

R E P O R T S

OF THE

ROYAL COMMISSION ON PRISONS.

PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY, BY COMMAND OF
HIS EXCELLENCY.

WELLINGTON.

—
1868.

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VICTORIA, by the Grace of God of the United Kingdom of Great Britain and
Ireland, Queen, Defender of the Faith:

To His Honor Alexander James Johnston, Esquire, one of the Judges of the Supreme Court,
His Honor Christopher William Richmond, Esquire, one of the Judges of the
Supreme Court, the Honourable Ponsonby Peacocke, Member of the Legislative
Council, Charles Edward Haughton, Esquire, Member of the House of Repre-
sentatives, and James O'Neill, Esquire, Member of the House of Representatives.

WHEREAS we have deemed it expedient, for divers good causes and considerations, that a Commission should forthwith issue for the purpose of enquiring into the more effective provision for the regulation of prisons, and for the custody of persons convicted of serious crimes, and sentenced to long periods of imprisonment:

Now know ye that we, reposing great trust and confidence in your zeal and ability, have authorized and appointed, and do by these presents authorize and appoint you, the said

ALEXANDER JAMES JOHNSTON,
CHRISTOPHER WILLIAM RICHMOND,
PONSONBY PEACOCKE,
CHARLES EDWARD HAUGHTON, and
JAMES O'NEILL,

to be, during our pleasure, our Commissioners to enquire into the provisions and operation of the laws and regulations now in force relative to prisons and gaols in the Colony, and into the treatment and management of prisoners, and into the condition and state of such prisons and gaols, and into the more effective provision for their regulation, and for the custody and treatment of prisoners, especially those convicted of serious crimes and sentenced to long periods of imprisonment; and to report whether any and, if any, what alteration is desirable, and whether it would be desirable that a General Penal Establishment should be instituted for the Colony, and if so, on the best mode of instituting such establishment.

And our further will and pleasure is, that you do within six months after the date of this our Commission, or as much sooner as the same can conveniently be done (using all diligence), certify to us under your hands and seals, or under the hands and seals of any one or more of you, your several proceedings, and your opinion touching the premises.

And we further will and command, and by these presents ordain, that this our Commission shall continue in full force and virtue, and that you our said Commissioners, or any one or more of you, shall and may from time to time proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment.

And we hereby command all and singular, our Justices of the Peace, Sheriffs, Mayors, Bailiffs, Constables, Officers, Ministers, and all other our loving subjects whatsoever, as well within liberties as without, that they be assistant to you and each of you in the execution of these presents:

In testimony whereof we have caused these our Letters to be made Patent, and the Seal of our said Colony to be hereunto affixed.

Witness our trusty and well-beloved Sir George Grey, Knight Commander of the Most Honorable Order of the Bath, our Governor and Commander-in-Chief in and over our said Colony of New Zealand and its Dependencies, at the Government House, at Wellington, this twenty-ninth day of November, in the year of our Lord one thousand eight hundred and sixty-seven, and in the thirty-first year of our reign.

G. GREY.

Approved in Council:

FORSTER GORING,
Clerk of the Executive Council.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and
Ireland, Queen, Defender of the Faith:

To His Honor Alexander James Johnston, Esquire, one of the Judges of the Supreme Court,
His Honor Christopher William Richmond, Esquire, one of the Judges of the
Supreme Court, the Honorable Ponsonby Peacocke, Member of the Legislative
Council, Charles Edward Haughton, Esquire, Member of the House of Repre-
sentatives, and James O'Neill, Esquire, Member of the House of Representatives.

WHEREAS we did by our Commission, bearing date twenty-ninth November, one thousand eight
hundred and sixty-seven, under the Seal of our Colony of New Zealand, and witnessed by our
Governor of the said Colony, constitute and appoint you, the said

ALEXANDER JAMES JOHNSTON,
CHRISTOPHER WILLIAM RICHMOND,
PONSONBY PEACOCKE,
CHARLES EDWARD HAUGHTON, and
JAMES O'NEILL,

to be, during our pleasure, our Commissioners to inquire into the provisions and operation of the laws
and regulations now in force relative to prisons and gaols in the said Colony, and into the treatment
and management of prisoners, and into the condition and state of such prisons and gaols and into the
more effective provision for their regulation, and for the custody and treatment of prisoners, especially
those convicted of serious crimes and sentenced to long periods of imprisonment; and to report
whether any and, if any, what alteration is desirable, and whether it would be desirable that a General
Penal Establishment should be instituted for the Colony, and if so, on the best mode of instituting
such establishment.

And our further will and pleasure was, that you should within six months after the date of our
said Commission, or as much sooner as the same could conveniently be done (using all diligence),
certify to us under your hands and seals, or under the hands and seals of any one or more of you,
your several proceedings, and your opinion touching the premises.

And whereas it has been humbly represented unto us that it would be expedient to extend the
period within which you, our said Commissioners, were by our said Commission required to make your
report:

Now know ye, that we have extended, and by these Presents do extend, the duration of our said
Commission to the Twenty-ninth day of August, one thousand eight hundred and sixty-eight, for the
purpose of enabling you, our said Commissioners, to complete the inquiries thereby required to be
made, and to make your final report thereon.

And our will and pleasure is, that upon due examination of the premises therein mentioned, you
our said Commissioners, or any one or more of you, do on or before the twenty-ninth day of August,
one thousand eight hundred and sixty-eight, report to us, under your hands and seals, your several
proceedings by virtue of our said recited Commission, and of these presents, together with what you
shall find touching or concerning the premises upon such inquiry as aforesaid.

In testimony whereof we have caused these our Letters to be made Patent, and the Seal of our
said Colony to be hereunto affixed.

Witness our trusty and well-beloved Sir George Ferguson Bowen, Knight Grand Cross of
the Most Distinguished Order of Saint Michael and Saint George, our Governor
and Commander-in-Chief in and over our said Colony of New Zealand and its
Dependencies, and Vice-Admiral of the same, this fifteenth day of May, in the year
of our Lord one thousand eight hundred and sixty-eight, and in the thirty-first year
of our reign.

G. F. BOWEN.

Approved in Council:

FORSTER GORING,
Clerk of the Executive Council.

REPORTS OF ROYAL COMMISSION ON PRISONS.

No. 1.

GENERAL REPORT.

To His Excellency Sir GEORGE FERGUSON BOWEN, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of New Zealand, and Vice-Admiral of the same.

WE, the undersigned Commissioners, appointed by virtue of a Commission in the name of Her Majesty Queen Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, witnessed by His Excellency Sir George Grey, K.C.B., Governor and Commander-in-Chief in and over the said Colony of New Zealand, and its dependencies, and dated the 29th day of November, A.D. 1867, "to inquire into the provisions and operation of the laws and regulations now in force relative to prisons and gaols in the Colony, and into the treatment and management of prisoners, and into the condition and state of such prisons and gaols, and into the more effective provision for their regulation, and for the custody and treatment of prisoners, especially those convicted of serious crimes and sentenced to long periods of imprisonment, and to report whether any, and if any, what alteration is desirable, and whether it would be desirable that a General Penal Establishment should be instituted for the Colony, and if so, on the best mode of instituting such establishment;"—the duration of which said Commission was extended by virtue of another Commission in the name of Her said Majesty, witnessed by your Excellency, and dated the 15th day of May, A.D. 1868, Do respectfully report that we have arrived at the following general conclusions:—

GENERAL CONCLUSIONS.

1. That the existing law relating to the prisons of the Colony seems to be unnecessarily complicated, and not to be fully understood or carried out; that the authority under which prison rules and regulations are made is different in different parts of the Colony, and in respect of different classes of prisoners; that the regulations so made substantially vary in different Provinces; and that they are not observed and enforced as they ought to be. That it is, in our opinion, expedient that the existing law on the subject should be revised, and that a measure for the amendment and consolidation thereof, providing for certain matters which will be more specially detailed hereafter, ought to be submitted without delay to the Legislature.

2. That in none of the existing prisons in the Colony is any system of punishment carried out which, to an appreciable extent, serves any of the real ends and objects of the criminal law, except that of the safe custody of the convicts; that the punishments, as administered therein, are ordinarily neither afflictive nor irksome, neither deterrent nor reformatory: but that, on the contrary, the tendency and ordinary effects of the present system are to harden old offenders; to demoralize, corrupt, and debase those who have recently become criminals, and innocent persons waiting for trial; and to afford opportunities for instruction and confederation in all kinds of crime and vice: so that almost every prison in the Colony may well be considered as discharging the functions of a training school for the creation and maintenance of regular criminal classes.

3. That the evils at present existing are not ordinarily attributable to any want of anxiety, care, diligence, or intelligence on the part of the officers who have charge of the prisons, but to the absence of any effective system of classification and separation, and of afflictive labour and restraint; and that no such system could effectually be carried out in any of the existing prisons of the Colony in its present state; that the mode of construction of almost every one of the prisons is radically defective in respect of means of separation, classification, and *surveillance*; and that the amount of accommodation is generally insufficient for present requirements, even without a system of separation and classification.

4. That none of the existing prisons could be conveniently and economically made available for carrying out, in a proper manner, sentences of penal servitude, and of hard labour for considerable periods: but that most of them could be adapted for the custody of persons waiting for trial, offenders against police laws, and other prisoners summarily convicted, and persons convicted for the first time of minor indictable offences,—under an improved mode of treatment.

5. That one Penal Establishment should be instituted for the whole Colony; or that one should be created at first for the whole Colony, but with the probability kept in view that ere long it might be desirable to have another situated in or near the other chief island of the Colony.

6. That the leading characteristics of such Penal Establishment should be those which are more particularly mentioned hereafter, of which the most prominent are separation and sharp punishment at the commencement of the term; the earning of promotion into an industrial class, and from one industrial class to another, by industry and effort in addition to good conduct; and the attainment of certain comforts, the accumulation of a fund against the time of discharge, and a remission of some part of the sentence, earned by extra industrial labour.

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7. Our attention has been called to the following places as proper for such Penal Establishments:—

- | | |
|-----------------------------------|---------------------------------------|
| 1. Taranaki, | 7. Kapiti, |
| 2. The Chatham Islands, | 8. Resolution Island (Milford Sound), |
| 3. The Auckland Islands, | 9. Stewart's Island, |
| 4. Quail Island (Port Lyttelton), | 10. D'Urville's Island, |
| 5. Mercury Island, | 11. Great Barrier Island, |
| 6. Picton. | 12. Oamaru: |

but we are not at present in possession of sufficient evidence to enable us to recommend, with any degree of confidence, the adoption of any one of the above-named places as the site of a General Penal Establishment. But in view of the great importance of the subject to the welfare of the Colony, and of the very large expenditure which must necessarily be incurred in the formation of such an institution, we would respectfully recommend that your Excellency should cause further specific local examination and inquiry to be made by scientific, practical, and experienced persons into the various matters affecting the eligibility of the above-mentioned places, or others which may hereafter be suggested.

8. That inasmuch as the preliminary preparations for founding a General Penal Establishment, and introducing therein a system such as the modern experience of Great Britain and other countries would warrant, must necessarily occupy a considerable period, and the mischiefs accruing from the existing state of things in the present prisons are imminent and accumulating, it appears to us absolutely necessary that the Legislature should without delay adopt measures for ensuring a large addition of accommodation and convenience in local gaols, and for producing uniformity of system throughout the Colony, by uniformity of regulations and by the general inspection of some duly qualified and independent officer of the Executive Government, or by such persons as may be deemed most capable of performing such duty.

That the extent to which, and the manner in which, the additions to, and the alteration of the present gaols should be made, with a view to their ultimate ordinary objects, ought to be determined by a Commission or Board, upon certain principles to be laid down by the Legislature; but that the following matters ought at all events to be provided for:—

- (1.) The separation of persons waiting for trial from those under sentence; and, among themselves, the separation of persons previously convicted from those not previously convicted.
- (2.) The complete separation of convicts under short sentences from each other, at the commencement and before the conclusion of their terms; and the administration of sharp punishment in the first period of the sentence by some of the methods now in use in the United Kingdom.
- (3.) The separation of juvenile offenders previous to their removal to a reformatory.
- (4.) Provision for separate punishment of females.
- (5.) Provision for some industrial occupation within the precincts of the prison.

9. That as a temporary expedient the convicts of worst character and those under longest sentences should be drafted from the various local gaols, into a ship or ships to be occupied as hulks, and to be posted at some place or places where work of great public utility can be done at once, near the sea and under circumstances affording little facility for escape.

10. That on the final adoption of a new system of punishment and prison discipline, it will be necessary that there should be a perfect understanding between the Administrative and Executive Departments as to the practical meaning and import of particular sentences; that the question of regular and casual remissions of punishment should be fully discussed by the Legislature; and assurance should be given, that the authority of the law and the discretion granted by it to the Judges should not be interfered with by apparently arbitrary exercise of the prerogative.

11. That a further inquiry is desirable as to the proper locality for one or more Penal Establishments, and the system to be therein adopted; into the means of improving the existing prisons of the Colony for the purposes to which they can be practically used; and into the conduct of prosecutions for indictable offences, and the management of the police; so as to ensure the adoption, at as early a period as possible, of an uniform, harmonious, and thoroughly effective scheme for the protection of life and property, and the maintenance of peace and order throughout the whole Colony.

We subjoin hereto a detailed report of our proceedings and of the grounds upon which the foregoing conclusions are based.

All of which we respectfully submit to your Excellency's consideration.

(L.S.)	ALEXANDER J. JOHNSTON,	} Commissioners.*
(L.S.)	C. W. RICHMOND,	
(L.S.)	C. E. HAUGHTON,	
(L.S.)	J. O'NEILL,	

Nelson, New Zealand, this fourth day of July, A.D. 1868.

No. 2.

DETAILED REPORT.

Documents consulted.

BEFORE proceeding to practical inquiries, we, the undersigned Commissioners, endeavoured by conference, correspondence, and the circulation of Memoranda, to ascertain some definite principles which should be assumed as the basis of our investigations; fortifying ourselves by the experience of the mother country, as evidenced by the testimony elicited and the reports made thereupon, in the proceedings of Royal Commissions and Parliamentary inquiries. Our attention was specially directed to

1. Colonel Jebb's Report in 1850.
2. The Report of the Committee of the House of Commons on Transportation, in 1860.

* One of the Commissioners, the Hon. Colonel Peacocke, was prevented from taking part in the Report for reasons mentioned *post* p. 6.

3. The Report of the Lords' Committee on Prison Discipline in 1863, with the invaluable evidence of Sir Joshua Jebb and Sir Walter Crofton; and
4. The Digest and Summary of Answers from Colonial Governors to Circular Despatches sent out 16th January, 1867, to which is appended a Summary of the conclusions derived from the experience of Great Britain, with notes on the Report of the Lords' Committee, and suggestions drawn thence and from other sources, which seems almost to exhaust the subject.

