogether. Even their physical suffering should be in moderation; and the moral pain which we must and ought to inflict with it, should be carefully framed so as, if possible, to reform, and not necessarily to prevent them. The iron should enter both soul and body, but not so as utterly to scar and harden them. Another world should be thought of even by the sternest temporal legislator, and it is frightful to think of the responsibility otherwise attached to him.

That the great majority of Convicts do not, however, reform under the existing convict arrangements is, I believe, disputed by no one. The detail of the process by which, on the contrary, they are deteriorated by it, is in part shown above; and the actual result is further demonstrated by the universal desire.
evidenced in the Colonies, where both are known, to procure servants from among new comers, in preference to old hands. Even such Convicts as attain respectable stations in life, I am assured, very rarely become themselves personally respectable; and I am also told that scarcely a single example has ever occurred of deep apparent contrition being evinced by them—nor of compensation being made, or shame expressed, or pardon sought, unless from the Sovereign, for injuries formerly inflicted. Perhaps the severity of the public punishment which each has undergone may in part account for this. They all feel that they have fully discharged the debt incurred to Society, by their subsequent sufferings; and the wrongs they have done to individuals, and even the crimes of which they have rendered themselves guilty before their Maker, are thus considered to be equally acquitted. But if this be so, it proves, more than any thing else, the injurious moral tendency of their punishment. Its weight has destroyed their moral sense, while seeking to correct its original weakness, and to support, by the example made of them, the weakness of others. Of so many guilty, surely some would have been signally penitent, if the very source of true penitence were not in all destroyed by the process to which they are subjected.

III. Thus far, they seems to me certain. Our present Convict system inflicts a greatly more severe punishment, even physically, on petty criminals than is usually believed, or can be contemplated when they are sentenced; and morally, its obvious tendency, and still more undoubted practical operation, is to degrade and brutalize the unhappy beings subjected.
jected to it. And, in truth, we need go no farther even than this to be enabled next to maintain, that it cannot but be deeply injurious to the free Communities also amidst which it works; for moral influences act always reciprocally; and it is altogether impossible to exercise a considerable influence, whether for good or evil, over one class of any society, without proportionally affecting all the others. But as a great many important views seem to be connected with this part of the subject, I proceed to enter on it at greater length.

The factfulness of temper, then, which so peculiarly characterizes the intercourse of Society in our Penal Colonies, may be attributed, I think, almost exclusively to their Convict System. Degraded servants make suspicious Masters; and the habit of suspicion being once given, Masters soon learn to suspect their equals and superiors, as well as their inferiors, (whence among other symptoms, impatience and irritability under Government Regulations and Judicial decisions, however just or well-grounded.) The total disease, moreover, of moral motives in the domestic relations of life, and the habit of enforcing obedience by mere compulsion, give a harsh and peremptory bearing in all their transactions, which being met by a corresponding tone in others, (the upper classes acting and re-acting on each other exactly as the lower,) every difference of opinion constitutes a ground of quarrel, and disunion becomes extensively prevalent. Much too exists in the mere arrangements for Convict discipline, as now maintained, which fosters these lamentable results.

A constant interference of the Police with private
feeling, and interest is absolutely unavoidable in existing circumstances; and the summary, peremptory character of decisions in cases of discipline, scarcely admitting of appeal, and practically almost always confirmed against both Convict and Master, (because even if appealed from, the reply is contingent on a Report from the Magistrate who has passed the first sentence,) is alone calculated to exasperate even mild spirits.

