Summary of Papers on Convict Discipline, addressed to the British Government by Captain Maconochie, R.N.
Summary, &c.

These papers are three in number, entitled, a Report on Convict Discipline, a Supplement to this, and a Reply to Observations on the Report, by Mr. Trelawny (Chief Police Magistrate of Van Diemen's Land.) They were written at different periods, and with different objects.—First, to explain the general views entertained; next, to supply details; and lastly to rectify misapprehensions.* They have become consequently, more voluminous than is in one sense desirable, yet to such as have leisure and inclination to go into the subject deeply, the variety of aspects in which circumstances have thus led it being successively represented, will be found advantageous.

The following Summary of I. First, the representations made; and II. Secondly, the suggestions offered in them, will however be found a useful introduction. [or according to the position it here occupies, to speak more properly, Compendium.]

I. According to the actual System of Transportation, Prisoners are on their first arrival in the Penal Colonies, assigned to Private Service at the will of a Public Board, which endeavours as it best can, to distribute them fairly and equally among the Settlers, according to certain conventional rules laid down for its guidance. In the Assigned Service thus entered

*[^Note. The order here enumerated has been partially reversed in transcribing the papers into this Volume; the Observations being made to follow the Report, the Supplement, consequently, coming last.]
on no wages are allowed to be given, nor is any other moral impulse employed, excepting the remote hope of indulgence, after four, six, or eight years, according to the original sentence. Until these elapse, the labour imposed is strictly coerced, or slave labour; and although accompanied with a fixed minimum amount of physical maintenance and support, sufficient to place a body without, it is yet subject to all the discomfort, and moral degradation, incident to such a condition. The men are lodged in out-houses, six, eight, or more, under a stable roof, they sleep here on trundle bedsteads, generally without undressing, the floor is earthen, and often very soft; they cook, and eat in the same place, or in one immediately adjoining, always in the roughest manner, and they are subject to the most severe regulations, which any master can get enforced, on appeal to a Magistrate, by equally severe punishments. This is the usual picture in the Country Districts; in the Towns there is more comfort, (sometimes in the case of a good house servant, there is even too much, consistently with a state of punishment;) but there is much more temptation. Not being allowed wages, yet desiring of procuring indulgences, the Prisoners too often steal to obtain means, and all fly to liquor whenever they can obtain it, to drown humiliation, and care.

At the end of the several allotted periods, each man may ask for, and according to the Report made of him, may obtain or be refused, a Ticket of Leave. In this there is however necessary much uncertainty. The record kept of Prisoners' conduct, only embraces offences, no official notice being taken of good, ordinary behaviour, as diligence, sobriety, obedience, honesty, fidelity, zeal, or the like; and thus, as only that
appear which has drawn down Magisterial censure, a careless fellow, however good his dispositions and intentions, especially if he has had an indifferent Master, may have a long list against him, while a thorough villain, more happily circumstanced, or perhaps from the very power of deception which his practice in villany gives him, may leave few, or none. When the Ticket is obtained, a particular district is assigned in which the recipient must reside. Within it he may choose his Master, and residence, and receive wages; but under a recent statute, he is not allowed to acquire property. He must attend frequent musters, and may not change his residence without informing the Police. He must also constantly sleep at home, and return thither before eight o'clock, every evening. For very trifling irregularities he is liable to have his Ticket suspended, or entirely taken away, in either of which cases he is usually sent to hard labour in a Road-party, thus falling back on the worst, and not on the best form of previous treatment. And practically, very few Ticket of Leave men, do escape altogether, the interruption to which they are thus liable, often on very slight occasion, in their labour and pursuits, even in this, their comparatively free position.

At the periods of sentence respectively expire, with, or without having obtained a Ticket of Leave, and however abandoned in character, (if only they escape an extension of time under a Colonial sentence) the Prisoners become entirely free, and mix, as such, with the remainder of society; — of which whole system the minimum features, and consequences, may be thus classed.

1. The degree of punishment inflicted by it, is in every case quite uncertain. A bad master may make it fearful; a good, or weak one may greatly mitigate it. Much also depends on the
personal character of the Convict himself, as will be presently explained, but in general the amount of suffering is much greater than it appears to be, or than it is thought in England, or than is at all proportioned to minor offences.