[N.B.—We have been informed that, pending the inquiries of the Commissioners, a circular letter has been received by His Excellency the Governor from the Right Honorable the Duke of Buckingham and Chandos, dated 25th February, 1868, calling attention to the fact that no answers had been sent from the Colony of New Zealand to the Despatches last mentioned. We trust that the appointment of the present Commission, and the proceedings under it, will satisfy Her Majesty's advisers that the importance of the matters referred to in the Despatch has not been lost sight of.]

The principal features in the constitution and administration of penal establishments as indicated by the above-mentioned documents, which we have kept in view during the progress of our labours, are set out in the Memorandum of the 16th January, (annexed hereto) agreed upon by the Commissioners—the most prominent being—

1. Separation.
2. The enforcement, for some time, of strictly penal and irksome labour.
3. The provision that any amelioration of condition or remission of sentence should be attainable only by substantive and long-continued industry.

Certain practical details appended to the Memorandum were also agreed upon as the basis of the examination to be made throughout the Colony.

In pursuance of the inquiries thus resolved upon, the Travelling Commissioners, Messrs. O'Neill and Haughton, have personally visited the prisons at the following places, commencing with the Wellington Gaol, where they were assisted by the Chairman; and they have either examined the undermentioned witnesses, *viva voce* on oath, or have obtained answers from them in writing, as indicated below:—

1. *Wellington Gaol.*

- Witnesses:—(1.) Micaiah Read, Warder of the Gaol.
 (2.) Louisa Read, Matron.
 (3.) M. S. Grace, M.D., }
 (4.) A. Johnston, M.D., } Medical Attendants.
 (5.) Rev. A. Stock, }
 (6.) Rev. J. B. Petit Jean, } Clerical Visitors.
 (7.) J. Woodward, Esq., Visiting Justice.
 (8.) I. E. Featherston, Esq., Superintendent of the Province.
 (9.) J. Dransfield, Esq., Chairman of Town Board.
 (10.) J. M. Balfour, Esq., C.E., Marine Surveyor.
 (11.) W. Rolleston, Esq., Under Secretary, Native Department.

2. *Lyttelton Gaol.*

- Witnesses:—(1.) James Reston, Gaoler.
 (2.) W. Donald, M.D., Medical Officer and Visiting Justice.
 (3.) Rev. F. Knowles, }
 (4.) Rev. S. B. Chatagnier, } Clerical Visitors.
 (5.) W. S. Moorhouse, Esq., Superintendent of Canterbury.
 (6.) R. C. Sherman, Commissioner of Police.

2. (a.) *Christchurch Gaol.*

- Witnesses:—(1.) E. Toppin, Female Warden.
 (2.) J. Reston, Gaoler.
 (3.) C. Bowen, Esq., Resident Magistrate and Visiting Justice.
 (4.) P. Pender, Inspector of Police.

3. *Hokitika Gaol.*

- Witnesses:—(1.) M. M. Cleary, Gaoler.
 (2.) John Stoddart, Chief Warder.
 (3.) Ellen Kidd, Matron.
 (4.) G. S. Sale, Esq., Visiting Justice.
 (5.) J. R. Ryley, Esq., Surgeon to Gaol.
 (6.) The Ven. Archdeacon Harper, }
 (7.) The Rev. S. H. McDonough, } Clerical Visitors.
 (8.) Thomas Turnbull, Harbour Master.

4. *Nelson Gaol.*

- Witnesses:—(1.) Henry Clouston, Gaoler.
 (2.) W. Wells, Esq., Visiting Justice.
 (3.) Oswald Curtis, Esq., Superintendent of the Province.
 (4.) Alfred Greenfield, Esq., Provincial Secretary.
 (5.) Robert Shallcrass, Inspector of Police.
 (6.) F. S. Vickerman, Esq., Surgeon.
 (7.) Rev. G. H. Johnstone, }
 (8.) Rev. A. M. Garin, } Clerical Visitors.

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5. *Auckland Gaol.*

- Witnesses :—(1.) The Hon. Colonel S. Ponsonby Peacocke, one of the Commissioners, and a Visiting Justice.
 (2.) W. Young, Acting Gaoler.
 (3.) T. Beckham, Esq., Resident Magistrate and District Judge.
 (4.) J. Naughton, Esq., Commissioner of Police and Visiting Justice.
 (5.) Major Cooper.
 (6.) R. W. Wynn, Esq., Provincial Solicitor.
 (7.) Major Heaphy, C.E., V.C.
 (8.) Andrew Dunn, Warder.
 (9.) Eliza Hungerford, Matron.
 (10.) J. Williamson, Esq., Superintendent of the Province.
 (11.) J. Ogilvie, Esq., Secretary to City Board.
 (12.) Rev. J. Buller, Wesleyan Minister.
 (13.) W. Swanson, Esq., M.P.C.
 (14.) T. M. Philson, Esq., M.D., Surgeon to Gaol.
 (15.) Geo. Graham, Esq., M.G.A.

6. *New Plymouth Gaol.*

- Written Answers from :—(1.) W. Bosworth, Gaoler.
 (2.) J. Flight, Esq., Visiting Justice.
 (3.) F. E. Rawson, M.D.
 (4.) W. Crompton.

7. *Napier Gaol.*

- Written Answers from :—(1.) Thos. Burnaby, Gaoler.
 (2.) Thos. Hitchings, Esq., Surgeon.

8. *Dunedin Gaol.*

- Witnesses :—(1.) J. Caldwell, Gaoler.
 (2.) St. John Branigan, Esq., Commissioner.
 (3.) The Hon. A. R. C. Strode, Esq., R.M., Visiting Justice.
 (4.) E. Hulme, Esq., Provincial Surgeon.
 (5.) W. H. Reynolds, Esq., M.G.A., Visiting Justice.
 (6.) W. D. Murison, Esq., M.G.A., Visiting Justice.
 (7.) Rev. D. Stuart,
 (8.) Rev. R. Connebee,
 (9.) Rev. J. Williams,
 (10.) Rev. J. Fitchett,
 (11.) Rev. E. G. Edwards,
 (12.) J. Bathgate, Esq., Visiting Justice.
 (13.) Eliza Head, Matron.
- } Clerical Visitors.

9. *Invercargill Gaol.*

- Witnesses :—(1.) Wm. Fraser, Gaoler.
 (2.) Elsie Fraser, Matron.
 (3.) J. F. Deck, Esq., Surgeon.
 (4.) W. H. Pearson, Esq., Visiting Justice.
 (5.) T. K. Weldon, Esq., Commissioner of Police.
 (6.) H. McCulloch, Esq., R.M.
 (7.) Rev. W. P. Tanner,
 (8.) Rev. W. Belliard,
 (9.) H. Armstrong, Esq., M.P.C.
- } Clerical Visitors.

10. *Picton Gaol.*

- Written Answers from :—(1.) J. Cawte, Gaoler.

REPORTS, &c.

Besides the answers, oral and written, of the abovenamed eighty persons to the questions propounded by the Commissioners, reports have been furnished to them on the following subjects by the following persons :—

1. A Report upon Resolution Island (Milford Sound), by James Hector, Esq., M.D. F.R.S.
2. A Report on the Auckland Islands, by —. Armstrong, Esq.
3. A Report on Taranaki and Oamaru, by J. M. Balfour, Esq., C.E.
4. A Report on Quail Island, by J. Reston, Gaoler, Lyttelton.
5. George Graham, Esq. (Old Report to Governor FitzRoy referred to.)

In addition to the above materials for our Report, our fellow Commissioner, the Hon. Colonel S. Ponsonby Peacocke, M.L.C., who has been prevented by domestic circumstances from being present at our conferences, and taking part in our Report, has kindly furnished us with Memoranda of his opinions after perusal of a large portion of the evidence.

Returns have also been obtained from the following minor gaols and lock-ups within the Colony, which we have the honor to forward with the other documents:—

Tauranga,	Naseby,	Port Chalmers,
Russell,	Manuherikia,	Tokomairiro,
Mongonui,	Queenstown,	Timaru,
Westport,	Oamaru,	Lawrence,
Charleston,	Whanganui,	Waitahuna.
Greyton,	Cobden,	
Clyde,	Brighton,	

GENERAL SUBJECTS OF INQUIRY.

Guided by the assumption of such general principles as are above referred to, and the terms of our Commission, we assumed the following to be the general subjects of our inquiry:—

I. The existing law of the Colony respecting criminal prisons and punishments, especially as affecting persons convicted of serious offences, and the rules and regulations made thereunder, and the observance and enforcement thereof throughout the Colony.

II. The existing prisons of the Colony and their fitness in respect of construction, arrangement, discipline, labour, and management—according to actual experience—for insuring the chief objects, as before ascertained, of any wise and effective penal system, stating what we consider such objects to be.

III. The practicability of adapting any of the existing prisons for the purposes of penal establishments for convicts under sentences of penal servitude or long terms of hard labour, and their sufficiency for other classes of prisoners, to be treated according to principles recognized by modern experience and authority.

IV. The propriety of instituting one or more general penal establishments for the whole Colony; and the nature, character, and requirements of such establishments; and the system to be pursued therein: and lastly,

V. The locality or localities most suitable for such establishment or establishments.

In order to procure the fullest and most definite information respecting all matters affecting these subjects, we agreed upon a series of details into which inquiry was to be made, and which were to be taken as a guide to the examination of appropriate witnesses, whether orally or in writing. These details will be found in the Memorandum attached hereto.

We now propose to enter into details respecting each of the five general subjects of inquiry above enumerated; but before doing so, we desire, for fear of misapprehension, to record our opinion that we are not called upon to report specifically on all the merits and demerits of particular existing prisons, but that we need call attention to them only so far as may be necessary for the purpose of ascertaining generally the evils and mischiefs which exist throughout the prisons of the Colony, and of discovering practicable means for removing, remedying, or minimizing them; and therefore we have not in our detailed Report dealt with the various matters affecting each prison separately, but have endeavoured to summarize the evidence on each different subject of importance, as it applies to the whole of the prisons of the Colony.

I.—THE LAW OF THE COLONY RESPECTING CRIMINAL PRISONS AND PUNISHMENTS; AND THE REGULATIONS MADE IN PURSUANCE THEREOF; AND THE ENFORCEMENT THEREOF.

1. "An Ordinance for the Regulation of Prisons," passed on the 15th day of October, 1846. (Sess. VII. No. VII.)
2. "The Secondary Punishment Act, 1854," and "The Secondary Punishment Act Amendment Act, 1863."
3. "The Gaolers Act, 1858."
4. "The Execution of Criminals Act, 1858."
5. "The Supreme Court Act, 1860." (Section 8.)
6. "The Sheriffs Act Amendment Act, 1863."
7. "The Prisoners Removal Act, 1865."
8. "The New Munster Empowering Ordinance, 1849," (Section I. No. 5.) and Provincial Empowering Ordinances derived therefrom.
 - (1.) "The Wellington Empowering Ordinance, 1854."
 - (2.) "The Nelson Province Empowering Ordinance, 1853," (Section 1. No. 2).
9. "The Auckland Superintendent's Transfer of Powers Act."
10. "The Governor's Delegates Act, 1867."
11. "The Neglected and Criminal Children Act, 1867."

1. "*An Ordinance for the Regulation of Prisons, 1846.*"—By this Ordinance (secs. 1, 2) all buildings used as public gaols at the time of its passing, and which should thereafter be declared such by the Governor's proclamation, were to be deemed public gaols; and each Judge of the Supreme Court was empowered (sec. 3) to sentence any offender to be imprisoned, whether with or without hard labour, in any particular gaol of the Colony as to him should seem meet.

Moreover, such public gaols are to be taken, unless otherwise provided, to be houses of correction.

Prisons Ordinance
Power to make rules.

By the fifth section "it is provided that it shall be lawful for His Excellency the Governor, from time to time, to make such rules and regulations as to him shall seem fit touching:—

1. The duties of the officers of such public gaol;
2. The classification;
3. Diet;
4. Treatment; and
5. Correction, of the prisoners therein;

and generally to prescribe such rules as may be necessary for the good discipline of any public gaol, and the safe custody of the prisoners therein. The Ordinance does not authorize the Governor to delegate these powers.

By the seventh section, all such rules and regulations are made as binding upon the officers of the gaol and the prisoners as if they had been enacted by the Ordinance.

In order to give effect to such rules and regulations so authorized, it is made lawful for the Governor (sec. 8) to enforce any penalty not exceeding £20 for any offence against such rules and regulations, to be recovered in a summary way.

Visiting Justices.

Visiting Justices are to be appointed by virtue of section 9; by which it is enacted that it shall be lawful for the Governor to nominate and appoint one or more Justices of the Peace, who shall consent thereto, to be visitors of each gaol in the Colony. Their first duty is to visit the gaol at least once a month, and oftener if occasion shall require.

Duties.

They are also bound once at least in every quarter of a year to make a report in writing to the Governor, or to such other officer as he may appoint for the purpose (sec. 13). Such report is to be made respecting—

- (1.) The state and condition of the prison.
- (2.) The repairs, additions, or alterations which have been made or are required.
- (3.) Any abuse which they may have observed, or of which they may have received information, in the management of the prison.
- (4.) The general state of the prisoners as to morals, discipline, employment, hard labour; and the observance of the rules in force for the time being for the government of the prison.

The right of the Judges of the Supreme Court to visit and examine gaols, incident to their office, is expressly reserved by the Ordinance; and moreover a right is given to any Justice of the Peace, whenever he shall think fit, to enter and examine any gaol.

The Sheriff of the district,* or Visiting Justice, is empowered by the Ordinance (sec. 10) to set prisoners sentenced to imprisonment, without hard labour, to work, the same not being severe, if they do not maintain themselves; and it is provided that no such prisoner who has the means of maintaining himself, shall have any claim to be supported at the public expense.

Prison offences.

With respect to any description of prisoner confined in any gaol, the Prisons Ordinance gives a Visiting Justice the power to hear and determine (that is, in the ordinary course of law relating to summary convictions,) complaints touching any of the following charges, which are declared to be offences under the Ordinance (sec. 11).

- (a.) Disobedience of the rules and regulations of the prison (and the Ordinance will apply whether the rules are made under it or under the Secondary Punishment Acts).
- (b.) Assaults by any person confined in gaol upon another, where no dangerous wound or bruise is given.
- (c.) Profane cursing and swearing.
- (d.) Indecent behaviour.
- (e.) Irreverent behaviour at the ordinary divine service or prayer.

And further, the Visiting Justice has the same power in respect of prisoners under conviction for any crime, in cases of—

- (f.) Idleness or negligence in work; or,
- (g.) Wilful mismanagement of work.

In respect of the foregoing offences, the Visiting Justices may, on conviction, sentence the offender to be confined in a solitary cell on bread and water for any term not exceeding seven days.

Furthermore, the Ordinance provides (sec. 12) that if any prisoner under sentence for any crime shall be guilty of repeated offences against the rules of the prison, or shall be guilty of any greater offence than before mentioned, complaint may be made to two or more Justices, of whom a Visiting Justice may or may not be one, and such Justices have power upon oath to inquire into and determine the same (that is, in the ordinary course of summary convictions), and on conviction, to order the offender to be punished by close confinement for any term not exceeding one calendar month; or by personal correction, in cases of prisoners convicted of felony or sentenced to hard labour.