Accordingly, to his attachment to this system, and the perfection, in so far as it can be made perfect, which he gave it, I attribute almost exclusively, the unpopularity of the late Lieut. Governor of Van Diemen's Land, and the divided state of society under his administration; nor can I imagine any Governor to maintain either popularity or social union who adheres to it. To work it with effect, even as regards subordination, the Head of a Penal Settlement as now managed, must have a large amount of discretionary power either in his own hands, or kept avowedly subject to his direct interference. In particular, Assignments, loans of Mechanics, Indulgences of every kind, must emanate directly from his government; and no virtue or talent can, I am persuaded, dispense these in all cases, with strict fairness, or even without occasionally giving cause of just and obvious complaint. The business, however, thus entailed on a Governor, is alone a grievous public injury, and a great private snare and injustice to himself. It absorbs his time, exhausts his spirits and temper, confines his thoughts to details and explanations, when they should be expatiating on principles, and in the course of a long administration, must either set him at issue with every one.
under him;—for all have favour to ask;—or if there should be some few to whom what they ask is uniformly conceded, they are considered favourites, and he and they are disliked accordingly. Every decision moreover, thus come to, is the fruitful source of further applications;—for either it constitutes a precedent to be pleaded against him by others,—or it furnishes occasion of complaint home,—or the demand disposed of by it, is renewed again and again, in hopes of evoking that consent by importunity which, reason, justice, or as it is usually called, personal ill-will, refuse at first to grant. And it is another feature of this unhappy System, that while it thus creates endless perplexity to the Head of the Government, it is directly, and almost as if expressly, calculated to generate unerring pertinacity in applicants to him. His authority, though large, and, on the spot, almost without limit, discretionary, is yet delegated; and he is responsible for its exercise to a changing power, 16000 miles removed, and accessible, or, at least, supposed to be accessible, to indirect influence of many kinds. He must, therefore, not only satisfy himself in all his decisions, but be prepared also to satisfy others, who move in a different sphere, and who in many cases will scarcely be able, if always willing, to comprehend the motives which may have determined him. And further, the very habit of giving order upon order to compel obedience in inferiors, with little reference either to their reason or convenience, and of thus extorting compliance from unwilling minds, in one sphere by mere perseverance, gives an indifference to the reason or feelings of opponents in every other; and thus creates a pertinacity in pursuing a desired advantage, whatever the apparent obstacles in the way, which
knows no restraint; the large discretionary authority necessarily vested in the Governor of a Penal Settlement, as at present managed, making almost every thing, meanwhile, appear possible to him, and thus unavoidably giving a personal character to his repeated refusals.

Such, I am quite certain, is the true history of the unpopularity of Colonel Arthur's Administration, aggravated, possibly, in some degree, but certainly not materially, by some other circumstances peculiar to his Government. Such also, I am persuaded, Sir Richard Bourke will readily admit to be the character of his own experience. And such I am confident will be the experiences of every Governor of a Penal Settlement while the present Convict System is upheld. If inconvenient now, also, what will its working be when, if ever, a Representative Assembly shall be introduced into these Colonies? It will be utterly impossible, I am certain, in such case, to carry on the government without making considerable modifications; and no change, I am sure, will work quite satisfactorily that does not go to the root of the evil, the Convict System, and distinctly contemplate and remedy its more prominent defects.

Again, under the present Convict System certainly not less than half the physical strength of the Penal Colonies is lost to them. This it may be said, perhaps, is above the usual difference allowed between free and compulsory labour, though it would be difficult to prove that it is, therefore, in excess; but when it is considered, besides, that the distribution of the compulsory labour is, in this case, in the hands of an Assignment Board, and that thus
instead of following demand it is cooped up in artificial channels, (here, perhaps, in excess, there greatly below what is wanted,) it cannot be maintained; I think, that the calculation is too high. There are also minor points connected with this artificial distribution of labour, and flowing from it, equally deserving attention. Not only is the quantity of labour in these Colonies prevented from circulating as required, but the higher class of labourers, as mechanics and others, are frequently altogether thrown away by being improperly employed. Moreover the allotment of labour both in quantity and quality, being nearly a fixed quantity, and an adequate supply of it for any considerable occasional purpose never to be reckoned on by an individual, it is scarcely possible to get great public works executed by contract; and these are accordingly chiefly undertaken by the government, which besides being always an expensive and wasteful agent for such purposes, is thus constantly perplexed by conflicting claims for improvements; while being unable to attend to all alike, or even always to shew a good ground for preference, it is thus constantly irritat[ing] the postponed districts. Further, Convicts when assigned being bestowed on Settlers gratuitously, it is almost impossible for free Immigrants, unless Mechanics, to compete with them for employment; and as few as possible of these latter are accordingly permanently engaged, there being always a hope in the breast of each master, that he will by and by get a suitable assigned servant for his purpose, and be thus relieved from expense. Thus besides the distress occasioned, a positive degradation ensues in the relative position, and consequently, character of the Free Immigrants.
Immigrant, for while his head is uncertain, and frequently wanting to him, the convict is always well fed and kept, and in this respect his superior. Lastly, the comparative exclusion of Free Labour thus caused, precludes the devices by which it is always found to overcome difficulties more readily than compulsory service will. Rude methods of work are accordingly perpetuated, improvements are delayed, and can it be maintained, when all these considerations are weighed, that the physical loss to the Settlers is less than above stated?*

