Essay

on

Convict Discipline;

intended to have been submitted

to the

Settlers of Van Diemen's Land.

By Captain Maconochie, R.N.
This paper was written at the Lieutenant Governor's desire, and with a view to its being communicated to a select number of settlers, to obtain their opinion of the views embraced by me. It was thus studiously, and by express direction, toned down in accommodation to their supposed feelings on the subject: but it was not, after all, so employed.

A. W.
My opinion is, that the existing system of Convict Management gives no certainty of punishment, little probability of Reform, and much less benefit to the Penal Colonies than the large influx of convict labour, otherwise disposed, might be made to bestow.

Assigned servants are punished, or not, as they stumble on a Master; their reform depends on their Master, their associates, their original disposition, their accessibility to Religious Instruction, or other moral influence, their access to such, their exposure to temptation, their escape from, or endurance of, one or more Colonial punishments at an early period of their service. (The nature of these appearing to me for the most part unfavourable to Reform;) and their altogether, not only is their chance of it a bad one, but it is officially reported, that only a very small proportion of them actually do improve.

Their Masters, meanwhile, derive comparatively little advantage from their services. The labour required of them being compulsory, is grudgingly given, and as much as possible eschewed. They are frequently unsuited to their allotted tasks; and are thus clumsy labourers.
even when faithful; and much more commonly intentionally wasteful. They are thus not cheap servants; their
food, clothing, indulgences, extravagance, occasional pecula-
ciation, and comparatively slight return of work performed,
making them on the contrary expensive. They are also
troublesome and provoking servants. Their character as
Rogues and Prisoners, undergoing their first stage of a
merited punishment, makes a proprietor uneasy when
absent from his premises, and suspicious when in them;
and while the natural expression of this suspicion is of
itself an incentive to petty crime, as exciting a desire to elude
the precautions, or it may be, revenge the privations imposed
to prevent it; besides the loss so incurred, the Master is liable
thus frequently to lose the service of an otherwise useful
labourer by his being removed under a Colonial sentence for
irregularity or detected crime; and even if the man is not very
useful, still inconvenience is thus inflicted, for his place
cannot immediately be supplied.

From all these circumstances, then, the labour obtained
from Assigned Servants appears to me much less valuable
to the settler, and much less productive of either moral or
physical good effect of any kind, than might be expected
from a different disposition of the very same individuals;
and for other, yet corresponding reasons, the labour of the
Ticket of Leave men is not much better. 1. Tickets of Leave
seem to me to be given on a wrong principle altogether; being
made the rewards of mere time and escape from previous
detection and punishment, rather than of active, steady
habits of good conduct. The police characters of Assigned.
Servants only record their offences, and though before
granting a Ticket, a certificate of general character is
required from the applicants' Master, it is well known
that this is given or refused, on little general principle,
and for the most part rather according to the disposition
of the Master, than of the man.

2. A Ticket of Leave is thus no proof of individual
merit; many bad men have it; many good want it; and
of itself it may be said to prove only that the bearer is,
what is emphatically and reproachfully called, "an old
hand"—one who has been some years in the Colony, and
who, for good or evil, is well acquainted with its ways.

3. As a class, therefore, nearly as little confidence is pla-
ced in Ticket of Leave men as in Assigned Servants; and
in some respects less. They must reside in a particular
district; to leave which, whatever the occasion, a pass is
required, not from their individual employer, (as in the case
of an Assigned Servant,) but from the Police: They must
be within their own doors by eight o'clock, whatever the exi-
genency of their own, or employer's business, unless provided
with the same pass; they are subject to summary trial,
in the slightest irregularity, before the Police, and if found
guilty, are sent, not again to assigned or other compar-
tively eligible service, where they may have a chance of
escaping evil associates, and of thus being made at least
not worse, if but little better, than before, but to a Road-
party, amid the refuse of all classes, with whom, at least
temporarily, the most respectable are thus levelled, for
perhaps a very slight offence.
4. The labour of Ticket of Leave men is thus uncertain, confined, and unable to circulate as their own interests, and those of the community, (which pecuniarily are identical,) require. Their tenure of indulgence is further too slight to enable them to become Farm-servants, or otherwise engage in permanent pursuits on their own account. They do not thus form what may be called a peasantry, from which labour, and the superintendence of labour can be obtained as requisite. They can scarcely be considered as even in training for such a purpose; their chains sit too heavy on them; they cannot raise an independent front; or in this stage acquire, or practise, the virtues of Free men against the day when they will become free. On the contrary their weakness almost universally teaches them chicanery: and by so much the interests, both moral and pecuniary, of the Society in which they move are still further injured than even by the direct operation of the fetters imposed on their labour.

I am convinced, then, that the present system of Convict Management is wrong in its very principle. I begin with the end, that is to say, the restoration of the Criminal to the domestic service from which he was originally drawn; and ends with what ought to be the beginning: the strict application to him of uniform rules administered by trained and regulated public functionaries. Were the order merely reversed, and Prisoners kept for the first two or three years in the hands of Government, and only afterwards assigned to private service,—objectionable as I think the whole system of Assignment is, still its greater laxity and variety than Government employment
would probably be felt, and appreciated, and not abused as it too often is now. But to make a thoroughly good system more would certainly be required than this, and the following are my chief ideas on the subject:

1. The sentences of Prisoners coming out to these colonies should impose a fixed period of punishment for the past (say from one to three years, according to their original offence) to be followed by a further rigorous training for the future, on fixed principles of management, calculated to produce, and verify, a moral improvement in them, before they obtain any indulgence whatever.