On this section it is observed in *The New Zealand Justice of the Peace*, p. 282:—"The language of this enactment is certainly vague and not unlikely to lead to misapprehension. In the first place, the expression 'shall be guilty of any greater offence,' must surely mean any greater offence of a similar kind; for if the Justices were to proceed under this section to deal with a case of a grave, indictable, or otherwise punishable offence, committed in the prison, they might thereby defeat justice; as no person can be twice punished for the same offence. It is therefore only in cases where, on full investigation of the circumstances beforehand, they have reason to believe that the maximum punishment mentioned in this section would be sufficient, that they ought to proceed under the Ordinance, leaving graver cases of offences, punishable otherwise than under prison regulations, to be disposed of in the ordinary course of law. Secondly, the phrase 'personal correction,' undefined and unlimited, leaves it very doubtful what species and amount of punishment can be safely awarded. Such is the extent of punishment—besides enforcing penalties not exceeding £20—directed by the prison rules, which can be awarded summarily to persons under sentences of imprisonment with or without hard labour, and to such punishment prisoners sentenced to penal servitude also are apparently liable."

* The gaoler is substituted for the Sheriff by "The Gaolers Act, 1858" (sec. 6).

The Ordinance (sec. 15), inflicts penalties not exceeding £20, upon persons bringing or attempting to bring wine, spirits, or fermented liquor into any gaol, to be recovered in a summary way; and further there is an enactment (sec. 16) therein, making it felony to do certain things, or use any means, in order to aid and assist prisoners in escaping. *Prisons Ordinance. Penalties.*

The Governor is empowered (sec. 17) in cases where a gaol wants repairs, or is to be rebuilt, or where disease has broken out in it, or it is overcrowded, or for the purpose of carrying out the Ordinance, to order the removal of debtors and prisoners to some other gaol to be appointed by him; and when the gaol is again fit for their reception they must be moved back (sec. 18). *Removal of prisoners.*

In any of the cases above mentioned, or upon emergency, when it is necessary that such a removal should take place before an order can be procured from the Governor, the Visiting Justices may issue an order to the keeper of the gaol to remove such debtors and prisoners to such other gaol or place of confinement within his jurisdiction as shall be specified in such order, subject to the same restrictions as to duration as required in case of the Governor.

Such order of the Visiting Justices, together with a report of the causes thereof, is forthwith to be notified to the Governor and to the Sheriff of the district.

It is also provided (sec. 20) that the Sheriff of any district may remove any prisoner from one gaol within his jurisdiction to another within the same jurisdiction, and in case of illness to any hospital or infirmary.

2. "*The Secondary Punishments Act, 1854*," as amended by "*The Secondary Punishments Act Amendment Act, 1863*," contains the following provisions:—The Act of 1854 abolishes the punishment of transportation, and substitutes certain terms of penal servitude within the Colony for terms of transportation (secs. 1 to 8 inclusive); and it makes provisions against escape from penal servitude, and for the punishment of persons guilty of escape, or assisting therein (sec. 11 to 16 inclusive). *Secondary Punishments Act, 1854.*

The ninth section of the Act provides that every person who shall be kept in penal servitude during the term of his servitude shall be employed on the roads or public works, or otherwise kept to hard labour, in such part of the Colony as the Governor* shall direct, and either in irons or under such other restraint, and subject to such correction as may be necessary for his safe custody and strict discipline. For the purpose of being so employed, every such convict may be removed from place to place, either by sea or land, and may be confined in such public gaol, at such penal station, or in such place of confinement, or may otherwise be kept in custody as the Governor shall from time to time direct. But it is provided that the Governor shall not be authorized to issue any directions or regulations which shall permit the assignment of any prisoner under such sentence to any person or persons whatever. This ninth clause originally contained a proviso that every person convicted of a capital offence, whose punishment should have been commuted to penal servitude for life, should be confined in some public gaol in close custody, and be kept to hard labour in separate confinement for the remainder of his life. This proviso was never attempted to be carried out strictly; and it was repealed by "*The Secondary Punishments Act Amendment Act, 1863*." *Employment of prisoners in penal servitude.*

It was further provided (section 17, Act 1854) that the powers of the Governor under the ninth section, or any of them, might be delegated by him, by instructions under his hand, to the Superintendent of any Province, on such terms and conditions, and subject to such limitations and restrictions as might be prescribed on that behalf: but there is no such power of delegation with respect to the 10th section, which, as amended by the Act of 1863, provides as follows:—

(Section 10.) The Governor may from time to time make such rules and regulations as to him shall seem meet for the

- (1.) Employment,
- (2.) Safe custody,
- (3.) Management, and
- (4.) Discipline

of convicts under sentence of penal servitude; and to enforce the observance of such rules and regulations, by

- (1.) Solitary confinement for any period not exceeding one month at any one time, or for three months in periods of one month, at intervals of at least one month each.
- (2.) By placing in irons.
- (3.) Whipping not exceeding fifty lashes at one time.
- (4.) By imprisonment not exceeding twelve months, in addition to the original sentence; or
- (5.) By such other prison discipline as may be prescribed on that behalf.

Provided that no rule or regulation awarding such punishment as aforesaid shall come into operation until a copy thereof shall have been first published in the *New Zealand Gazette*.

3. "*The Gaolers Act, 1858*," (section 1) provides that the Superintendent of each Province shall have the power of appointing a gaoler for every public gaol within the Province, who is to hold office during the pleasure of the Superintendent. Such gaoler (section 2) is to have custody of all debtors and criminals in such gaol, and is to be liable for the escape of either debtor or criminal through his wilful neglect or default, but not otherwise. By the fourth section every debtor or criminal as soon as he is delivered within the door of any gaol to the gaoler or an officer of the gaol, is to be taken to be in the legal custody of the gaoler, and the liability of the sheriff or other officer who delivered the prisoner is thereupon to cease. By the sixth section of this Act, the power given to the sheriff of the district, as well as to Visiting Justices, under the tenth section of the Prisons Ordinance, to set prisoners not sentenced to hard labour, to work, and the power of the sheriff to remove a prisoner from one gaol within his jurisdiction to another, or in case of illness, to the hospital or infirmary, are transferred to the gaoler.† It is further provided by the fifth section of that Act, that nothing contained in it shall take away or abridge the powers of Superintendents and Provincial Councils to make laws for the regulation *Gaolers Act, 1858.*

* See post, "or Superintendent."

† There may be some difficulty in applying the latter provision to gaolers, as they will seldom have jurisdiction or authority over more than one gaol.

Existing Law. and management of any gaols within their Province—that is, of course, subject to and in as far as may not be at variance with other Acts of the General Assembly.

Execution. 4. Provision is made by “*The Execution of Criminals Act, 1858*,” for executions being carried out within gaols under proper regulations, in the presence of the sheriff, the gaoler, &c.

5. The time for carrying out the sentence is regulated by “*The Supreme Court Act, 1860*,” (section 8).

6. By “*The Sheriff's Act Amendment Act, 1863*,” the duty of carrying out the executions is cast upon the sheriff of the district, to whom the gaoler is to deliver the condemned person on his demand, and the prisoner then is to cease to be in the custody of the gaoler, and is to be in that of the sheriff. It seems unnecessary to allude further to the contents of the last-mentioned Acts.

Removal of prisoner.

7. It is further provided by “*The Prisoners' Removal Act, 1865*,” (section 2), that the Governor may, by warrant under his hand, from time to time, when and as he may deem necessary, direct the removal from any gaol or hulk of any prisoner confined therein to any other gaol or hulk within New Zealand, and upon every such removal, every such prisoner shall be subject to be kept at such gaol or hulk for the residue of his sentence, or until removed by legal authority (?). The Governor in Council is further enabled to delegate these powers under his hand and the Seal of the Colony to the Superintendent of any Province, to be exercised within such Province and not elsewhere. Provision is also made (section 4) for punishing persons for misconduct during removal from one prison to another.

New Munster Empowering Ordinance.

8. After the division of the Colony, in the year 1848, into the two Provinces of New Ulster and New Munster, by a proclamation defining their limits, the Legislative Council of New Munster in its first session (1849) passed an empowering Ordinance (No. 5), enacting that there should be conferred on the Lieutenant-Governor of the Province all such powers as are conferred by certain Ordinances enumerated in the Schedule, on the Governors, Lieutenant-Governor, or other Officer administering the Government of the Colony for the time being. The “Ordinance for the Regulation of Prisons” is one of those which are enumerated on the Schedule. After the passing of the Constitution Act in 1852, and the establishment of the six Provinces thereunder, the Legislatures of some of the Provinces which had theretofore been part of the Province of New Munster passed empowering Ordinances whereby they assumed to transfer to the Superintendent powers under certain Ordinances of the old Legislative Council which had formerly been transferred to the Lieutenant-Governor of New Munster. Other Provinces, some of them formerly comprised in New Munster, and others which were not within that Province, passed Ordinances, by which the powers of the Governor, Lieutenant-Governor, or Officer administering the Government of the whole Colony, under enumerated Ordinances of the Legislative Council were [assumed to be] transferred to the Superintendents. There may be some doubt whether if the powers were effectually transferred to the Lieut.-Governor of New Munster, and were not afterwards transferred to the Superintendents of Provinces under the Constitution Act, they reverted back to the Governor of the Colony.

Provincial Empowering Ordinances.

- (1.) In *Wellington* an empowering Ordinance, 1854, passed or professed to transfer the powers of the Lieut.-Governor of New Munster to the Superintendent; but the Prisons Ordinance is not one of those enumerated in the Schedule; and therefore the powers derived therefrom by the Lieut.-Governor of New Munster have not been transferred to the Superintendent of Wellington.
- (2.) In the Province of *Hawke's Bay*, the empowering Ordinance, like that of Wellington, from which it was derived, does not contain the Prisons Ordinance in the Schedule.
- (3.) In *Nelson*, the Provincial Council in its first session (1853) passed an Ordinance (No. 2) vesting in the Superintendent all the powers and authority which by any Ordinance of the original Legislative Council or the Provincial Council of New Munster, enumerated in the Schedule, were theretofore vested in the Governor and Lieut.-Governor or other Officer administering the Government of the late Province of New Munster; and among such Ordinances was the Prisons Ordinance of 1846. It would appear, therefore, if this Ordinance be not *ultra vires*, that, inasmuch as the Governor's powers had been transferred to the Lieut.-Governor of New Munster without any provision leaving concurrent powers in the Governor, this Ordinance would deprive the Governor of the Colony of the powers under the Prisons Ordinance with respect to the Province of Nelson; and yet, as we shall see, the rules in force in the gaol of that Province under the Prisons Ordinance were made by the Governor.
- (4.) In the Province of *Marlborough* there seems to be no special empowering Ordinance; but the Superintendent relies on “*The New Provinces Act, 1858*,” by which it is provided that all the powers vested in the Superintendent of the original Province shall, within such Province, be vested in the Superintendent thereof: and, therefore, the Superintendent of Marlborough has the same powers as the Superintendent of Nelson.
- (5.) In the Province of *Canterbury*, the empowering Ordinance, which includes the Prisons Ordinance in the Schedule, enacts that all powers of the Governor-in-Chief, &c., of New Zealand or of the Lieut.-Governor of New Munster are, within the limits of the Province of Canterbury, conferred on the Superintendent thereof; but it also enacts (section 2) that nothing contained in the Ordinance shall limit or control the power of the Governor of New Zealand in the exercise of any power theretofore exercised by His Excellency under the authority of the enumerated Ordinance.

The construction of these enactments seems by no means clear. It would appear that if the Governor once made rules under the Prisons Ordinance, the Superintendent could not supersede them by others; and that the Governor could always supersede any rules made by the Superintendent.

- (6.) By the *Otago* empowering Act of 1854, which mentions the Prisons Ordinance in the Schedule, the powers of the Governor, &c., under the Ordinances in the Schedule, as far as they may be without repugnance to the Constitution Act, are, within that Province,

(7.) In *Southland* Province there was no empowering Ordinance up to 1864; and we are not aware of any passed since; and the Superintendent therefore has, under the provisions of "The New Provinces Act, 1858," the same powers as the Superintendent of Otago.

(8.) In *New Plymouth* "The Empowering Ordinance, 1857," like those of Wellington and Hawke's Bay, omits the Prisons Ordinance in the Schedule.

If this Ordinance be not *ultra vires*, the Governor's powers under the Prisons Ordinance are thereby entirely abrogated, and yet the rules thereunder are made by the Governor.

11. By "*The Neglected and Criminal Children Act, 1867*," Superintendents of Provinces are empowered to establish industrial and reformatory schools for children under the age of fifteen, each being exclusively for males or females, and to make regulations for the conduct and management thereof; and provision is also made for bringing schools established by private subscriptions within the Act, and reserving such schools, if supported by one religious denomination only, for the use of children belonging to such denomination. By section 16, it is provided that none but convicted children shall be sent to "reformatory schools;" and that when any child under fifteen is convicted before a Judge or two Justices, either for an indictable offence or on summary conviction, the Judge or Justices, in addition to the sentence passed as a punishment for the offence, may direct such child, at the expiration of the sentence, to be sent to any reformatory school, for the proper sex, in the Province, to be detained there not less than one year nor more than seven. Regard is to be had to the religious denomination to which the child belongs in the order as to his or her education. Moreover, it is provided by section 29 that the Superintendent of any Province which does not possess an industrial or reformatory school may, with the advice of his Council, make arrangements with the Superintendent of any Province in which there may be such a school, for using it in common.

In addition to these provisions for the education and reformation of juvenile offenders, the Act provides (section 39) that in case any person under the age of sixteen years is convicted of felony or misdemeanour [query—before the Judge of the Supreme Court], the Supreme Court, or any Judge thereof may, on the application of any person willing to take charge of such child and provide for its maintenance and education,—if it should appear to the Court or Judge to be for the benefit of the infant, due regard being had to its age, to the prevention of crime, and to the circumstances, habits, and character of the parents or guardian,—to assign the care and custody of such infant during its minority, or any part thereof, to such person, upon such terms and conditions, and subject to such regulations as to maintenance, education and care, as the Court or Judge shall think proper, subject to rescission and alteration as to time and conditions; and the Court may award costs to any parent who opposes such an application, if not well founded.

[*N.B.*—It is not stated whether such assignment is to be instead of, or in addition to, and to take effect after, the expiration of a sentence by way of punishment, as in case of an order sending the infant to a Reformatory School.]

It seems unnecessary to mention here any one of the provisions of the Act of 1867.

RULES AS TO REMISSIONS.

In addition to these Ordinances and Acts, there are so-called Rules relating to remission of sentences of prisoners on the ground of good behaviour, issued on the 25th July, 1864, by the Attorney-General for the time being. Those rules, although they have no legal authority or force, are to be taken, and have been taken, to amount to a notice by the Executive Government to prisoners, that they may expect that the prerogative of mercy will be exercised on their behalf to the extent and under the conditions indicated.