There is also another loss to the Community which branches out of the above, and forms, indeed, a part of it; but which is too important not to be specially noticed. While public improvements remain exclusively in the hands of the Government, however upright in its intentions,

*Since the above paragraph was first written I have met with a remarkable confirmation of the representations contained in it, in an elaborate Report on the Road and Bridge Department in Van Diemen's Land, addressed to Colonel Arthur in October 1836, by Captain Cheyne, the head of this department. Amidst much other valuable matter, indicating both zeal and intelligence, this Document contains (p. 243-4.) numerical data on which a computation is founded, showing that the loss in this one branch of the Public Service, arising from the system of coerced labour pursued in it, is 1/5 out of every 3d. expended, or in the aggregate, communibus annis not less than £50,000 per annum.” And Captain Cheyne (an Officer of great talent & experience) adds, that he thinks this calculation rather below than above the truth.
never fails to happen, that the most extensively useful works are postponed to the striking and grand. What is done by a Government it is always thought by its servants cannot be too well done, - too highly finished, or too much improved on till nearly quite perfect. Hence deep cuttings at particular points in Road-making, the intervals being left comparatively untouched, - minute, but frequent and expensive improvements in some parts of their lines, - a few handsome Churches, Bridges, and so forth, - instead of the whole country being first rendered passable, and furnished with moderate accommodation of every kind, until time and increasing means and population, enable luxury and improvement to be gradually and universally introduced. There can be no greater mistakes than this on principle; nor any which more retards the progress, and disturbs the harmony of a new Country.

The practice of assigning Convicts to Masters who feed, clothe, and lodge them, without casting on them selves the slightest care for their own maintenance, is, next, a bad preparation for their liberty when they do obtain it. It keeps them in a state of pauperage, and careless, reckless and spendthrift accordingly. It is true that some provision is made at present to meet this objection, by the system of Tickets of leave, which after a certain period of service most Convicts obtain unless very ill-conducted indeed, and with which they are cast on their own exertions for support. But meanwhile they have acquired improvident, and frequently dissipated habits, which they find it impossible altogether to throw aside; and to check the effect of these they are subjected (I believe in existing circumstances...
circumstances necessarily, and with good effect,) to a minute supervision of the Police, which still prevents their acquiring the feelings and habits of free men, yet, by and by, most of them will become free; and the object of the Government is that they should then settle, and become the Peasantry of the country. The school is assuredly not a good one through which they thus pass.

The same practice of housing and entirely maintaining Assigned Servants has also another injurious tendency. It huddles numbers of them together in large establishments, instead of distributing them in separate cottages. It thus prevents marriages among them, (than which nothing would more conduce to their domiciliation and improvement;) delays the growth and distribution of villages through