2. It is on the persons guilty of those, at the same time, and even on the most innocent of them, that the punishment chiefly falls; for the physical endurance is trifling, compared to the degradation, and other moral suffering inflicted; and it is the best men who feel these most acutely. The previous habits of old offenders may, in most cases, even before their arrival, have inclined them to filth, slovenliness, suspicion, contempt, and the habit of submitting to, and commanding their tempers under such treatment; while a comparatively good man suffers under every thing approaching to indignity, and is unable to conceal, or restrain, the feelings excited by it.

3. The very bad are thus little punished, whilst the less bad, up even to the very good (of whom there are some) are punished with intense severity, and almost universally degraded and demoralized. Every feeling of self-respect is speedily lost amid the humiliations and inconveniences inflicted; and irritation, recklessness, insubordination, disgraceful punishment, furious resentment, drunkenness, theft, and prostitution, complete the sacrifice of many a human being born to better things; and whom misfortunes, and imperfect political institutions, more than crime, or original bad disposition, have thus irrecoverably ruined.

4. The evil also does not terminate here. Social, like mechanical, impulses act reciprocally. The degradation of one class operates injuriously upon every other; and it is impossible to view the state of Society in the Penal Colonies without being
...being made most painfully sensible of this fact.

5. The servants being made slaves, the masters are made slave-owners; and the peculiar modification of slavery, thus introduced, is of the worst character. The servants have not always held the same degraded position; they have been born, and for the most part, have grown to maturity, in better circumstances. Many have education, more ability, and the passions of all are easily excited. The masters, on the other hand, take little interest in soothing, or encouraging them. They have no permanent property in them, and have little interest, therefore, in endeavouring to improve them. They are perfectly aware of their character, and feelings; they do not fear them, because they are Englishmen, are used to them, and because the vicissitudes of a Bush life, seem, at all events, an antidote to fear; but they dislike them proportionately, and are ready to believe the worst of them, and on very slight provocation, violently to coerce, punish, and inveigh against them. The analysis need not on this point go farther. It is plain that the elements of domestic life are thus full of discord, and that of moral influence, there can be none, little or no exercise.

6. But the results go much farther. The abuse of moral influence in domestic life, gives a harsh, peremptory, and overbearing character to the whole intercourse of society. Every difference of opinion makes a quarrel, and every decision, whether of the Government, or Courts of Indication, constitutes a ground of vehement complaint, or political invective.

7. The severe regulations of the Prisoner discipline also foster these feelings. They are so strict that they are not, and cannot be, universally put in force; yet, very now and then, even the most minute of them is acted upon, to the loss and
inconvenience of individual families by interfering with their domestic servants; and this is constantly thought to be caused by personal feeling, rather than by right or principle.

8. The disunion of society in the Penal Colonies is thus complete, and manifests itself in a depth of suspicion, and recklessness of assertion, beyond all precedent in civilized life; but which can, I think, be traced directly to the prevailing and demoralizing influence of the existing Penal Institutions;—for the habit of suspicion and violent invective in private life speedily extends to every other relation.

9. Further, no official record being kept of the good conduct of the Prisoners, (though their characters are frequent matter of enquiry when considering their applications for indulgence,) the standard of moral worth is lowered generally; thus being considered proved by mere escape from detection in crime, and consequent punishment. And the severity with which minute conventional offences against Discipline are currently visited, further tends to warp the judgment in forming estimates of moral character; a breach of discipline being considered criminal, and carrying the pains, aspect, associations, and other consequences of criminality, almost as a felony.

10. The essential and obvious error in the system is, its total neglect of moral reasoning and influence, and its exclusive reliance, in every relation of life, on mere physical coercion. Law, or regulation, comes thus to be looked to, rather than principle; and the widespread mischief so caused must really be seen to be adequately conceived.

11. Whatever one man can legally take from another, he will take; whatever he can hope to wring from the government by importance, however unreasonable in itself, he will
never cease applying for. What one, by any favour, or accident, obtains, all immediately claims. The kindness, or indulgence, shown to one is refused at, unless extended to every other; the selfish feelings everywhere predominate, their expression everywhere ruin, riot; and as every one, from the highest to the lowest, appeals directly to the Governor, the turmoil in which he lives is incessant. (See Note p. 159.)