The propriety of the adoption of some such system was the subject of communications between their Honors the Judges of the Supreme Court and the Executive Government (see Report App. Rep. Journal, 1863, A. No. 7 (No. 3); and the rules in question are substantially in accordance with the expressed opinion of the Judges. (See rules in Appendix marked IV.)

The practical application and effect of this system of ordinary partial remissions for good conduct will be adverted to hereafter.

REVIEW OF THE EXISTING LAW.

On a review of the existing law therefore, it would appear that the authority to make rules and regulations with regard to the punishment of convicts under sentences of penal servitude throughout the whole Colony, rests exclusively with the Governor, except in so far as he may expressly delegate the special powers as to employment of convicts on roads and works with which he is invested by the ninth section of "The Secondary Punishment Act, 1854," to Superintendents under the seventh section of the Act, or to the Executive Council of a Province, or any other person under "The Delegates Act, 1867."

Existing Law.

With regard to the management of gaols generally (except as regards debtors), and the punishment of prisoners other than those under sentences of penal servitude, it appears that the power of making rules and regulations vested by the Prison Ordinance in the Governor, apparently without power of delegation, remain in him undisputed with respect to the Provinces of Wellington, Hawke's Bay, and New Plymouth; that they are professedly transferred through the Lieutenant-Governor of New Munster to the Superintendents of Nelson and Marlborough, to the exclusion of the Governor; that in Canterbury and Otago they are given to the Superintendents without limiting the Governor's exercise of them; and that in Auckland they are expressly taken, or pretended to be taken, away from the Governor.

There is, therefore, on the face of the existing prison laws a considerable amount of difficulty and complexity, which, it might be anticipated would produce misconception, inconsistencies, irregularities, and inconveniences: and we are therefore not surprised to find that in most places in the Colony the prison authorities have had but an indefinite understanding of their real relations, duties, and responsibilities. In the first place, with regard to the appointment, status, and functions of "Visiting Justices," there seems to have been much misconception in some parts of the Colony. It seems at least very doubtful whether these functionaries can be considered "officers of the gaol," within the meaning of the enactments giving powers for making regulations concerning the management of gaols. They are really Justices of the Peace, whose special duties are, first, of a judicial character in respect of prison discipline; and secondly, of a ministerial kind, including the examination into the condition of the gaol, the conduct of its officers, and the observance of its lawful regulations, and regularly reporting thereon; and as their powers and duties are expressly pointed out by the Prisons Ordinance, it seems that any regulations pretending to affect the Visiting Justices, at variance with the provisions of that Ordinance, would be inoperative; while it would appear also that regulations affecting them even if not inconsistent therewith, would be *ultra vires*. Now we find from the evidence received by us, that in some cases, at all events, the Visiting Justices are very uncertain about their position and duties, and in some cases they evidently act within their powers, but do much more than they are bound by law to do (especially at Auckland); that in several cases they are unaware of, or neglect their plainly laid down statutory duties; that in others they assume powers which they do not possess by law, and that in some cases they are directed to do more than the general law requires by regulations which are probably *ultra vires*.

VISITING JUSTICES.

Appointment.

As to the appointment of the Visiting Justices, we presume that in the cases where the powers of the Governor have devolved through empowering Ordinances on Superintendents, the Superintendents are the proper persons to appoint such functionaries. The evidence on this subject is to the following effect:—

- (1.) At Wellington, the Visiting Justice examined says, "I was appointed by the Superintendent, I think."—[Wellington—WOODWARD.] But the empowering Ordinance of Wellington, as we have seen, does not mention the Prisons Ordinance on its Schedule.
- (2.) At Lyttelton there is but one Visiting Justice, who is also medical attendant of the gaol, and has therefore to report on his own conduct in that capacity; and he is appointed by the Superintendent.—[Lyttelton—DONALD.]
- (3.) At Hokitika it does not appear by whom the Visiting Justices are appointed; but they report to the Colonial Secretary.—[Hokitika—SALE.]
- (4.) At Nelson the Visiting Justices are appointed by the Superintendent,—[Nelson—WELLS] who seems to have authority for that purpose under the Nelson Empowering Ordinance.
- (5.) At Auckland there are two Visiting Justices appointed by the Superintendent.
- (6.) At New Plymouth, it does not appear by whom the Visiting Justice is appointed.
- (7.) At Napier it does not appear from the report by whom the Visiting Justice is appointed, but if it is by the Superintendent, it would seem to be without authority, as the Napier empowering Ordinance is the same as that of Wellington.
- (8.) At Dunedin the Visiting Justices are appointed by the Provincial Government.—[Dunedin—CALDWELL.]
- (9.) At Invercargill there are four Visiting Justices appointed by the Superintendent of Southland.—[Invercargill—FRASER.]
- (10.) As to Picton it does not appear if there be a Visiting Justice or not.—[CAWTE's Report.]

Proceeding now to inquire how the duties of Visiting Justices are performed, we recur to the provisions of the Prisons Ordinance, which besides giving such Justices certain power of adjudication upon breaches of the Ordinance, and of the regulations made for the management of prison prescribes:

- (1.) That the Visiting Justices (*i.e.*, each Visiting Justice) shall personally visit such gaol at least once a month, and oftener if occasion shall require; and
- (2.) That the Visiting Justices shall once at least, in every quarter of a year, make a report to the Governor or to such officer as he may appoint, concerning the matters specifically mentioned in the thirteenth section of the Ordinance as above set out.

It seems to be assumed—and probably rightly—that where the Superintendent has power to appoint the Visiting Justices, he is the person to whom they ought to make their reports. Now we find with regard to these matters that at

Reports.

- (1.) At Wellington, the Visiting Justices do not make regular monthly visits; that they report half-yearly (instead of quarterly) to the Superintendent; that the reports are not published [WOODWARD] and that the gaoler was not aware of the existence of any reports.—[READ.]
- (2.) At Lyttelton, the Visiting Justice was never asked for a report, and never deemed it necessary to make one.—[DONALD.]
- (2a.) As to Christchurch, the Visiting Justice visits irregularly, and has made no reports except as to want of accommodation.—[BOWEN.]

- (3.) At Hokitika, as above mentioned, the Visiting Justices report once a quarter to the Visiting Justices. Colonial Secretary.
- (4.) At Nelson, the Visiting Justices, according to the evidence of the Gaoler, visit once in two or three months, and report once a year to the Provincial Government—[CLOUSTON]: but according to one of the Visiting Justices, [WELLS] they visit frequently and make no regular reports.
- (5.) At Auckland, the Visiting Justices visit almost daily, and report monthly, quarterly, and annually to the Superintendent.—[PEACOCKE and NAUGHTON.]
- (6.) At New Plymouth it appears that no reports are made by the Visiting Justice.—[FLIGHT.]
- (7.) From Napier, we have no information on this subject.
- (8.) At Dunedin, the Visiting Justices make no regular reports, but report occasionally when they think necessary.—[STRODE and REYNOLDS.]
- (9.) At Invercargill, there are four Visiting Justices. Their visits are not regular [FRASER]; and they never deem it necessary to make a report.—[PEARSON.]

We must next call attention to certain cases in which it would appear that the Visiting Justices have exceeded their powers.

At Lyttelton, it seems that an extra ration is given by order of the Visiting Justices and the medical officer [RESTON's evidence]; but the only powers which Visiting Justices have to interfere with rations (except in cases of sentence to solitary confinement and bread and water) are derived from the regulations duly made according to law. Now the regulations for penal servitude prisoners at Lyttelton, enable the Visiting Justices to place prisoners upon the first-class rations, under certain circumstances, and to degrade them from the first-class to the second—the rations being fixed by the rules; but the Justices seem to have no power to grant extra rations, and as regards other prisoners, there are not, as we shall presently show, any regulations in force in that gaol.—[RESTON.]

In Hokitika gaol, the gaoler (CLEARY) says that the use of tobacco has been discontinued on his recommendation, by the Visiting Justices, and one of the Justices (SALE) says that they stopped the supply of tobacco altogether, "although the same was in violation of the rules"—that is, the regulations of the Lyttelton gaol for penal servitude prisoners, which were in use at Hokitika for both penal servitude and other prisoners, apparently without legal sanction; and upon what ground of authority the Visiting Justices assumed a right to make or break rules does not appear.—[CALDWELL, SALE.]

At Nelson, the gaoler (CLOUSTON) says he has discretionary power given to him by the Visiting Justices to reduce and to increase the scale of rations, but it does not appear that the regulations used in the gaol give the Visiting Justices any such power.

At Napier, it appears that a routine which is in some respects at variance with the regulations is sanctioned by the Visiting Justices (BURNABY's report), and also changes in the rations not provided by the regulations, and among others the supply, to hard-labour prisoners, of tobacco, which is expressly prohibited by the regulations (made in 1862), are sanctioned by the Visiting Justices, the Superintendent, and the medical officer.

The next observation to be made with respect to Visiting Justices is, that in the regulations for Nelson the Visiting Justices are directed to visit once a week, and in those for the Otago gaols (gazetted 23rd December, 1863) certain specific directions are given to Visiting Justices (rules 72-79 inclusive) which direct them to do various things not required by the Prisons Ordinance, such as visiting at least twice a week; and, as before suggested, we doubt whether the Governor has any power by regulation to alter the statutory duties of such functionaries, who are not, in our opinion, officers of the gaol, but magistrates having powers affecting the management of the gaol and the conduct of its officers.

We have been furnished with a correspondence between officers of the General Government and the Visiting Justices of Hokitika gaol* respecting certain regulations proposed for that prison; to which the Visiting Justices objected, as we think rightly, on the ground that they are *ultra vires*.

RULES MADE UNDER ACTS.

The next matter to be considered is in respect of what gaols rules and regulations have been made under the Prisons Ordinance or "The Secondary Punishments Act, 1854," or both of them.

From the information we have received it would appear that discipline must have been carried on in most of the prisons of the Colony for some time without any direct legal sanction; and it would seem that all punishments inflicted on prisoners in addition to what is necessarily implied by the sentence of the Court, in the absence of rules made and gazetted under and within the provisions of the Ordinance and Act applicable to such prison, have been and are illegally inflicted.

It appears that rules have been made by His Excellency the Governor in pursuance of both Ordinance and Act, affecting all prisoners except debtors, for the gaols of Auckland, Nelson, Napier, and Otago† that rules and regulations for penal servitude convicts only have been made for the gaols of Wellington and Lyttelton; and that no legal rules are in existence for other criminal prisoners in the gaols last mentioned; that the regulations for the Picton Gaol for both hard labour and penal servitude prisoners, are made by the Superintendent of Marlborough [CAWTE's evidence] by virtue of the Nelson empowering Ordinance, which, of course, does not refer to penal servitude prisoners; that in Hokitika Gaol, the regulations for Lyttelton Gaol at the date of examination were used (apparently without any legal authority) for both penal servitude convicts, and for all other convicts; but since then a set of rules for both penal servitude and hard labour prisoners made by the Governor, have been gazetted 25th March, 1868; and lastly, that in Wellington and Lyttelton gaols the rules for penal servitude convicts are, without any legal authority, also applied to hard labour prisoners, and (it would likewise seem) as far as applicable, to all other prisoners except debtors.

* A set of rules for this gaol, omitting the parts objected to, has since been issued by the Governor. See Gazette, 25th March, 1868.

† A pre-existing set of rules for penal servitude men in Otago appears not to be repealed unless so far as they are inconsistent with the subsequent ones.

Prison Rules.

The next subjects for examination are—

- (1.) Whether the regulations which have been made or adopted, are actually enforced; and if not, in what respects they are broken or deviated from; and
- (2.) What substantial differences exist among their provisions for different gaols of the Colony.

How far rules enforced.

In Wellington Gaol it is said [READ] that the rules are not duly enforced because they cannot be.

By a supplementary regulation of the Governor, tobacco (the luxury most coveted by prisoners, and the deprivation of which is most felt) is allowed to first-class prisoners; but as there is only one class—that is, no classification—in the gaol, all are allowed to smoke, contrary to the plain intention of the rule. But there are distinctions as to rations; for while penal servitude and hard labour men have—1lb. fresh meat, 1lb. potatoes, 1lb. bread, $\frac{1}{2}$ oz. soap, $\frac{1}{4}$ oz. tea, 2 oz. sugar, $\frac{1}{2}$ oz. salt, for daily rations, the other prisoners have only— $\frac{1}{2}$ lb. bread, $\frac{1}{2}$ lb. fresh meat, $\frac{1}{2}$ lb. potatoes, $\frac{1}{2}$ oz. soap, $\frac{1}{2}$ oz. salt, which the gaoler does not consider sufficient.

Differences as to rations, tobacco.

Moreover the penal servitude and hard labour prisoners have an additional ration allowed by the Superintendent, although he apparently has no legal authority to do so, and his doing so is at variance, at least as regards the penal-servitude men, with the legally established rations.

In Lyttelton Gaol, two sticks of tobacco per week are allowed to first-class prisoners (although by one rule all smoking is prohibited); but second-class prisoners are prohibited from smoking. An extra ration of bread is allowed by the medical officer as Visiting Justice (as above noted), apparently without any authority.

The No. 1 ration at this prison (by regulation) exceeds the No. 1 ration (by regulation) of the Wellington Gaol (which is deemed very ample) by 1 lb. of potatoes, 6 oz. of oatmeal or 4 oz. cocoa per day.

In Hokitika Gaol, the Lyttelton regulations (adopted *de facto*) were observed at the time of the examination “as far as is consistent with the proper working of the gaol.” [CLEARY.] Tobacco, though expressly allowed to No. 1 class prisoners, by the adopted rules, has been taken away by the Visiting Justices (as above noticed), on the recommendation of the gaoler, in contravention of the rule; and reasons are given by the Visiting Justice examined why the rules are violated. [SALE.] The rations, as appointed by the Lyttelton rules, seem to have been reduced by a rule of the Visiting Justices, as already stated, without authority, and in spite of the adopted rule which says that the prisoners shall be entitled to the specified ration.

At Nelson Gaol, where the rules prescribed by the Governor apply to all prisoners (except debtors) the rations of the highest class are less than those at Lyttelton, by 1 lb. of potatoes, $\frac{1}{2}$ oz. of soap, $\frac{1}{4}$ oz. of tea, 2 oz. of sugar, per day, and 2 sticks of tobacco weekly. But the gaoler of this gaol, as we have already mentioned, exercises a discretionary power (which the Visiting Justices have assumed the authority to give him) of increasing or diminishing the rations. And it is to be remarked that in this gaol not only is tobacco not allowed, except as an indulgence for good behaviour, but tea and sugar are also denied.

In Auckland Gaol, where the law and regulations seem to be carried out much more strictly, to the letter and in spirit, than elsewhere, tobacco is prohibited.

In New Plymouth Gaol no tobacco is allowed.

In Napier Gaol, for prisoners sentenced to hard labour, the rations (by the regulations) are the same as those in Wellington for penal servitude men, except that tobacco, unless by special permission (of whom?) is strictly prohibited.

But the rations prescribed by the regulations are not observed, reductions being made by order of the Visiting Justices (apparently without authority), or increased on the recommendation of the officers; a stick of tobacco per week being given to the hard-labour men generally, with the sanction of the authorities on recommendation of the overseers and turnkey.