* I wish the subject of the marriages of convicts would really attract the attention of those interested in their reform to the extent which it seems to me to merit. I have sometimes thought with regard to it, that there would be an expediency in causing sentence of transportation (which in some other respects inflicts the pain of civil death,) to carry with it at home, under certain limitations, sentence also of divorce, so that all women whose innocent partners refuse after a given time to join them, might become free, at least after that time, to form other connections. And although I am by no means blind to the difficulties, and even serious objections which might be suggested to such a measure, yet am I certain that no one who really thinks of the subject will deny that nothing,—no, nothing,—can be worse in point of morality, than the existing system as regards this matter. The degradation to which both
through the country, the cultivation of small gardens, the subdivision of large properties into farms, the growing up of a respectable Tenantry and Yeomanry, agricultural improve-ments,—everything, in a word, even to the village—spire and modest meeting-house, which gives a virtuous and moral aspect to a Community. It is true that these elements are not good from which, under another system, I would seek to draw these consequences; but they are those specially placed under the care of Penal Governments; and shall these abandon in despair the duty of giving them, if possible, a virtuous direction? Or shall they cling in preference to all others to the present system of managing them, which from the review thus taken of its necessary effects, seems to me when critically, or as it may be called scientifically examined, to have no one rational recommendation?

Notes

A & B

It is cruel, uncertain, ineffectual either for reform or example; can only be maintained in some degree of vigour, by extreme severity; some of its most important enactments are systematically broken by the Government itself which issues* them; they are of course disregarded by the Community; others when enforced are deemed acts of individual oppression; and the state of society thus brought about by

* I here especially refer to the Order forbidding Convicts to receive wages. Yet Convict Constables are paid, upper domestic Servants, even when Assigned, usually receive something; Mechanics sent to Tradesmen, are all paid; and in a

Note G

Ixxxv.
it, becomes the most annoying, perplexing, unruly, complicated and unnatural, that can well be imagined.

Warren, as its principal elements do, with every natural impulse of the human mind; as a whole it is as unlike as possible to every ordinary arrangement of Providence in society. And unquestionable fact demonstrates that instead of reforming it degrades humanity, vitiates all under its influence, multiplies petty business, postpones. Note C. that which is more important, only prospers Public-Houses,— does the wind, scours the whirlwind.

But enough seems now said to make out the case against it; and it is of more importance next to endeavour to point out the principle, or rather the defect in principle, which makes it so bad, and by attending to which, accordingly, we may hope to improve on it. This, I think, is the attempt made by it, to bring together and combine conflicting and irreconcilable elements, without drawing any fixed line of demarcation between them. Thus severe and uncertain punishment is sought to be associated with Reform, virtual slavery with apparent freedom, social degradation with moral improvement, and a large discretionary authority with the union and contentment of Free Communities. Were these several elements, (all perhaps necessary in a Penal Set-

in a word, few Convicts are without some money or the means of procuring it. But even when fairly earned they dare hardly now produce it, it is not necessary for their substantial support; it therefore ministers chiefly to their vices, and in existing circumstances is, in truth, one of the greatest snares in their path.
Settlements) but duly separated, and one field were thus assigned to Punishment, coercion, and benevolent discretion; while Reform, Freedom, and strictly defined power had another—then, I think, a great amount of advantage might be obtained with even very little direct effort. Nor, would this alone be without advantage; for great political effort is ever in a State to be deprecated. The less the Magistrate, in all cases, appears, and the more is confided to the natural working of Society with its own elements, always the better, laissez-faire. And in truth the faults of the existing constitution of our Penal Settlements can scarcely be summed up more emphatically and comprehensively than by saying, that in them the regulations of Government are in every man's way, enter every man's house, and interfere with every man's most domestic arrangements. The Community is, in consequence, almost necessarily distributed into children and discontented, those who hag their fetters, or wish to break them.

The specific convict system, then, which in conformity with these views I would, if I could, establish, is the following. 1. Sentences of Transportation at Home should no longer be for terms of years; but altogether indefinite, depending for conclusion solely on Reform. * 2. All Convicts

* This is not indispensable, perhaps, but it is very desirable. Time is, at best, a very bad measure of punishment, operating as it does, unequally on different individuals. And when time, moreover, makes such leaps as from 7 to 14 and 21 years, the injustice inflicted becomes palpable.

I do not think, indeed, that the principle can be too much attend-
Convicts on first arriving in the Colony should be retained by Government in its own service, and under the management of its own officers who should be regularly trained to treat attended to in Secondary Punishments, of making them short, severe, and strictly accommodated, not to a general rule, but to the individual justice of each case. The human animal speedily accommodates himself to any privation, and, as is well known, descends even to the savage state with very little amount of habit. He does not, however, reascend with the same facility, and if his feelings are further embittered by a strong sense of substantial injustice he may not reascend at all.