12. These inconveniences are also in a very small degree dependent on the administration of the system. It has been usual, it is true, to attribute them to certain peculiarities in the personal characters of the several Governors, all of whom, in succession, have been thus weighed against, and charged with political mal-administration. But the constant recurrence of the same circumstances, with either the same complaints, or totally opposite ones, according as one, or other party, or class of individuals, may have thought themselves aggrieved, and always accompanied by the same extremity of censure, sufficiently proves that the cause lies much deeper than the mere personal character of successive Governors.

13. The evil is due, I think, (and as I show in my papers, in detail,) to the union which the System attempts to make of a state of direct punishment, from which physical coercion is inseparable, with one of training, or probation, of which moral influence ought undoubtedly to be an ingredient, but it will not, and cannot amalgamate with the direct restraint; and the confiding both operations to the chance hands of Settler Masters completes the injurious effect which this medley is otherwise calculated to create.

14. Under this system the Prisoners are considered to be in a state of punishment for the past during the whole period of
of their sentence; yet are they expected to be improved for the future by the treatment which they thus receive. They are first made slaves to their Masters, and then, (even in the best case, that of a Ticket of Leave) equal slaves to the Police, as though they could be qualified, by any such means, to enjoy, without abusing, their freedom, when the turn of a single night shall totally change their position. The Masters, on the other hand, are placed in the most difficult and delicate circumstances, without the slightest preparation for them, every strong motive to induce them to study the duties imposed on them. Being made slaveholders, they are subject to all the demoralization incident to such a position; and to more also. They are charged to punish and reform their Country's Criminals; and they neither know, nor care, about either operation; for naturally, and necessarily, their dominant object is to make the most of the labour which thus passes through their hands. They only have their self-esteem elevated by the superiority of position assigned to them, and their contentious feelings whetted, and their hearts hardened, by the right of harshness, contempt, and unrestrained invective, which it is supposed to give them.

15. Surely there is no science in these arrangements, such as ought in the present day to distinguish the political and penal Institutions of a Country like England; nor any humanity, nor any justice, no much even of that practical wisdom, which seeks at least to derive the utmost selfish advantage from the materials under its hand. The Prisoners are all made bad men, instead of good, (it is shown by the Official Reports transmitted with my papers, that scarcely any are reformed; and human nature does not stand still, — if not improved, it gets worse.) The Masters are made headstrong, overbearing, and dissatisfied,
if not otherwise bad subjects. The punishment inflicted is uncertain, unequal, oppressive chiefly to the best men, but almost in all cases greater than it appears; and the example set by it is in proportion to all these characteristics less than the price paid for it ought to purchase. The convict labour being artificially distributed, is necessarily, imperfectly distributed. Here it is in excess, there beneath the demand; and under the existing restrictions, even that portion of it which is comparatively free, viz. the Tickets of Leave, cannot circulate so as to meet the fluctuating demands of communities already far advanced in luxury and civilization. Being coercive, the productive effect of the remainder is half lost through resistance; yet being apparently gratuitous, (though this really expensive) it is a powerful obstacle in the way of free labouring Immigrants, who, (in Van Diemen's Land, at least, where nice fields of enterprise are becoming rare) can only with extreme difficulty obtain permanent engagements; the Masters generally hoping that they may get a Prisoner assigned to them, suited to their particular purpose, and that they may thus save the direct expense of a free servant. Distress, and consequent vice, and dissipation are thus common among the Free, as among the Bond.

In 1836, the proportion of Crime convicted before the Supreme Court, and Quarter Sessions in Van Diemen's Land, was one to one hundred and five of the whole population; and of Drunkenness summarily convicted among the free people alone, was fourteen per cent, or one in seven. In England the first

* Amongst the official papers transmitted will be found a Report by the Director General of Roads in Van Diemen's Land, shewing, among much other valuable matter, that the productive effect
first proportion is I believe usually about one in one thousand, in Scotland one in thirteen hundred, and the second, (except in London, and one or two other large towns, in which in 1835 it ranged from one to two percent,) is over the mass of the population becoming, with improved knowledge and institutions, an almost indistinguishable fiction.