In Dunedin Gaol, tobacco is not allowed, except by permission of a medical officer (CALDWELL), or to well behaved prisoners (REYNOLDS); although by the regulations of 1862 the penal servitude men are entitled to two sticks per week.

In Invercargill Gaol, tobacco is only given by medical permission.

In Picton Gaol, tobacco is allowed to those prisoners who work for the Board of Works, but whether under the regulations of the Superintendent or not does not appear.

SUMMARY, &c.

Want of uniformity as to rules.

It would appear, therefore, that there is no uniformity throughout the Colony as to the sources of the rules and regulations enforced; that the legality of many of them is at least questionable; that those which are legal are not regularly enforced; that powers unwarranted by law are assumed by various functionaries connected with the gaols; and that with respect to comforts and indulgences (tobacco, tea, and sugar, which are the most coveted, and the deprivation of which is most dreaded), there are very substantial differences between one set of regulations and another, and also between the actual practice in one gaol and another.

OPINION OF COMMISSIONERS.

Opinion of Commissioners.

We are of opinion that it is of the greatest importance that the regulations of all the gaols of the Colony should emanate from the same authority, should be substantially the same, should be strictly enforced, except in certain cases, on definitely laid down principles of relaxation; and that local authorities and officers of the gaol should have no power to alter or vary the application of the rules, except on certain emergencies to be specially provided for: that to ensure this end a proper system should be introduced for the training and promotion of gaol officers; and that the due enforcement of the law should be secured by the appointment, at as early a period as circumstances will permit, of an Inspector-General of Prisons, to whom the Visiting Justices should report quarterly, and who should examine each gaol in the Colony at least once a year, and report to the General Assembly.

Before leaving the subject of the law relating to prisons, we would respectfully call attention to

the fact that although "The Neglected and Criminal Children Act, 1867," provides for the establishment of reformatories for juvenile offenders, its provisions are only permissive; whereas it seems clear that there is no matter connected with the administration of Criminal Justice so imminently important, and the urgent necessity for which will less bear to be trifled with, than the establishment of such institutions; and if it should be deemed impolitic to oblige each Province at once to set about the foundation of a reformatory for itself, it would at least be desirable in the meantime for the General Government to establish one or two in central places, and take power to charge the Provinces in respect of the young convicts sent out of them to such establishments. We understand that a reformatory school has already been established in the Province of Otago, which probably may be made useful for the neighbouring Provinces, but it can scarcely provide, even for a short period, for the wants of the whole Colony.

II.—EXISTING PRISONS, THEIR SUFFICIENCY, &c.

II. We have next to consider the sufficiency of the existing prisons, their management and discipline, for the purpose of attaining the true ends of a proper penal system.

With respect to position, it appears that most of the prisons of the Colony are conveniently situated, Lyttelton and Picton Gaols being the most striking exceptions. Almost all of them are in salubrious localities; and the health of the prisoners generally is remarkably good. But the accommodation in every one of them, except Napier Gaol, is more or less insufficient, even for the present requirements of the Colony, and does not admit of any proper system or separation and classification or hard labour in prison. The plan of construction is in no case convenient for separation or for surveillance, Dunedin Gaol especially being remarkable for extreme faultiness in these respects. The ventilation of all the gaols, and the supply of air in them, would be quite inadequate if the penal-servitude and hard-labour men were to spend the daytime in the prisons.

It appears that most of the gaols are, to a greater or less extent, insecure in respect of construction; and it seems probable that the paucity of the attempts to escape in recent years, to which our attention has been called, as compared with their frequency in former times, is attributable rather to the lenity of treatment and the incitement to good conduct created by the recent practice of granting fixed remissions, than to the physical means of security afforded by construction, or to increased surveillance. In Auckland Gaol, the sudden reduction of the staff of officers recently effected, causing a most unjustifiable amount of overwork to those who remained, must have most materially added to the insecurity of that prison. As to juvenile offenders there does not appear to be any systematic separation from other convicts in any of the gaols of the Colony; though, in most cases, efforts are made by the gaolers in that direction. Prisoners waiting for trial are not, it would seem, nor can they practically be, kept separate from convicts in some of the gaols. In most of the gaols the provision made for the accommodation of the officers is altogether insufficient.

With respect to labour done by convicts the unanimous testimony of the witnesses proves that it is neither severe nor irksome; that it is not substantially felt by the prisoners; and that it has no deterrent influence upon them.

The habit of permitting prisoners to work in the streets of the towns in which the gaols are situated, is admitted by almost all the witnesses on the subject to be most objectionable, as regards both the prisoners and the public; and such work is by no means so irksome as the same amount of labour would be within the precincts of the prison.* The obvious means also, which it affords to the prisoners for communication with their friends, and for receiving indulgences, are apparently often taken advantage of; and the absence of any law making it punishable for persons to hold communication with or to give supplies to prisoners working in the streets or roads, makes it difficult to prevent such mischievous interferences with prison discipline. On the other hand, great criminals by this practice become objects of curiosity and subjects of exhibition to the public, whereby much disturbance is necessarily created in the minds of the prisoners themselves, and a most unwholesome familiarity is engendered in the public, and especially in the younger members of it, with the persons, deeds, and characters of those who ought to be put out of the sight of society altogether.

The general moral effect of the present mode of treatment without classification or separation is almost without an exception or modification, described by the witnesses to be very bad. The warden of the Wellington gaol (READ) speaks of the system as one of "contamination without reformation;" and says that conspiracies to escape and murder, and to commit robberies have been concocted in the gaol; while one of the medical attendants (GRACE) declares that "self-abuse is frightfully prevalent in that gaol, and that comparatively decent men fall into the habit and probably never lose it."

One of the clergymen who attends the Lyttelton Gaol (KNOWLES), speaks of many ascertained cases of demoralization from promiscuous association; and two striking instances are mentioned in the Dunedin evidence, where comparatively innocent persons after being instructed in crime by old offenders in prison, have on their enlargement proceeded without delay to the commission of grave offences.

It appears that in all the prisons the oldest, most hardened, and reckless offenders are looked up to as heroes and examples by the mass of the prisoners; and probably the amount of actual mischief which is attributable to nearly unrestrained communication in prison is not less than might have been expected *a priori*. The punishments inflicted and the treatment in the gaols seem to have even less effect upon the women than on the men, and the same women are constantly returning to the gaol after discharge.

With regard to the matter of rations and indulgences, we have already had occasion to show the want of uniformity existing in the prisons of the Colony as now regulated. The extreme rations (in respect of amplitude) would seem to be unnecessarily abundant, while it would appear that in some prisons at all events, the second-class ration is scarcely sufficient. The granting or withholding the indulgences of tobacco, and tea and sugar, do not seem at present to be used as efficient means of prison discipline; but they apparently create very substantial differences in respect of severity of treatment between the prisoners in one gaol and those in others.

* The Hon. Colonel Peacocke does not altogether agree with the other Commissioners on this subject.

Existing prisons. The question of rations seems one proper for consideration and settlement by a medical board; but it would be desirable that a certain amount of relaxation or indulgence should be provided for (subject to checks and reports), to meet cases where the strict application of the rules would be unjust or inhumane.

Religious services. With respect to the effect of religious services, there is, as might naturally be expected, some diversity of opinion among the witnesses. Prisoners seem generally to attend in an orderly and becoming manner to public worship; and one or two particular instances are mentioned in which practical good effect have been traced to religious instruction.

The almost promiscuous admission of clergy (and laymen too,) for religious purposes, which is allowed in some prisons (especially in Dunedin), appears, by the evidence, to be inconvenient and undesirable; and the absence of restraint upon clerical visitors in respect of communication between prisoners and persons outside, is objectionable and mischievous.

The experience of almost all the prison authorities indicates the propriety of having regular chaplains appointed officers of the gaol. Complaints are made by clergymen, and apparently with justice—especially by those of the Roman Catholic Church—that no proper apartment is dedicated to public worship.

Secular instruction. As regards secular instruction, there is no regular system in any of the gaols; although in several of them praiseworthy attempts are made to do something in this direction, though not provided for by law or regulation.

Remissions and pardons. Coming now to the practice of the Colony as to remissions of sentence and pardons, and their effects upon criminals, we have to consider, first, the effect of the ordinary remissions for good conduct, granted in pursuance of the regulations issued by the Hon. the Attorney-General (Whitaker), on the 25th July, 1864, marked IV. (I) in the Appendix. Although some witnesses express opinions at variance with those upon which these rules were founded, there seems to be no doubt that in the main they have had a very favourable operation in respect of the discipline of the gaols; and no particular case of mischief or inconvenience resulting from them has been mentioned by any witness. The warden of the Dunedin Gaol [CALDWELL] says that the ordinary remission for good behaviour is absolutely necessary to keep up discipline. One witness considered that the ordinary remissions are too much in the nature of a bribe [BOWEN]; while others [NAUGHTON, SALE, and BECKHAM] say that they are looked upon too much as a right—one witness considering the system altogether wrong. Others say that punishment ought to be certain; and one (BRANIGAN) prefers a system of marks and earnings. But we cannot see that there is any substantial objection to the prisoners being able to count upon the remission, or even to consider it as a bribe—if its result be so far reformatory or effective as to make the prisoners restrain themselves from misbehaviour and breaches of prison regulations; and the objection in respect of certainty is met by the Judges, in their Report on the subject in 1863, mentioned above, which affirms that “a fixed scale of remission for good conduct does not contravene, but strongly affirms, the fundamental principle that punishment must be certain.” A sentence of eighteen months’ imprisonment with hard labour is understood by Judge and prisoner to mean a sentence to twelve months’ hard labour, provided the prisoner’s conduct during the whole period be good; otherwise a sentence to eighteen months.

Proper principle for the future. But there is no doubt, in our opinion, that, with an improved system of classification, separation, probationary and industrial stages, remission ought to be earned not by passive good conduct, but by industrial effort duly recorded, and computed by marks or otherwise.

Extraordinary remissions, &c. With respect to remissions of punishment, other than the ordinary ones, for good conduct, returns will be found in the Appendix No. IV. (2) of the names of prisoners who were pardoned or received remissions of punishment from 1858 to 1867, and an extract is added pointing out specially those in which the Judge or Magistrate was not consulted (according to the Queen’s instructions) respecting the pardon or remission, and those in which he did not recommend the same.

Result of particular remissions. There is also a return from the warden of the Wellington Gaol of certain prisoners who received pardons or remissions in 1862, the papers concerning which were (as appears from the Return from the Colonial Secretary’s Department, Judicial Branch) lost in the wreck of the “White Swan.” With respect to the cases of four of those prisoners who had been concerned in a murderous attack on the officers of the Wellington Gaol, and who were pardoned in May, 1862, after having undergone but a small portion of their terms of punishment (on what grounds it does not appear), the warden of the gaol (READ) uses these words in his evidence: “I say, honestly and conscientiously, from my own knowledge, that the release of those prisoners produced a most mischievous effect. Prisoners since that (Wood, Gaffney, and others), when they have misconducted themselves, have told me that they would get out in spite of me and the Judge. That has been when I cautioned them that when they applied for the ordinary remission, I should have to report to the Judge against their application if they misconducted themselves.”

This officer has also given evidence with regard to the case of a man named Buckridge, sentenced to hard labour for twelve months for an assault on the police at the Hutt, near Wellington, who was, on private recommendation, and without any reference to the Judge, released, after being in prison for one month and seventeen days, on the ground of “probable contamination in prison.” The gaoler says: “Since Buckridge’s release, prisoners have alluded to that case for the purpose of inducing me to forward petitions for them out of the proper course.” Further he says: “Prisoners’ friends outside have talked to me on the subject of getting up petitions out of the ordinary course, citing Buckridge’s case as a precedent.” And again: “The habit of petitioning in an irregular way had almost died away since the ordinary rules for remission had been adhered to; but they revived again immediately after Buckridge’s release.”

Opinion as to use of prerogative. We are of opinion that such practical experience confirms the propriety of the expression used by the Judges in their Memorandum of 1863, where they say: “It is not enough that the prerogative should be exercised in accordance with definite principles, or upon righteous grounds. It is of the last importance that those grounds and principles should be publicly known, understood, and recognized.”

Annual returns. We are therefore of opinion that it would be most desirable that the Legislature should provide that at the commencement of each session a return should be made of all cases of pardon and remission

granted during the preceding year, with a statement of the grounds thereof, and the names of the persons on whose recommendation the same had been granted.

III.—ADAPTATION OF EXISTING PRISONS.

The next general subjects of inquiry are:—1. The practicability of adapting any of the existing prisons for the purposes of penal establishments for convicts under sentence of penal servitude or long terms of hard labour; 2. And their sufficiency for other classes of prisoners to be treated according to principles recognized by modern experience and authority.

With regard to the first of these questions, we have no hesitation in affirming that none of the existing gaols are capable of being converted into a penal establishment for convicts under long sentences, possessing the requisite accommodation and conveniences. But we are of opinion that the existing local gaols, except those at Lyttelton, Christchurch, New Plymouth and Picton (which are only fit for lock-ups), might be adapted so as to accommodate, with proper classification,

1. Debtors;
2. Prisoners waiting for trial;
3. Prisoners summarily convicted, and persons imprisoned for contempt, or for non-payment of fines and penalties;
4. Persons convicted of indictable offences, and sentenced to imprisonment with hard labour for terms not exceeding twelve months; and
5. Convicts waiting for removal to a central penal establishment.

None fit for penal establishment.

Proper uses for present prisons.

Provision should be made for keeping these classes of prisoners separate, and among these, old offenders waiting for trial separate from persons previously unconvicted, and also for keeping juvenile prisoners and females by themselves.

With respect to the short-sentenced convicts, whose punishment may be carried out in the local prisons, we are of opinion that the following matters deserve special attention:—

1. That during the whole period of their imprisonment, the prisoners should sleep in separate cells.
2. That the short sentences should be sharp; the first and last portions being passed by the prisoners in separate cells by day as well as by night.
3. That provision should be made for labour both afflictive and industrial, within the prison.
4. That religious services and secular education should be conducted by chaplains (Protestant and Roman Catholic), regularly appointed, and regularly reporting to the Government of the Colony; and that proper accommodation should be provided for these purposes.
5. That in case of sentence exceeding [six] months, each prisoner ought to be allowed (through a regular system of marks) a certain amount of money in respect of extra work, to be appropriated to his use on his discharge from prison.

Provisions for short-sentenced convicts.

We are of opinion that all the local gaols of the Colony, as well as any general establishment which may be instituted, should be under the same ultimate control; should be frequently inspected by some competent persons, to whom Visiting Justices should be obliged to report at least once a quarter; that such persons should regularly report to the Legislature, and their reports should be published.

Uniformity of control and system.

We think that the necessary reconstruction or conversion of the existing gaols should be conducted upon an uniform principle, the plan and details being previously approved, and the due execution of them certified by a common (*i.e.*, Colonial) authority.

And we are further of opinion that the *status* and duties of Visiting Justices should be more definitely ascertained, and regularity of reports insisted upon; and that such Visiting Justices should *not be officers of the gaol*, or Commissioners of Police.