Under the existing System there are Convicts in our Penal Settlements sentenced to 14 years for stealing 1/6, (petty pocket-picking.) There is one at this moment in the Government House Establishment in Hobart Town, thus circumstanced. (Ellen Gordon per William Bryan, tried at Somerset, March, 1833.) There are others under the same sentence for much more grievous offences; and which, among these, was probably, originally, the least culpable individual? Which should have been placed in the best position? and which has actually, however, been in the worst? The first might well protest in her heart against the iniquity of her sentence, and become reckless, depraved, and utterly lost under its weight. (It so happens that in the particular instance alluded to this had not been the case. She has served 4 years in Government House, and her conduct has been irreproachable; but the laws of her country have certainly not contributed to such...
treat them judiciously, with strict unimpassioned severity, (teaching them it may be, mechanical arts at the same time.) The others sensible of guilt, if bowed down by genuine repentance, may be well conceived to have been much more favourably placed.

It is also an important observation applicable to this subject, that the worst individuals in these Colonies are generally considered to be those who have served out their time under Assentment, - without ever having had any indulgences at all, - or, who have had their time extended by a Colonial Sentence, and served that out too. These individuals must, no doubt, have been originally bad, (at least stubborn,) or they would not have been thus circumstanced, for all receive their Tickets of leave at, or about, the allotted periods, who in any moderate degree seek to obtain them. Yet undoubtedly the feeling that they have thus braved the worst that the Law can inflict, and owe us no one any favour, is an ingredient in their confirmed bad disposition: and the system, moreover, appears to me essentially a wrong one, which at any time turns the hardened and impenitent loose, as of right, in a limited society framed for the reform of others. Such individuals should be considered wild beasts, and be either caged or expelled.

* I have not yet been able to visit Port Arthur, the chief Penal Settlement in Van Diemen's Land; but all that I have heard of it, and seen of Captain Booth, (21st Regt.) it's considerate Commandant, lead me to believe, that as a place of preliminary punishment it is nearly perfect. The Road Deport.
time, for their future assistance,) until their punishment may be considered adequate to their first offence, and their desire to escape from it by steady improvement of conduct and character can in some degree be relied on. 3. They should then be successively reported fit for Private Service; to details by the officers placed over them, and be declared eligible [see Note for it; but not be assigned, as at present, A. to B., C. to D. P. at the or otherwise at the seat of Public Boards, but A., B. and conclusion so on, to whatever Master will engage them, and whom they, themselves, are willing to serve. 4. They should be engaged by such Masters at the wages that may be agreed on between them, (the current wages of the day) with this reservation, perhaps, though I am by no means convinced even of its necessity, that at first they should only receive into their own keeping what may be strictly necessary for their support, the remainder being paid into a Government Savings Bank for their future benefit. 5. Progressively, at all events, as their steadiness becomes demonstrated to public Officers appointed for the purpose (and who might be called Convict Protectors, for their duty would be not to coerce, but to protect them against themselves,) not only their weekly allowance should be increased, but their reserved funds should be placed at their own disposal.

Department, also, now in V. D. Land, seems to me an invaluable resource in the same way. The Report of its present head, Capt. Blythe, elsewhere alluded to, is full of enlightened ideas on the subject, and, in a word, the existence at this moment of two such men together in one of our Penal Colonies seems to me almost ominous. Interat caviem.
posal. 6. Convicts thus cast on their own resources should have no allowances made them of any kind, whether of food or clothing, (unless agreed to by themselves, in part payment of wages,) but should be entirely dependant on their own steadiness for every necessary of life. 7. They should be exempt from Corporal punishment, but be subjected to fine, imprisonment, and forfeiture of Indulgences, in which latter case they should re-enter Government employ, and be dealt with precisely as at first, not for a definite term but until again recommended by the Officers under whose charge they are placed. 8. They should also be exempt from all special interference from the Police, except as regards their place of abode. It should be exactly known where they severally are; but in other respects they should be as Free Men, and