2. Both these important processes should be superintended systematically, by the Government itself, and its agents; the first as much as possible in seclusion from the free population (as in clearing, draining, or otherwise preparing new land for future occupation, &c.) and the second on the Roads, and other public Works, in contact with the free population, but still not in their direct service.

3. The time for the first, as already said, should be fixed by the original sentence, and be proportioned to the original offence; but that for the second should depend entirely on conduct, and be indefinitely short to the well-behaved, but as indefinitely long to the hardened and obdurate.

4. To distinguish between the two a daily register of each man's conduct in all respects (as order, honesty, sobriety, fidelity, zeal, industry, steadiness, personal cleanliness, subordination, &c.) should be punctually kept by the Superintendant under whom he labours; and release from this stage should depend, not (as in granting Tickets of Leave now) on the mere
the mere absence of detected crime, but on the positive acquisitions of a fixed number of marks of commendation for duty properly performed, over and above all marks of disapprobation which a contrary line of conduct may have imposed. 5. Good, well-behaved men would thus pass easily through this stage, and reach the service of the settler with improved habits and character, and worth of a Master's confidence; while the unreclaimably bad would find their places at length in punishment stations, from which they would never emerge (their own acts constantly shutting the door on them,) and Society in the Penal Colonies would benefit as much by their absence, as by the presence of the sober, but in all respects better labourers than any are now, with whom it would thus regularly be supplied. 6. To give these, however, as well as their Masters, fair play; I would most certainly not assign them, but would introduce them even from the first among the free population, on Tickets of Leave. Painful as is the word, and open to some little verbal criticism, Assignment is mere Domestic Slavery, and is accompanied with all its worst incidents. It does not give a property in the person of the Servant, but so much the worse, for it thus deprives him of a protection, and his Master of a stimulus to endeavour to improve him. Its abuse is restricted by law; but so was that of Slavery in the West Indies. And it may be terminated on abuse, by an Act of the Government; but so, in extreme cases, would Black Slavery also, and the hand of Death at all times familiarly dissolved the connection. The essence
of Slavery is not in these incidents, but in coerced labour, in which, and in the consequences—capricious indulgences or severity on one hand, and ingratitude or dagged resistance on the other—the analogy between it and servitude is complete. 7. The Tickets of Leave, also, which I would give, though not altogether free from restriction (the extent of which should diminish with prolonged good conduct,) I would not, even from the first, fetter as the existing ones are. For Masters I would substitute occasional signatures in Books kept for the purpose, and opened in particular weeks, so as to give the men a choice of days, and thereby avoid unnecessary levelling or congregating of numbers.

For fixed residences, I would substitute an intimation of residence, with, if necessary, a prohibition of some large towns. Minor offences I would visit, as in the case of free men, with fine and imprisonment, and greater ones with loss of Ticket and return, as the case might require: punishment or renewed probation, but only by sentence of a Bench of Magistrates, or the Supreme Court. To qualify men for recovered freedom, they should have the full protection of the laws for such indulgences as they do possess, and in truth, a summary jurisdiction is not less a snare for those who wield it, than for those who suffer under it.

Such are my opinions on this important subject, and I earnestly recommend them to dispassionate consideration. They relate to points of the highest moral as well as economical importance. If punishment is not made certain, broken laws are not adequately vindicated, nor criminals adequately deterred. If reform is not made probable, further deterioration
deterioration of character is; for Human Nature does not stand still, and if not improved becomes worse. And even as regards Lower, though yet still important interests, as the Penal Colonies increase in wealth and luxury, valuable personal property must more and more accumulate in private houses; and the temptations to, and occasions of theft, must proportionally increase. As their population becomes dense, also, the facilities for transferring, and thereby realizing stolen property must increase. And as civilization advances, and proprietors begin to improve their estates as well as add to them, the demand for labour must become more and more fluctuating in the several districts, and restrictions on its circulation more and more inconvenient. Through all these means then, the existing System of Convict Management, with its various incidents as stated, must become daily more and more irksome; until at length, after a certain period of dissatisfaction and discontent, which may be said to be already commenced in the Penal Colonies, it must be altered, or Convict Labour be entirely given up, as is already talked of in New South Wales. There however, there is a vast Land Revenue with which to bring out Free Labourers; but in Van Diemen's Land this resource is almost exhausted. And it seems thus to deserve the most serious consideration of Van Diemen Land Proprietors, whether even supposing Assigned Service to be at present valuable to them (which I and many others dispute, of which the importance cannot be very great when even its reality is thus called in question) it would not be good policy, setting aside all other considerations, to give it up, in order to avert a time, when, through its noxious
operation, a balance must be made between imported labour
of any kind, and the nearest and dearest interests, moral
and pecuniary, of their whole social state.

A.M.