IV.—INSTITUTION AND CHARACTER OF GENERAL PENAL ESTABLISHMENT.

We have now arrived at the general questions of (1) the propriety of instituting one or more penal establishments for the whole Colony; and (2) the nature, character, and requirements of such establishments, and of the system to be pursued therein.

With regard to the first question, the witnesses are all but unanimous as to the desirability of instituting some such establishment with the least practicable delay; and this opinion is in many cases expressed in very emphatic language, indicative of a conviction that the matter is of the greatest and most urgent importance.

Necessity for establishment.

With respect to the principles upon which such an establishment should be founded and the nature of the system which should be observed in it, we respectfully report that the following considerations are specially deserving of attention:—

General principles for same.

1. That the position should be healthy, accessible, easily guarded, and one which affords materials or special objects for the remunerative employment of unskilled labour.
2. That it should be employed for the punishment and reformation of persons sentenced to penal servitude, or to imprisonment with hard labour for a period exceeding twelve calendar months: all sentences of imprisonment for terms above twelve months and of penal servitude for less than [three] years being practically abandoned, except in special cases; and that penal servitude for [three] years should be adopted instead of any longer term of imprisonment with hard labour than twelve months which may now be awarded.
3. That the construction of the buildings should be such as to provide effectually for the separation, classification, and easy surveillance of the prisoners.
4. That each person should occupy a separate cell by night, during the whole period of his incarceration.

5. That the prisoners should be divided into one or two probationary classes.
6. That each prisoner in the probationary classes, or at all events in the first, should be kept separate from all other prisoners by day as well as night; that he should at first be subjected to severe labour, such as that of crank, shot-drill, or tread-wheel for a minimum time, after which, if well conducted, he should be allowed to do a certain amount of industrial work.
7. That after the expiration of a period of not less than [nine] months passed in the probationary classes, subject to extension for breaches of prison discipline, neglect of work, &c., the prisoner should be removable into the first industrial labour class, each prisoner having a separate sleeping cell, and not being allowed to communicate with others when employed on associated work. The work ought to be done according to a system of marks, a fixed number of which should be taken as a daily stint. The extra work performed by each prisoner in each month should be valued at a certain amount for a certain number of marks; and of the sum so earned a certain proportion should be allowed to the prisoner for the purchase of certain sanctioned indulgences or comforts, and the rest carried to the credit of the prisoner till his discharge.
8. That the after expiration of a minimum period, dependent on length of sentence, in the first industrial class, a prisoner who had earned a certain number of marks, also dependent on the length of sentence, should be promoted to a second class, with larger monthly allowances and some increase of comforts; and that promotion should be made under similar circumstances, and with similar results, into a third industrial class. The labour in the industrial classes might be associated labour; but facilities should be afforded to prisoners in the more advanced periods to learn or work at the most convenient handicrafts.
9. That after promotion to the third industrial class, all marks earned therein as well as during the two previous periods of industrial labour, should be reckoned together, and when a certain number had been earned, in proportion to the length of the sentence, the prisoner should be entitled to his discharge, on the certificate of the governor of the establishment duly recorded and reported; provided the prisoner had served at least two-thirds of the term to which he was originally sentenced.
10. That every breach of prison discipline should subject the prisoner to the forfeiture of a certain number of marks, duly apportioned by the rules, in addition to other punishment, and the liability to be sent back to a lower class.
11. That each prisoner on his discharge should be entitled to the accumulated net amount of his allowance of earnings (according to marks), subject to such regulations as may be determined upon for preventing him from squandering the money on his release.
12. That facilities should be afforded for discharged prisoners being employed, if they desire it, on public works in the Colony, and for sending them back to the country from which they came to this Colony, or where they have friends or relatives likely to assist them.
13. That religious services should be performed, and secular instruction given, to prisoners (according to settled rules), by two duly appointed chaplains, one being a Protestant clergyman, and the other a Roman Catholic priest—the Protestant clergyman being of that church or denomination to which the majority of the Protestants of the Colony belong. The chaplains should be regular officers of the establishment, with defined duties and privileges.
14. That the Governor of the establishment should be a gentleman of education, who has had considerable experience of prisons in England, Ireland, or the Australian Colonies; that he should be a Justice of the Peace; that he should have the power to employ all turnkeys, overseers, gangers, &c., and to remove them summarily for misconduct; that he himself should not be removable, except for misconduct, without a certain notice or amount of salary. That the medical officers and chaplains should be appointed by the Governor, and unless dismissed for misconduct, should be entitled to certain notice of the determination of their office. That the other superior officers of the establishment (to be called Wardens or by some such name) should be appointed by the Governor; but that they must have a certificate of competency from an Inspector of Prisons or other officer acting in that capacity; and that such persons, if not dismissed for misconduct, should be entitled to certain notice or salary.
15. That the Governor of the establishment should, once every quarter, make a report to the officer inspecting prisons with regard to certain specified details, and an annual report to the Colonial Secretary, to be laid before the General Assembly; and that a competent inspecting officer should visit the establishment twice a year, examine the books, and report to the Colonial Secretary on such inspection, and on the Governor's report,—his report also being submitted to the General Assembly.

V.—LOCALITY OF GENERAL ESTABLISHMENT.

As regards the last indicated general subject of inquiry, namely, the locality or localities most suitable for such General Penal Establishment or Establishments, we humbly report that the evidence which we have obtained is by no means satisfactory, and is quite insufficient to enable us to make any specific recommendation at present; and we are of opinion that it will be expedient that more specific inquiries should be made on the subject, and especially as to the fitness of two of the places suggested by the witnesses who have been examined or who have made reports.

Places spoken of.

The following are the places recommended or spoken about by the witnesses :—

1. Taranaki, a harbour of refuge.—[BALFOUR, FEATHERSTON, WELLS, CLOUSTON, BOSWORTH.]
2. The Chatham Islands.—[HEAPHY, CLOUSTON; ROLLESTON, (against).]
3. The Auckland Islands.—[PEARSON; reported on by ARMSTRONG.]
4. Quail Island, Port Lyttelton.—[Reported on by RESTON.]
5. Mercury Island.—[HEAPHY, HECTOR.]

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| 6. Picton.—[CAWTE.] | } [HECTOR.] |
| 7. Kapiti.—[FEATHERSTON.] | |
| 8. Resolution Island, Milford Sound. | |
| 9. Stewart's Island. | |
| 10. D'Urville's Island. | |
| 11. Great Barrier Island. | |
| 12. Oamaru. | |

Other witnesses have recommended "a harbour of refuge in the Middle Island" [BOWEN]; "the Seat of Government" [SHERMAN]; "an island in a harbour (such as Wellington, Lyttelton, Otago, Auckland)" [DONALD]: and quarrying works and works for defence of harbours have also been indicated generally.

The two places which appear to us most worthy of future examination are Taranaki and Resolution Island; and we would particularly desire to call attention to the valuable report of Dr. Hector, F.R.S., which goes into the general question of the profitable adaptation of unskilled labour to quarrying work, and the suitability of particular sites for the application of such labour by convicts.

All which we respectfully submit to your Excellency.

Given under our hands and seals, at Nelson, this sixth day of July, A.D. 1868.

(L.S.)	ALEXANDER J. JOHNSTON,	} Commissioners.
(L.S.)	C. W. RICHMOND,	
(L.S.)	CH. E. HAUGHTON,	
(L.S.)	J. O'NEILL,	

No. 3.

MEMORANDUM RESPECTING THE ROYAL COMMISSION FOR INQUIRING INTO THE REGULATION OF PRISONS IN NEW ZEALAND, AGREED TO BY THE COMMISSIONERS AS THE BASIS OF THEIR INQUIRY.

OBJECTS OF COMMISSION.

THE Preamble states the purpose of the Commission to be, "for inquiring into the more effective provision for the regulation of prisons, and for the custody of persons convicted of serious crimes and sentenced to long periods of imprisonment;" but the objects of the Commission are more fully expressed in the body of the document in the following terms:—

- I.—1. "The Commissioners are to inquire into the laws and regulations now in force relative to prisons and gaols in the Colony;"
2. "And into the treatment and management of prisoners;"
3. "And into the condition and state of such prisons and gaols;"
4. "And into the more effective provision for their regulation; and for the custody and treatment of prisoners;"
5. "Especially those convicted of serious crimes and sentenced to long terms of imprisonment."

And they are to Report:—

- II.—1. "Whether any, and, if any, what alteration is desirable;"
2. "And whether it would be desirable that a General Penal Establishment should be instituted for the Colony;"
3. "And if so, on the best mode of instituting such Establishment."

It would therefore appear that the great objects of the inquiry and report are to be—First, the actual condition and efficiency of the existing prisons of the Colony, and the regulations, especially with respect to persons convicted of serious offences; and, secondly, the best mode of remedying the defects which may be discovered to exist in their condition, system, and discipline, and the propriety of instituting a general Penal Establishment, and the best means of doing so.

INTRODUCTION.

Before proceeding to the task of making inquiry under the first branch of the Commission, it would seem desirable that the Commissioners should agree upon certain general principles, proper to be kept in view throughout the course of their labours, and calculated to direct them to the most important and useful details respecting which it will be desirable for them to procure specific information. Of these principles, some refer to the general objects of penal systems considered in the abstract, while others mainly depend on the results of experience, either ordinary or casual, or consequent upon pre-determined experiment.

OBJECTS OF PUNISHMENT GENERALLY.

It seems of the highest importance that the persons conducting an inquiry of this kind should entertain distinct and definite opinions respecting the proper objects of systems of penal law in civilized states, and should rightly distinguish what is essential from what is of secondary consideration.

Although the right of the State to inflict punishments on its subjects for breaches of the laws made for the protection of the common welfare of the whole body of the people, is traced by political philosophers to the natural right of self-defence, few philosophers or jurists of the present day would think of treating such punishments as being in their nature or principle, vindictive or retributive; or would justify them on the ground of retaliation or compensation; or would think of them as being analogous to the punishment of moral guilt by the Divine Ruler of the Universe.

By most modern thinkers and writers, the justification and necessity for penal institutions are based upon the acknowledged duty of the State to protect its subjects against crimes of violence and fraud, by means preventing or tending to prevent the commission thereof.

The proper end and functions of social law in this respect are well indicated in an able little work *On the Principles of Criminal Law*, (one of a series of *Small Books on Great Subjects*, published by Pickering, 1846,) of which the following is an extract:—

Memorandum.

"The security of person and property against violence (for no violation of the right of free thought can take place whilst these are secure) being the great object of all social law, it follows that it has no right to inflict penalties for any other purpose than to secure those rights, and its enactments therefore must have in view the prevention rather than the punishment of crime. For it is no benefit to the injured man that he who has injured him should suffer in his person for what he has done, but it is a benefit to him and to society that the criminal shall be prevented from repeating his offence, and that others shall by his example be deterred from attempting it."

On this point Blackstone is very explicit:—"The end or final cause of human punishments," says he, "is not to be considered in the light of an atonement or expiation for the crime committed, * * * but as a precaution against future offences of the same kind;" and, again, he observes that the due measure of punishment will be merely "such as appears best calculated to answer the end of precaution against future offences."

THE PRINCIPAL REQUISITES OF PUNISHMENT.

With respect to the most important ingredients and incidents of punishments, it may be convenient to adopt a division of Archbishop Whately in his *Thoughts on Secondary Punishments*, where he suggests that the principal requisites for punishments are that they should be formidable, humane, corrective, and economical.

Punishments
should be formidable.

I. Now, following the learned Archbishop's distinction, it is to be noted that punishments, above all other considerations, must be *formidable* in order to be deterrent,—i.e., to serve their most important purpose. 1. Formidable not only to the individual criminal, but to the community generally, and especially to the classes most likely to commit the particular crime. 2. Formidable in respect of restraint and inconvenience, by the denial of things most enjoyed and coveted, and by the forced performance of what is distasteful. 3. Formidable, not merely in name and description of sentences, but from the certainty that they will be strictly enforced, and will be painful. 4. Formidable, not so much in respect of actual expenditure of physical power, and restriction in respect of physical indulgence, prescribed by the system, as in respect of those things which experience shows that ordinary criminals do actually dread.

Humane.

II. As regards humanity, the only things really to be cared for in a system suited to its true objects, is, that punishment be not in excess of what is necessary to carry out its object. The mind and body of the criminal must not be wantonly or systematically impaired by penal treatment; but, as spurious philanthropy is most mischievous in this respect, the comfort of criminals should not be a leading object or ordinary result of the system. The tendency of regularity in diet and work, of due ventilation, &c., &c., is to make the comfort of prisoners greater than is usually enjoyed by the masses of the innocent working community out of doors; and it is to be feared that in some prisons the apparent excellence of their discipline, and the absence of prison punishments and of complaints by prisoners, are in no small degree attributable to the ease and comfort, the lightness of labour, the sufficiency of exercise and food, and the absence of pain and personal and family cares and anxieties which prisoners enjoy in prison; the probable effects of all which can scarcely be to make the punishment deter the convicts, after their return to society, from again yielding to temptation, or to give to the recital of their experiences to previously innocent or unconvicted persons an appalling or exemplary effect.

Corrective and
reformatory.

III. The Corrective and Reformatory Processes, though most important, are yet only secondary considerations, as they have a preventive effect only upon the particular criminals. Any system which takes correction and reformation as the first and most important object of punishment seems radically wrong; but a system which neglected these considerations, and threw away the opportunities which the punishment of crime offer for the reformation of the criminal, would be inhumane, unchristian, and impolitic. And, indeed, if both humanity and policy did not require some efforts to be made in the direction of a moral and physical improvement of the criminal, justice would demand, at all events, ample measures for preventing that moral and personal deterioration and degradation which might *a priori* be expected, and which the sad experience of bygone times have proved to be the invariable result of the association of bodies of criminals under punishment with means of unrestrained or insufficiently restrained communication.

With respect both to the humanity and the reformatory character of punishments, a passage from the author first above quoted seems very apposite:—

"The moral law being immutable and unceasing, and enforced by penalties peculiarly its own, inflicted with unerring certainty, even if undetected by man, disdains the support of social law; but social law cannot stand without the aid of the moral law, and if by unwise legislation they are ever placed in opposition, social law will be inefficient."

Especially as to
juvenile offenders.

With respect to juvenile offenders, this element of punishment, if still to be considered theoretically as only ancillary to the great one of prevention of crime, yet assumes very great and special importance. Indeed this ought to be treated as a separate subject, deserving separate investigation and report. A wise discrimination in the treatment of juvenile offenders is one of the most difficult and vitally important *desiderata* in the administration of criminal law.

To punish an ordinarily well-conducted boy, publicly or severely, for a boyish depredation, would often be most inhumane and unjustifiable; but to permit the first beginnings of crime generally to be passed over with impunity is also very dangerous; and either total impunity or very slight punishment are but too apt to encourage the tyro in crime to go on till he becomes an adept.