* If it were possible sufficiently to multiply Clergymen in the Country districts and at the same time adequately guard against the trust being directed to sectarian purposes, this duty might well be assigned to them. It would greatly extend their influence, and could hardly be considered alien from their peculiar object, the moral and religious custody of their flocks. But if objected to, even this would hardly be necessary. The Free Man's presumption of innocence unless guilt be proved might well be introduced here; and after 3 or more months every one might be entitled to his whole money who had not in the interval been convicted of irregularity before a Magistrate.

** These fines might advantageously go to an Orphan-School for the Children of Convicts, or to a Superannuation Fund for worn-out individuals.
and, in particular, they should have full power to change Masters and residences on giving proper notice, when they pleased. 9. The feelings of Free Men should be thus, and by every other possible means, cultivated in them, while yet the Society retains the power of strongly coercing them should they abuse their liberty. 10. And at length, especially where they have married, acquired property, or otherwise given as it were, pledges for future good conduct, they may be entirely released; though this should be rather a nominal than a real concession, enabling them, should they desire it, to leave the

* One of the most common indications of the misery of Convicts under existing circumstances is a passionate desire for change of place; and when serving considerate Masters, they are sometimes indulged in this by being transferred, though always (as a sort of punishment) to their disadvantage. In other cases, however, the disease becomes so strong, that they will steal or commit some equal offence, expressly to be condemned to a Road-gang or Penal Settlement, change of scene upon any terms.

In my short experience of Van Diemen's Land, I accordingly, know already two men under sentence in the above circumstances, one of whom was within a few months of obtaining his Ticket-of-leave, from which he is now indefinitely removed. He had also told his feelings first to his Master, whom he had previously served very well, and who, therefore, kindly expostulated with him, gave him some money, and thought that he had reconciled him to stay. But the disease was too strong on him; and I heard his subsequent conduct called ingratitude. It was in truth, sheer misery...
the Country; but not materially improving their condition itself. As already observed the settlers cast over them, after receiving their first indulgence, should be those of paternal solicitude and protection, not of constraint.

And the improvement in the Civil government of the Community at large should be founded on the same principles. 1. A vigorous effort should be made to adjust all existing claims against the Government on fixed principles; and, as I think, rather by a Commission on the spot, with full powers and instructions, than by Appeals Home. The delays interposed by the latter method are exceedingly irritating and inconvenient. 2. After this is done, the utmost simplicity and uniformity possible should be given to the future march of the Local Authorities, and of the social system under their charge. 3. Whatever discretionary powers may, therefore, be still left to Governors should be used with extreme reserve. Their great function as regards the Free Community should be to execute the Laws, and scarcely to know any other guide. 4. To provide, however, for the just and satisfactory interpretation of the laws, a well-devised system of Appeals should be created, by means of which every one, if he choose to pay for it, may have his case tried two or three times before different judges or juries. 5. The rights and limits of private property should also be as soon as possible definitely settled, by forcing the requisite papers in each case through the Survey and Land Boards, at whatever expense of money, labour, or individual feeling.
6. Local improvements, especially Roads and Bridges, should be encouraged in every district; in as many cases as possible to be executed at the joint expense of Government and the District benefitted, by which means, among other advantages, the real demand for any public improvement could be readily and unexceptionably ascertained, and public spirit would be blended with due gratitude to a fostering Government in every district. 7. The multiplication of Churches, Chapels, and Schools, should be encouraged, and the tone of Public Character raised by raising also that of the education engaged in its formation. In particular, means should be thus obtained of qualifying Clergymen, Lawyers, and other members of the learned professions on the spot, not by lowering the Standard of attainment required in them, but by raising that of the instruction which may be procured in the Colonies themselves; for this, we may rely on it, will never rise to excellence while unable to confer the substantial rewards of application on its pupils. 8. The growth of Towns and Villages in the interior ought by all indirect means to be encouraged, and the population generally, but especially that possessed of Mechanical talent, be by this means distributed, instead of being accumulated in the respective Capitals. 9. Agriculture could be thus encouraged by Markets being also extensively distributed; besides which it should receive every other gentle assistance that can be devised, short of fostering private judgment in the employment of capital or property. (A great step is made in Society, and perhaps especially to be desired in a Penal Settlement, by passing from the pastoral to the Agricultural state; but it must come in its own good time, and
though it may be assisted, should not be forced. 10. Finally, the Press should be encouraged, but neither bribed, nor implicitly deferred to. Its tone should be raised, but not its real position in society altered. Its province is discussion, not decision; it is thus a good servant but a bad master; and perhaps there is no real danger to be apprehended from a Ruler sacrificing his independence of judgment, and seeking its praise too much, than from his listening to it too little. In the Penal Settlements at present it is in a most unhealthy condition, violent, personal, and occupied with the details of petty scandal, rather than with the facts and principles of social improvement. Yet, to say the truth, it owes these characteristics precisely to the Convict System here complained of, among the natural and inevitable effects of which, as we have seen, are vehement personal feeling and invective; so that, with the removal of the cause its chief blemishes would, I have little doubt, speedily also disappear.