II. The evil then, is crying; and I almost hesitate as I thus sum it up, for it seems at first incredible that, being so great, it should not sooner have attracted notice. But first, it has been progressive, and has only of late years become what it now is. And, secondly, it is important to observe, that the wide-spreadening mischief of a system like this, of which the principle is vicious, but the administration has been able, is much less discernible, especially to those long accustomed to contemplate it, than the injurious consequences of comparatively trifling blemishes on the surface of otherwise good arrangements. The operation of a principle is uniform; every thing around it either flows from, or is accommodated to it; its effects appear necessary and unavoidable; and their inconveniences, under firm and skilful superintendence, being remedied in detail, by improved apparatus, a thorough revision long seems unnecessary. (Thus, for example, were the evils of Black Slavery long endured and palliated, of English Poor Laws, of close Government, in Ireland and elsewhere; and thus too have improvements been introduced, especially of late years; and others are still proposed, in the detail of Convict Management.

The effect of Convict labour, is scarcely 1/10 out of 3s.; and that Fifty thousand pounds a year, is thus lost in his Department alone.
by the several resident Authorities. | But in all cases I am
persuaded such palliatives will be found eventually to pro-
brate, rather than mitigate a real evil. They disguise some
of its rankness; they true prolong its duration, and give
deeper root to its injurious results; they give the ingenuity
of administrators a wrong direction, by leading them to inde-
avour to suppress the indications of error, rather than remove
error itself; and they ultimately make entire change more
difficult, because a certain amount of apparent good con-
ducted by following each supposed improvement, people are led to
believe themselves in the right way, whereas they are really only
going further astray; as is the case immediately in question, in
which, instead of seeking to improve the apparatus of physical
evacuation, the real problem is, how ever may, in whole or in part,
advantageously dispense with it.

What, then, is the true remedy? The previous analysis
to a considerable extent explains my opinions on the subject,
but the following details may be also useful.

1. The two objects contemplated by Transportation,
 Punishment and Reform), (sought to be obtained in one pro-
cess in the existing arrangements) should be separated, and
each distinctly contemplated, and pursued.

2. The Government should change itself and its own
Agents, with the processes which may be deemed suited to the
attainment of both. Or, in other words, the Prisoners should
be punished for the past, and trained for the future, in
Government employ; and should only come under the direct
authority of the general population, when they have obtained
their Tickets of Leave, receive Wages, choose their own Masters,
and are thus in a position of comparative freedom, and equality.
3. These few and simple changes would of themselves make punishment certain and appropriate, training systematic, and abolish that domestic slavery, the moral injury arising from which is at present beyond calculation. But the full benefit of them could only be reaped by making the treatment in each stage as perfect as possible, and as much accommodated as may be, to each particular purpose.

4. The first expense of making the change in the best manner would, no doubt, be considerable (though less so, than may appear immediately probable, for the additional labour which would for a time be placed in the hands of Government would be thus much more productive than under the existing circumstances, and might also be beneficially, and even profitably, applied;) but eventually the transition would be a source of direct economy—very nearly in the exact ratio of its completest.

The expense of the Penal Colonies is at present enormous, partly from the prevailing system of mere coercion in them, (See Note partly from the unproductive labours of every description of labour under this system), partly from the crime which it directly generates, and partly from the large Police, and other public checks and establishments, which the repression and punishment of this crime render necessary. A system of training on the contrary could only be effective in proportion to its successful adaptation of moral influence to its object; and any system founded in large measure on moral influence, must be less expensive than one of pure physical restraint.

5. But even if a permanent addition were to be thus made to the expense of the Penal Colonies, the object would be worthy of it. (There can be no possibility of this, but the alternative may be put.) It is a debt due by England to her Penal Colonies that their social system should be as little as possible
deteriorated by their being made the receptacles of her banished
criminals. And when we further consider that the object of
the proposed arrangements is to give certainty to the administra-
tion of her criminal Law, bring justice out of injustice, freedom
out of Slavery, reform out of hardened guilt; and a smiling
prospect for the future out of the moral gloom which now hangs
over the social prospects of two of her most powerful Colonial
children,—the debt claimed seems due by England to herself,
and her own character. It is seed-corn that she is called on
to sow.

6. Government having undertaken both tasks, therefore,
(Punishment and Reform,) ought not to perform either in an
slavish manner. It should consider that there is a science
in each; and that no pains should be spared to bring into
practical operation whatever principles may be established in
them. The pecuniary and moral returns, it may be confidently
said, are alike involved in the change; if made at all, being
made effectually.

7. I submit accordingly in my paper a variety of sug-
gestions on both heads. But I am attached to the ends pro-
posed, rather than the means; and should be most happy
to see the latter improved on.