The truer philanthropy of modern times has suggested the propriety of treating with severity the crimes of juvenile convicts, especially if connected with the criminal classes; and in spite of their youth and the consideration of a conviction being a first one, experienced and humane judges think they are acting most wisely towards the State, and most kindly towards the youths themselves, in sentencing them to imprisonment for a very considerable portion of time, to be spent in processes of restraint, and intellectual moral and industrial culture.

IV. The last requisite of punishment mentioned by Archbishop Whately, is economy or cheapness, *Memorandum.* respecting which he says :—"The last point is of far less consequence than the others, and of less than *Economical.* it is I think usually considered ; but still it is one which must not be entirely overlooked, since a failure in this point, inasmuch as it admits of infinite degrees, might be conceivably such as to amount to a very serious evil. It would be a paltry and ridiculous economy which should calculate nicely the difference of a few pounds ; but one may conceive a system so expensive as to amount to a very serious burden." And no doubt in a Colony situated as New Zealand is at present, it may turn out to be better, for the meantime, that existing arrangements should be modified and improved, than that an attempt should be made to establish one or more Penal Settlements, deficient in some real essentials which cannot at present be secured ; and it appears by the experience both of Sir Joshua Jebb and Sir Walter Crafton (the most eminent practical authorities of modern times on this subject), that a great deal can be done to improve the utility of prisons, though not capable of being adapted to a complete introduction of the now approved modern system of treatment, and to make them much less objectionable than they were before in respect of classification, separation, and general efficiency.

SENTENCES AND PUNISHMENTS.

It is very obvious even *a priori*—and the experience of England amply confirms the *a priori* opinion—that it must be very desirable to secure uniformity of punishment in the same country, and under the same laws ; and that there ought not to be great discrepancies between the nominal punishments awarded and the actual punishments inflicted ; nor between the sentences awarded, and the punishments inflicted in different parts of the same country ; for it is of the highest importance to make the community understand and feel that the sentences of criminals and the amount of punishment actually inflicted, are not liable to vary substantially through the caprice or fancies of Judges, or the deficiencies or differences in the working of penal establishments, or the favouritism or undue severity of prison officers. The want of uniformity in the mode of carrying out sentences, even in England, will be found to have been one of the matters most urgently brought to the attention of the Legislature by the Reports of Committees of both Houses, and of Royal Commissions. Uniformity of punishment.

The very wide discretion given by the law to Judges in modern times as to the amount of punishment to be awarded, on the conviction of persons of certain offences, is no doubt startling to the vulgar, and to those whose minds are not familiar with the subject. Discretion of Judges.

The great injustice necessarily caused by the award of a Procrustean measure of punishment for a particular and technically categorized offence, is not the only mischief attending the too rigid administration of criminal punishments. The experience of England during the times when a very large proportion of offences was punishable with death, clearly shows that humanity rebels against the administration of too severe laws, and that serious crimes will be allowed both by private persons and public functionaries to go entirely unpunished, rather than that they should be visited by punishments excessive and unnecessary, and therefore cruel.

The principles upon which Judges exercise their large discretion are well defined, though the application of them is often by no means free from difficulty ; but there must be a complete failure in their application, if there be not a clear though tacit understanding between the judicial body and the Executive authorities of the State, as to the actual practical consequences to the convicted criminal of the particular sentence awarded to him. Principles on what used.

And the Executive Government of the country ought not, by toleration of differences of system and discipline in different gaols, nor ought the Queen's representative in the exercise of the prerogative of mercy, to interfere to modify, remit, or alter the nature and amount of punishment intended by the Judge to be inflicted, except in cases like the following :— Cases for alteration of sentences by Executive.

1. Where fresh facts have been established on trustworthy testimony, which if brought before the Court on such testimony would probably have altered the verdict of the jury, or the sentence of the Judge ;

2. Where something has happened since the trial, which makes the convict unfit for the punishment assigned, or gives him a claim for consideration by the public in respect of positively meritorious conduct ; or

3. Where those in whom the prerogative of mercy is vested, are prepared, on a review of the facts, in the absence of a Court of Appeal, to over-rule the finding of the jury, or censure the conduct of the Judge for undue severity (if he has not changed his mind) ; subject to inquiry by the Legislature and the verdict of public opinion.

At present the Judges are somewhat in the dark as to the effect of their sentences ; and most probably it will be found that there is more severity in their administration in some parts of the Colony than in others. Effect of sentences.

No doubt the same amount of restraint, denial, and labour operates as a more severe punishment on one man than on another ; and Judges must make some allowances for the antecedents of convicts. But they ought, at all events, to be certain as to what will be done with the criminals whom they sentence.

A substantial correspondence between the sentence and the actual punishment inflicted, and uniformity in respect thereof, are matters of the greatest moment, and deserve the minutest investigation.

DETAILS TO BE ATTENDED TO.

In determining what are to be the specific details with respect to which the Commissioners are to institute a general and minute inquiry, they must look for assistance and direction to the modern experience of the mother country as evidenced in the reports and accompanying testimony contained in the English Blue Books. The practical questions with which this Memorandum will conclude have been suggested by a perusal of Colonel Jebb's Report in 1850, on the Report of the Committee of the House of Commons on Transportation in 1861, and the Report of the Lords Committee on Prison Discipline, 1863, and the "Digest and Summary of Answers from Colonial Governors to Circular

Memorandum. Despatches sent out by the Secretary of State on the 16th and 17th January, 1867." In the last-mentioned document there is (in Part II.) a most valuable summary of the principal conclusions of the experience of England as to the construction and management of prisons, with notes on the Report of the Lords' Committee, and suggestions drawn from the Reports of other Committees and Royal Commissions—especially that of the Penal Servitude Commission, 1863—and from other authoritative documents relating to prison discipline.

Resumé from digest by Secretary of State, 1866. This valuable *resumé* seems to contain the very essence of previous reports, and of the evidence on which they were founded; and it concludes with a general summary of the most important matters discussed in it. This summary is ushered in by some observations of the Lord Chief Justice of England, quoted from a Memorandum annexed to the Report of the Commission of 1863, on Transportation and Penal Servitude. In the course of those observations His Lordship says:—

Observation of Cockburn, L.C.J. "The experience of mankind has shown that though crime will always exist to a certain extent, it may be kept within given bounds by the example of punishment. This result it is the business of the lawgiver to accomplish by annexing to each offence the degree of punishment calculated to repress it. More than this would be a waste of so much human suffering; but to apply less, out of consideration for the criminal, is to sacrifice the interests of society to a misplaced tenderness towards those who offend against its laws. Wisdom and humanity, no doubt, alike suggest that if consistently with this primary purpose, the reformation of the criminal can be brought about, no means should be omitted by which so desirable an end can be achieved. But this, the subsidiary purpose of penal discipline, should be kept in due subordination to its primary and principal one. And it may be well doubted whether, in recent times, the humane and praiseworthy desire to reform and restore the fallen criminal may not have produced too great a tendency to forget that the protection of society should be the first consideration of the lawgiver."

Juvenile offenders The Report adds to these words of the Lord Chief Justice,—“To this must be added the principle or condition that, although reformation must be postponed to deterrence, it is imperative to prevent deterioration and contamination in prison, so far as they are preventible. These objects,” it continues, “being necessary, no severity will be wrong which is necessary for their attainment, and which does attain them: but none is justifiable which is unnecessary or ineffectual.”

It then alludes to the only exception to the general rule that considerations of deterrence must be paramount, namely, that of juvenile offenders, “who, as they are less open than adults to general deterrent influences, so are indefinitely more capable of being reformed, and towards whom the State may really stand in that relation of guardian, *in loco parentis*, in which it has sometimes been said to stand towards adults.”

Essential pointed out in resumé. The Report proceeds to state, that after due provision for the primary conditions of safe custody and sanitary sufficiency, the goodness of a prison system depends upon the extent to which it uses the best means of obtaining its objects; and that, whatever disputes there may be in this respect about other means, the following, at all events, are considered as well settled, and as the most essential:—

1. Separation;
2. The enforcement of strictly penal and irksome labour; and
3. That any ameliorations (and, in the case of convicts, remissions of sentence) should only be obtainable by substantive and long-continued industry.

Separation. “The separation,” the summary continues, “to be effectual, must be perpetual at night, and continued throughout the day for the whole of short sentences, and for a considerable period at the commencement of longer sentences”—(Semble: Nine months for long sentences, according to the best evidence)—“and perhaps also for a short term at their close.”

“The labour, to be effectual, must during the whole of short terms, and a substantial part at the commencement of longer terms, be of that kind of which the only known instruments are the tread-wheel, the crank, and shot drill, and which witnesses distinguish as ‘hard labour’; productive labour being termed ‘industrial.’

“Relaxations of severity, if they are not to destroy the efficacy of penal discipline, and if they are to give a chance of reformation, must not commence till after a considerable period of strict punishment; must be attainable not by mere obedience or by professions of amendment, but by active industry; must be not irregular or sudden, but strictly progressive, and determined in rapidity, within limits, by the measured amount of that industry, and must be forfeited either wholly or in part, with certainty, by either idleness or misconduct.”

Unproductive labour. Again, the summary proceeds to justify hard and unproductive labour as a part of the system, both as respects severity and certainty:—“It is the conclusion of the great majority of authorities the best qualified to judge, and the most impartial in this country, that labour at the wheel, or crank, or shot drill, is not unjustifiably severe; that it is the most, or even the only deterrent kind; and that it is not more uncertain, but rather less uncertain, than industrial labour.”

It appears that such labour is easily adaptable to various conditions of health and strength, and that it is more dreaded, even by professional criminals, than any kind of industrial labour.

Uniformity of discipline. The next subject noticed in the general summary is uniformity of discipline throughout all prisons in the same country, so that similar sentences, by whatever court pronounced, and wherever executed, shall mean the same amount of punishment:—“A consequence of that want of uniformity which consists in some prisons being lax in discipline, is, that to a great extent, the penal value of the better prisons is neutralized. The bad local prisons, if they are not a positive education in crime, at least fail to do their part in stopping the beginnings of criminality.”

Distribution of prisoners. Another highly important matter affecting prison organization is the distribution of prisoners:—“Criminals of all kinds (it is said) for whom the law intended various kinds of discipline are constantly mixed, to the detriment not only of penal effect but of economy. Already in the larger colonies there are usually three kinds of prisons, viz., district prisons, county prisons, and central prisons; but at present each kind receives all sorts of prisoners more or less promiscuously. It is suggested that central prisons should be built or enlarged, so as to receive all adult prisoners sentenced for more than twelve months; that the middle sort of prisons should receive all other adult criminals sentenced for crimes triable by superior courts, as well as persons awaiting trial for crimes; and that the lowest class

of prisons should be confined to adults committed for debt, for contempt of Court, for mere police offences, and for default in payment of fines. Such a distinction strictly observed of first (or non-criminal), second, and third, or penitentiary prisons, might incidentally produce some effect on cultivating a discrimination of degrees of crime in the minds of the ignorant." *Memorandum.*

It may be mentioned in reference to the limit of twelve months' sentences appropriated to the penitentiaries, that some of the most important witnesses, or one at least, who gave evidence before the Lords' Committee of 1863, strongly urged that there should be no intermediate sentences between twelve months imprisonment and four or six years penal servitude. *Recommended disuse of intermediate sentences.*

The summary continues:—"The system would still have to be completed by a reformatory for juveniles, and, in some cases, by an industrial home for the temporary reception and employment of criminals discharged from the penitentiaries." *Reformatories and penitentiaries.*

It then alludes to the penal laws of some colonies as needing revision, and remarks that—"the mode of execution of a sentence is in many respects even more important than its duration, and is in fact what chiefly determines the amount of the penalty."

With respect to the distinction between first offences, and the offences of habitual criminals, it is suggested that—"There seems reason to suppose that for first offences, the terms should be shorter than those usually imposed in most countries, but of a highly penal kind in execution, with continuous separation; but that for habitual offenders the terms should receive the greatest extension of which public opinion will allow, not necessarily with equal regard to that separation of which the primary object is to prevent criminalization of persons who are not yet hardened in lawlessness." *Punishment for first offences.*

The summary concludes by the emphatic affirmation that—"certainty of detection is more deterrent than severity of punishment, and efficient police will do more than prisons;" and that in spite of police, severe punishment and corrective and reformatory treatment, the tendency to crime cannot be lessened except by sound measures, dealing with its great sources—drunkenness, and want of education.

The Commissioners, in proceeding to their practical work of inquiry, will be greatly aided in their investigations by keeping the principles, experiences, and suggestions, hastily and crudely summarized in the preceding pages, constantly in view, not only in ascertaining the defects, faults, and weaknesses of the existing state of the prisons of the Colony, but also in forming a judgment as to the possibility of, or facilities for, ameliorating or altering existing establishments, so as to adapt them in greater or less degree to the admitted requirements of an efficient system, and as to the necessity for a General Penal Establishment for the whole Colony, and the best mode of instituting it. The materials to be sought for, with respect to the last part of the inquiry, will probably be much more difficult to obtain than those necessary for the other parts, and it may be wise to leave that part of the subject for the future consideration of the Commissioners in conference. Still, it would seem desirable that, in conducting the first part of the inquiry, the travelling Commissioners should obtain all available local information with respect to the choice of a site for a General Penal Establishment, eligible in respect of safety, health, ease of access, combined with obstacles to escape, and convenience for industrial labour on public works, or in other respects. *Conclusion of Memorandum.*

LIST OF PRACTICAL DETAILS TO BE INQUIRED INTO.*

I. AS TO THE EXISTING PRISONS OF THE COLONY.

1.—*A list of the prisons (examined or not examined) distinguishing the Provinces, and the purposes of the prisons.*

2.—*Description of each prison.*

- (1.) Its position, aspect, accessibility, distance from Court.
- (2.) The materials of which constructed.
- (3.) A plan showing all internal arrangements.
- (4.) Provisions for security in respect of construction.
- (5.) Divisions for separate classes, if any, and on what principles constructed.
- (6.) General amount of accommodation.
- (7.) Number of separate cells; dormitories and working rooms, and size; number of cubic feet per person.
- (8.) Work yards, exercising yards,—size and particulars.
- (9.) What eating places—size, &c.
- (10.) What cooking places.
- (11.) Baths and lavatories.
- (12.) Privies—numbers, character, and position.
- (13.) Urinals.
- (14.) Provisions for ventilating and heating.
- (15.) Drainage.
- (16.) Particular deficiencies or advantages of the prison in any of the respects above mentioned.
- (17.) Means of adapting prison for separate confinement, and hard or industrial labour.

3.—*Prison Regulations in force, and Discipline.*

- (1.) A copy of these posted in gaol, or used.
- (2.) Are they observed strictly or not?
- (3.) If departed from, or not enforced, in what particulars?
- (4.) What reasons assigned for such departure or non-observance?

* This list was used by the Commissioners in their examination of the various witnesses.