The greatest boon then, I am confident, that could be conferred on these colonies, would be the subversion of this System, and the substitution for it of some other, like that above proposed, which shall be in harmony with, and not in direct opposition to, the acknowledged impulses of the human mind,—the constitution bestowed on it by its great Creator, with which Man's devices cannot long successfully, or even with impunity, contend. Their whole social condition would be thus gradually renovated, their divisions would be progressively healed, the trouble, expense, and annoyance, inci-

* I have not adverted, in the previous argument, to the great expense of maintaining the Penal Colonies on the
incident to their present government, would be speedily reduced above a half, their physical strength would be immediately doubled, and their great natural energies and capabilities, now cramped and manacled, would be suffered to range free and unfettered. At least their aspect would thus shortly become equal to that of any other colony; and ultimately I think they would, probably, surpass all, for the population is exclusively English, with much intelligence and activity; a great scope before it, already prosperous in worldly circumstance, full of hope and enterprize, and with only one bane in its composition, the influence of the present system, because I readily admit that if efficient for their double purpose, punishment and reform, even twice the expenditure would not be too much for objects so worthy the policy and humanity of a great Nation. But if they are otherwise shown to fail altogether in this double purpose, then the expense which their very principle involves becomes a suitable and even important argument. For what causes this great expense? 1. A system of mere coercion requires an overseer to every two or three subordinates, with an apparatus of checks, one on the other, which scarcely knows any end; whence a prodigious number of functionaries, nearly all from the necessity of the case, ill-paid, so that they have little interest in retaining, or consequently, discharging aright, the duties of their office. 2. This sort of establishment is proverbially the worst possible, being at once expensive and inefficient, even if directed to a productive purpose. But, 3. Its purpose here is not production, but mere prevention, if it ever was systematically with production, as witness a previous Note on the Road Department.
of which, I am confident, would be almost entirely neutralized on the principles I have here attempted to develop; (for as the object of the Government will always more sedulously the moral improvement of those under its charge here than elsewhere, by the blessing of God it may not be without some remarkable success; and at all events, the Plan proposed would more constantly weed out the incorrigible, and separate them from the mass of the Community, than is possible in other circumstances.) The boon also, which would be thus conferred on England is scarcely less important or direct. A new light would be thrown over her Criminal Legislation; a new, and I am convinced, a satisfactory experiment would be made in her secondary punishments; and the Mother would, moreover, rejoice in, and be benefited by, the success of her Children. The tribute to the cause of Humanity, both as regards Time and Eternity, I shall not venture to specify. I can conceive no career so captivating to the ambition of a truly good, pious, benevolent, and comprehensive mind, as that of being made instrumental in conferring it.