8. I recommend punishment for the past to be inflicted
in seclusion from the Free population altogether, at Stations
appointed for the purpose in each Penal Colony, and
which may be changed from time to time, as the spread of
population, the scope, or demand for useful labour, or other
circumstances may suggest. The punishment itself should
consist of hard labour, (enforced, if necessary, by physical
means, for in this stage it is desirable that the Convicts'
minds should be humbled, with instruction, moral, religious, mechanical and agricultural, so as to fit the Prisoners for constituting afterwards a good rural population.

I contend that, as exclusion, when direct punishment is being inflicted, is desirable for the sake both of Free and Bond; its sight being morally as injurious to the one, as the being indiscriminately seen when under it is to the other class. And in exclusion, instruction would be better attended to, and liquor, and other means of evading punishment, would be more rare.

9. The moral training, on the other hand, I recommend to be in employment on the roads, and in other public works, these however to be conducted very differently from what they are now. I would have no direct punishment inflicted on them; nor any physical coercion used; but the most stringent system of moral influence that can be devised should be here brought to bear upon the Prisoners—i.e. rather, as I would now call them, Probationers—to induce them to behave well, and work out their further liberation, on Tickets of Leave, by inspiring a just confidence in their future good intentions.

10. For this purpose I suggest, that the Men should be brought from the punishment stations to this stage of their sentence, in parties, say of six, who should choose each other, and agree to run the chances of their future probation, together. Thus, after a Man has completed the period during which, according to his original sentence, he must remain under direct punishment, he would remain indefinitely longer, until he could persuade other five men. Similarly circumstanced, so far to
believing in his good intentions for the future, as to be willing to connect their own fate in probation with his, and to rise, or fall, as afterwards explained, according to his, and their own conduct, jointly. And I contend that the necessity which would thus be imposed on all, even in their first stage, to cultivate the good opinion of their fellows, would, of itself alone, produce a great moral effect, and prepare them for their further trials; for, it would give a value to the social virtues usually excluded from the acceptations of criminals, and would also prevent favour, or hypocrisy, from acquiring undue advantages. Superiority may be partial, or deceived, but not equal.

11. These parties then, (of six, more or fewer, as may be found practicably best,) when entered on their probation should be reckoned with every evening, by the Superintendent under whom they may be employed in the Government works; and should receive marks in his book, to their credit, or discredit, according to their conduct. If they have been orderly, obedient, sober, zealous, attentive, active, industrious, cleanly in their persons and rooms, civil, temperate under provocation, (should such have been offered,) punctual in their attendance, (at Prayers, School, Work, &c.) or have in any other way deserved commendation, they should be gainers accordingly; and if, on the other hand, any one has deserved censure, his party should suffer in proportion. (I am confident that this union of fortunes among several would have the best possible effect. It is not unknown already in improved naval
Naval and Military discipline; and is always found to constitute the strongest physical and moral restraint.

12. On entering upon this course of probation, the restrictions imposed should be severe, and a fixed number of marks of commendation should be requisite to procure successive degrees of relaxation. But in all cases the Rules should be enforced merely by the gain or loss of Marks, never by summary punishment; and those Parties of whom one or more of the Partners cannot be restrained by the moral influence, and that of their companions over them, should be returned to punishment, allowed to dissolve their temporary connection, seek other associates, and so begin again. In no case should a refractory individual be dropped, without thus, in some degree punishing his companions also; for only thus can the utmost exertions of a whole party be insured, to reclaim a bad man. The experience of this also, would make it more and more difficult for the irreclaimable, or those who in existing circumstances often take a pride in being considered such, to get away from punishment at all; and as, although I would make the indispensable period of punishment short, I would make that of probation depend solely on conduct, and on the fulfilment in every case, of all that it demands— the obstinacy, real or pretended, of almost any who, I am persuaded, be overcome by a system, which would thus as it were regulate every man's sentence by the unimpeachable verdict of a jury of his own selection, out of his own class.