I would not, indeed, be considered as thus arguing for a sudden, or violent change; for, on the contrary, no one can be more sensible than myself that the process of transition from the present to an improved Convict System, would be delicate; and that with respect to the older Convicts, especially—those already much injured and demoralised by existing circumstances—it will scarcely be possible to use too much care before we rely on the influences of moral motives over them; in preference to coercion. But the object is first to establish principles, and only subsequently to devise means by
by which to bring them into operation. I do not certainly think that it would be difficult to contrive those means; Note F.
and among other aids, I would most anxiously desire still to rest mainly on moral motives for success—first by per-
severing the Settlers generally that they are injured by the present System, and next, by equally convincing the Convicts that under the new they will have every thing to hope from good conduct, but from good conduct only. I would be prepared also to enforce this latter doctrine by great vigilance and even extreme severity, for a little times under the operation of which, I have no doubt, that practically some individuals now in the Colonies would pass the greater part of their future lives at Penal Stations. But their minuter interests would be as nothing compared to those of the whole Community, and I would never shut the door of hope absolutely upon any.

At their own option, and on their Reforms, even if but appa-
rent, every one might escape from me;—all who could exer-
cise any control over their own actions would therefore pro-
gressively so escape; and substantial Reform—its social exhibitions at all events, and in many cases even its vital essence—would gradually become as prevalent as they are now rare.

I venture thus to differ very widely from Colonel Arthur in his estimate of the present system of Transportation, and not least from Archbishop Whately as to the best substitute for it. He disapproves of expatriation altogether, and proposes, in its stead, that Criminals should be sentenced to periods of hard labour and strict coercion in England, to be afterwards returned to their old haunts & companions,
with the brand on their brow, and consequently with even a greater measure of seduction to vice around them than that under the force of which they first fell. I am certain that this would never answer. The premises on which it is founded are correct, but the inference is fallacious. Punishment should unquestionably be certain, rigorous, striking, judicious, systematic,—in one word, scientific,—and be administered on fixed principles and by properly trained individuals, not confided to the chance-medley of Settler Masters.* But the next stage, that of Reform, should also be scientifically

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* The value of certain and scientific, as contrasted with blind and accidental punishment, is too obvious to require much illustration: yet it is too important also not to deserve another word. Referring then again to the services of Captain Booth at Port Arthur, mentioned in a former Note, I must maintain, that conducted in the spirit in which I believe them to be, they are not less valuable to the cause even of humanity, than will be his who shall be enabled to reduce to practice an equally scientific system for the restoration of the Criminal to society, as this Officer appears to be for his temporary seclusion. It is to speak metaphorically, but yet with strict accuracy, to say that the operations of the one are as the plough, with which to cut through the crust of human recklessness and guilt, and stir up the good soil beneath,—while those of the other will be as the harrow and roller which again equalize the surface and secure the seed down, and confirm the hopes of coming harvest. Or, one may be likened to the Spring Sun, often veiled in showers and other asperities, but yet nourishing the seed; while the other will be as the Autumn
constructed, or in other words, should be made as favourable as possible to the habits of industry and sobriety only compulsively adopted under the previous process; and should therefore be in a new field, where those virtues are sure of an immediate reward, and the opposite vices of instant check. And with the important principle steadily kept in view, of thus dividing the whole object into two branches, each to be pursued with equal care and intelligence, I do not entertain the slightest doubt that Transportation might be made to exhibit one of the most remarkable triumphs of political arrangement, instead of, as now, one of its most signal defeats.

(Signed) A. Maconochie.

Luminary, serene and beautiful, maturing the hopeful plant. I may add too, as a striking and important fact relating to this point, that already many of the Settlers, and even some of the Officers of the Government, admit, that the best assigned Servants now in Van Diemen's Land, are those recently from under Captain Booth's tuition;—though others, indeed, call his System cruel. But to the thinking mind, the real cruelty is, not that his school is a rough one (he has stubborn materials to deal with) but that the world into which his pupils successively pass, is at present so unfavourable to improvement from its highly artificial state, and the jumble of Freedom, Coercion, and other discordant elements, peculiar to it, that the permanence of any impressions made by him is almost hopeless. This indeed is cruelty, and of the worst kind.