13. I am convinced that the social decorums, virtues,
and feelings, which would be thus early, and universally elicited, would have the most powerful effect, in chang-
ing the character of many, even of the very hardened.
Vice is selfish, and a man is half virtuous when he is habituated to study the good-will and interests of others as his own. In passing through this course of probation therefore, I would expect many evil passions and propensities to be forever laid aside; and at the least, considerable powers of self-command, next to prin-
ciples, the greatest preservation from crime, would be uni-
versally called out.
Mr. Accordingly, when the Ticket of Leave was at length obtained, I would not clap it with all the restric-
tions now imposed on it. I think that I would even banish entirely the summary jurisdiction now exercised by the Police, over men who have gained this step. Summary power is a snare both to those who wield and those who are subject to it. Frequent arrests are both a snare and an interruption. Men approaching their freedom should be habituated to feel tolerably free, that its entire acquisition may not intoxicate them. And at all events, I think, nothing short of a solemn judicial sentence should deprive a man of what, before he reaches this point, under a vigorous system, like that here described, he will have most dearly earned.
15. In my several papers accordingly, I discuss this, and other similar points. But neither here, nor in them, do I attach so much value to their details, as to the fundamental principles of introducing system into the
management of Convicts, by keeping them during the early stages of their sentence, under the immediate superintendence of the Government, of thereby rescuing both Bond and Free from the mischiefs consequent on the present plan of compulsory Assignment, of distinctly contemplating in the treatment of the Prisoners, first their Punishment for the past, then their Training for the future, and of substituting in the pursuit of the latter (as has been already done in the Discipline) of the Army and Navy, — in Schools, Lunatic Asylums and every other place in which masses of human beings are sought to be guided — a suitable degree of moral influence, for the cold, hard, unimpeached coercion, which is now alone employed. Either these principles are right and ought to be attended to, or all the Moral and Political Science of the day is wrong; for they are in accordance with every line of it.

17. I most earnestly recommend the subject therefore to the attention of Statists and Philanthropists in England. It is worthy of their deepest consideration. There never was a moral field in which so striking an experiment might be made, or with a more certain, and striking result. A Statesman of the highest rank might be proud to occupy the first, to conduct (even in person) the second, and to crown himself with the undying honour of the last.

18. The task would not be extremely difficult, if only undertaken energetically, comprehensively, and with the requisite authority. Some obstacles may be anticipated from
the disinclination of the existing Convict Authorities, who have been trained in the present system, are naturally attached to the discretionary power bestowed by it; (which they doubtless think they administer to advantage) and are thus unwilling, and unprepared to alter it. And as the interest of the Letters may also appear at first excused, some preliminary objections may be expected from them too.

But the existing evils are well known and recognized, though their derivation is not as yet distinctly understood; and with patience, temper, discretion, firmness, and indifference to mere clamour, but a sincere wish to obviate real objections, and discuss the principle of intended changes, the intelligence of all would be soon gained, for all are alike injured, and would soon see that they are alike injured, both morally, and pecuniarily, by the existing demoralization.

Note. (See page 141.)

This last evil (which is only at first sight minor to the others, for it involves many more,) also flows direct from the system, and from the large discretionary authority requisite to work it. The Government of the Penal colonies used to give, or refuse land, and it still gives or refuses labour, the loan of mechanics, indulgences of every kind, bread in every shape, (for even the official patron-
patronage of a coercive Government must be extensive, from the number of subordinate Clerks, assistants, and superintendences, which it must employ to gain its ends.) It thus seems invested in the eyes of the Colonists with a character of omnipotence, and its favor or justice, is sought a refuge in every disappointment. The consumption of time and thought thus produced is intolerable; and after all, in most cases, the appeal is merely nominal, for its result must generally be the mere echo of the subordinate authorities. (This is to be presumed at once, from the (assumed) probity of these Authorities, and from the almost impossibility of the Governor's arriving, unless in very glaring cases, or documentary evidence, of which there is but one, and that which carries most weight, comes from themselves.) The practice, therefore, merely brings the Head of the Government in direct, instead of indirect collision, with the passions and prejudices of the people, occupies most inconveniently his time and thoughts, and confirms an impression, readily conceived at all events, yet pregnant with much evil,—that he is in the hands of those under him.

During the present month (September 1837), four hundred and eighty one applications for Indulgence, from Prisoners alone, have been decided on by the Lieutenant Governor of Van Diemen's Land. I believe that this is above the usual Monthly average; yet it may be considered a specimen of the worse than useless labour, (for it leads to much practical injustice,)
improved by a system of which a large discretionary authority is a necessary element.

By the arrangement which I subsequently recommend, there would be no such applications at all; a strict, and universally applicable rule would entirely supersede them; and even if that were not approved of, this should be one test, by which the merit of any other ought to be tried.