*Practical details
inquired into.*

- (5.) Objections made by officers of prison, or prisoners, to existing rules?
- (6.) Number of Visiting Justices—how appointed?
- (7.) What kind of visits, how often, and what record thereof?
- (8.) How often do visitors report, and to whom?
- (9.) What books are kept in prison, and what they show; regularity of entries?
- (10.) What improvements, changes, or modifications in prison within five years, and by whose authority?
- (11.) Number of prison punishments for five years; what sorts; classifying them as to cause and amount?
- (12.) How many repetitions by same persons?
- (13.) Numbers of re-committals of previously convicted prisoners?
- (14.) Means, if any special, of identification?
- (15.) Attempts at escape: the mode, the result, the temptation;—remarks.
- (16.) What part of treatment most irksome to prisoners, and most complained of?

4.—*Number, Classification, and Separation of Prisoners.*

- (1.) Total numbers in last five years, 1st January, 1863, to 1st January, 1868.
- (2.) Average numbers.
- (3.) Distinguish,—
 - (a.) Debtors.
 - (b.) Lunatics, criminal and non-criminal.
 - (c.) Waiting for trial.
 - (d.) Summary convictions.
 - (e.) Convicted, but without hard labour.
 - (f.) Hard-labour convicts, (on indictment) not exceeding three, six, nine, twelve, eighteen and twenty-four months.
 - (g.) Penal servitude prisoners, different terms.
 - (h.) Convicts, sentence of death commuted; for what?
 - (i.) Juvenile offenders.
 - (k.) Women and girls.
- (4.) What means of separation in force, respecting classes just enumerated.

A.—*By Construction.*

B.—*By Discipline.*

- (a.) At work. (b.) Meals. (c.) Exercise. (d.) Divine service.
- (5.) What amount and kind of communication with other classes?

5.—*Work done by Prisoners.*

- (1.) Distinction, if any, between hard labour and penal servitude labour.
- (2.) What understood to be "hard labour"—any distinction from industrial labour?
- (3.) Kinds of labour done,—
 - (a.) In prison.
 - (b.) Out of it; where? And by what class of convicts?
 - (c.) Means of communication among prisoners, or between prisoners and public during work out of doors.
- (4.) Time occupied by labour daily,—
 - (a.) How rest of working hours employed?
- (5.) Value of labour.
 - (a.) Penal-servitude men.
 - (b.) Hard-labour men.
 - (c.) Voluntary labour, if any.
- (6.) Is any allowance granted for extra work, and of what nature?

6.—*What differences other than in Labour, made between Penal-servitude and Hard-labour Men?*

7.—*Special provisions, if any, for Juvenile Offenders and Females; and Lunatic Prisoners.*

8.—*Food and Indulgences.*

- (1.) Scales of rations for different classes.
- (2.) Reduction or increase for punishment or encouragement.
- (3.) Tobacco allowed or not, and if so, within what limits, and subject to what condition?
- (4.) What food or physical indulgence most coveted, and what physical restraint or deprivation most dreaded?
- (5.) Are visits from friends and communications with the world without sought for and appreciated, and what are their apparent effects?
- (6.) Are any gratuities given or allowed for extra work?

9.—*Medical and Hygeian.*

- (1.) Report by medical men on salubrity of site, propriety of construction, ventilation, sewerage.
- (2.) General health of prisoners.
- (3.) Deaths in last five years, compared with averages out of prison in same place.

- (4.) Special diseases, if any, in prison or place, and causes.
- (5.) Sufficiency, excess, and propriety of rations, and with respect to different classes.
- (6.) Apparent physical effects on prisoners generally, and in individual instances.
- (7.) Hospital arrangements.
- (8.) Medical officers should be invited to give written statements of any matters they deem specially worthy of notice.

*Practical details
inquired into.*

10.—*Religious and other Instruction offered.*

- (1.) Average numbers of (a) Protestants and (b) Roman Catholics.
- (2.) What clergymen attend the prison; of what denomination, and how often?
- (3.) Effect of their ministrations—(a) as reported by themselves; (b) as reported by the officers of the prison.
- (4.) What arrangements for Divine Service?
- (5.) What books allowed, and under what circumstances?
- (6.) What provisions for secular instruction of (a) adults; (b) juvenile offenders; (c) what progress made?
- (7.) What attempts of a special kind made at reformation?

11.—*Moral effects of Imprisonment.*

- (1.) Observations of wardens, chaplains, doctors, and subordinate officers,—
(a.) On apparent effects of existing punishments on different classes of men.
(b.) Especially as to what seems likely to deter men from coming again.
- (2.) What is done to prevent demoralization from association of innocent or recently lapsed persons (especially juveniles) with hardened offenders, and others likely to excite them to evil?
- (3.) What evil effects have actually resulted from insufficiency of separation?

12.—*Cost of Prisons and Prisoners.*

- (1.) Cost of buildings; additions; annual repairs; furniture, &c.
- (2.) Salaries, in aggregate and detail, of wardens, turnkeys, matron, medical man, chaplain, and other officers. How much average per head of prisoners?
- (3.) Cost of rations in aggregate and per head; average,—
(a.) Penal-servitude men.
(b.) Hard-labour men.
- (4.) Estimated value of work of each class.
- (5.) Net cost of—
(a.) Penal servitude, and
(b.) Hard labour prisoners, after deducting share of salaries and rations.

13.—*Pardons, Remissions, Petitions, and Recommendations.*

- (1.) What pardons or remissions, other than for ordinary good conduct under fixed rules, granted within the last seven years; name prisoners; offence of which convicted; first conviction or not; or, how often convicted; amount of sentence; amount of remission?
- (2.) State in each case—
(a.) On whose petition; and by whom recommended?
(b.) The grounds urged for pardon or remission;
(c.) The amount granted.
- (3.) Cases, if any, of troublesome prisoners discharged before ordinary time, and on whose recommendation?
(a.) What became of such?

14.—*Special Matters, suggested either by Prison authorities, or witnesses, or the Commissioners themselves.*

II.—IMPROVEMENT OF OLD PRISONS.

- (1.) How far each existing prison would afford means, with additions or changes in construction or management for carrying out—
(a.) Classification;
(b.) Separation for first month of imprisonment (a) by construction; or (b) by discipline;
(c.) Industrial work.
- (2.) Whether buildings, &c., are more than sufficient for a non-criminal prison for the district, *i.e.*, for police cases, persons charged with contempt, and debtors, &c.
- (3.) Whether building capable of being turned into a hard labour prison for actual convicts under sentence of not more than twelve months, with separate cells?
- (4.) What additions, alterations, and changes required for each of three classes:
(a.) For how many prisoners of different classes, giving () cubic feet;
(b.) At what probable cost. Cost relative to value of present building?

*Practical details
inquired into.*

III.—GENERAL PENAL ESTABLISHMENT.

1.—Localities suggested.

2.—Advantages and facilities of each in respect of position.

- (1.) Accessibility;
- (2.) Centrality;
- (3.) Distance from nucleus of population;
- (4.) Salubrity;
- (5.) Difficulty of escape;
- (6.) Facility for guarding;
- (7.) Proximity of materials for construction of prison;
- (8.) Means for making convicts assist in construction;
- (9.) Nature of industrial labour, if any, for which facilities offered, such as—
 - (a.) Quarrying;
 - (b.) Reclaiming land;
 - (c.) Tillage;
 - (d.) Utilizing natural productions of neighbourhood, such as flax, raupo, &c., &c.
- (10.) Great public works which might be undertaken in the neighbourhood, such as harbour, breakwater, dock, pier, &c.
- (11.) Probable period for which remunerative industrial work could be continued.

Wellington, 12th January, 1868.

APPENDIX

TO REPORTS OF ROYAL COMMISSIONERS ON PRISONS.

LIST OF DOCUMENTS, ETC., SENT IN WITH DETAILED REPORT.

I.—NOTES OF EVIDENCE.

(1.) *Wellington*—

M. Read, Warden of Her Majesty's Gaol.
L. Read, Matron.
M. S. Grace, } Medical Officers.
Alex. Johnston, }
Rev. A. Stock, } Clergymen.
Rev. Father Petit Jean, }
Jonas Woodward, Visiting Justice.
I. E. Featherston, Superintendent.
J. Dransfield, Chairman of the Town Board.

(2.) *Lyttelton*—

James Reston, Warden of Her Majesty's Gaol.
W. Donald, Medical Officer and Visiting Justice.
Rev. W. Knowles, Clergyman.

(2A.) *Christchurch*—

James Reston, Warden of Her Majesty's Gaol.
Mary Tippin, Matron.
C. E. Bowen, Resident Magistrate.
Inspector Pender, Canterbury Police.
Cornelius Cuffe, City Engineer.
Thos. Tippin, Warden of Her Majesty's Gaol.
W. S. Moorhouse, Superintendent.
The Commissioner of Police.
Rev. W. Lingard, Clergyman.
Dr. Coward, Medical Officer.

(3.) *Hokitika*—

M. M. Cleary, Warden of Her Majesty's Gaol.
Ellen Kidd, Matron.
John Stoddart, Chief Warder.
G. S. Sale, Visiting Justice.
Archdeacon Harper, Chaplain.
Captain Turnbull, Harbour Master.
Rev. Father McDonough, Clergyman.
Dr. J. R. Ryley, Medical Officer.

(4.) *Nelson*—

Henry Clouston, Warden of Her Majesty's Gaol.
W. Wells, Visiting Justice.
Oswald Curtis, Superintendent.
Alfred Greenfield, Provincial Secretary.
Inspector Shallcrass, Nelson Police.
W. H. Vickerman, Medical Officer.
Rev. G. H. Johnstone, } Clergymen.
Rev. A. M. Garin, }

(5.) *Auckland*—

Andrew Dunn, Warden of Her Majesty's Gaol.
Eliz. Hungerford, Matron.
Thos. Beckham, Resident Magistrate.
W. Wynn, Provincial Solicitor.
J. Williamson, the Superintendent.

Major Heaphy, V.C.

W. Naughton, Visiting Justice.

Lieutenant-Colonel Peacock, Visiting Justice.

Acting Gaoler.

W. Swainson, M.P.C.

T. M. Philson, Provincial Surgeon.

Secretary to the City Commissioners.

Geo. Graham, M.G.A.

Major Cooper, M.P.C.

Rev. C. Baker,

Rev. D. Galord, } Clergymen.

Rev. J. Buller,

(6.) *New Plymouth*—

W. Bosworth, Warden of Her Majesty's Gaol.

W. Flight, Visiting Justice.

F. E. Rawson, Medical Officer.

(7.) *Napier*—

Report in answer to Commissioners' questions, from

J. Burnaby, Warden of Her Majesty's Gaol.

(8.) *Dunedin*—

J. Caldwell, Warden of Her Majesty's Gaol

Eliza Hurd, Matron.

Edward Hulme, Medical Officer.

W. D. Murison, Visiting Justice.

St. John Branigan, Commissioner of Police.

A. R. C. Strode, Resident Magistrate.

W. H. Reynolds, Visiting Justice.

J. Bathgate.

Rev. E. G. Edwards, }

Rev. A. R. Fitchett, } Clergymen.

Rev. E. G. Williams, }

(9.) *Invercargill*—

William Fraser, Warden of Her Majesty's Gaol.

Elsie Fraser, Matron.

W. H. Pearson, Visiting Justice.

T. K. Weldon, Commissioner of Police.

Henry McCulloch, Resident Magistrate.

J. F. Deck, Medical Officer.

Rev. W. P. Tanner, }

Rev. H. Billiard, } Clergymen.

H. Armstrong, M.P.C.

(10.) *Pictou*—

Report in answer to Commissioners' questions
from J. Cawte, Warden of Her Majesty's
Gaol.

REPORTS FROM THE MINOR PRISONS.

(1.) *Tauranga*.

(2.) *Russell*.

(3.) *Mongonui*.

REPORTS FROM THE MINOR PRISONS—*continued.*

- (4.) *Westport.*
- (5.) *Charleston.*
- (6.) *Cobden.*
- (7.) *Waikouaiti.*
- (8.) *Wanganui.*
- (9.) *Timaru.*
- (10.) *Tokomairiro.*
- (11.) *Naseby.*
- (12.) *Port Chalmers.*
- (13.) *Clyde.*
- (14.) *Queenstown.*
- (15.) *Oamaru.*
- (16.) *Brighton.*
- (17.) *Lawrence.*
- (18.) *Waitahuna.*

II.—SPECIAL REPORTS, OR EVIDENCE.

- (1.) J. M. Balfour. (Evidence taken at Wellington.)
- (2.) J. Hector.
- (3.) J. Reston.
- (4.) H. R. Richmond.
- (5.) J. Macandrew.
- (6.) W. Rolleston. (Evidence taken at Wellington.)

III.—EXTRACTS FROM RETURNS.

- (1.) Number of prisoners in each prison on the 1st January, 1868.
Average number of convict prisoners in each prison during five years ending 31st December, 1867.
Numbers for which evidence shows they are suitable, debtors and prisoners waiting for trial not included.
- (2.) *Supplementary.*—Number of prisoners not convicts, in each prison on 1st January, 1868, and average number for the preceding five years.
- (3.) Expenses of the principal prisons for the five years ending 31st December, 1867, exclusive of buildings and repairs; and
Estimate of the value of prison labour for the same period.
- (4.) Expenses of the principal prisons in the aggregate, and per head, for the five years ending 31st December, 1867, exclusive of debtors and prisoners waiting for trial; and of buildings and repairs.

IV.—RULES AND REGULATIONS FOR THE WHOLE COLONY.

- (1.) Rules relative to remission of sentence of prisoners in gaols and penal establishments in New Zealand. Issued by Mr. Whitaker, 25th July, 1864.
- (2.) Return of remissions and pardons granted, otherwise than in the ordinary course, under existing rules.
- (3.) Return supplementing the above, from Mr. Read, Warden of Her Majesty's Gaol at Wellington.

V.—RETURNS FROM EACH PRISON.

- (1.) *Wellington*—
 - (a.) Return of escapes, attempts and conspiracies to escape from Wellington Gaol, from 1st January, 1860, to 31st December, 1867.
 - (b.) Return showing the daily average number of prisoners confined in Wellington Gaol, from 1st January, 1860, to 31st December, 1867, distinguishing males, females, and juveniles, and whether of the Protestant or Catholic persuasion.
 - (c.) Return showing the nature of offences of all prisoners committed to Wellington Gaol, in the year ending 31st December, 1860; in what country they were born, to what class they belonged, and the state of their education.
Return showing the number of prisoners confined in Wellington Gaol, during the year ending 31st December, 1860.
Return showing the relative ages of prisoners of both sexes confined in Wellington Gaol in the course of the year ending 31st December, 1860.
Return showing the number of prisoners confined in Wellington Gaol in the course of the year 1860, who have been previously committed to gaol.
Return showing the number of punishments, and of prisoners punished in Wellington Gaol, in the course of the year ending 31st December, 1860, and for each succeeding year to the 31st December, 1867, in respect of the five above-mentioned returns.
- (2.) *Lyttelton*.—
 - (a.) Return of number of punishments for breaches of discipline inflicted on prisoners in the Lyttelton Gaol, for the five years ending 31st December, 1867.

Appendix.

- (b.) Return of scale of rations.
 - (c.) Return of state of Lyttelton and Christchurch Gaols.
 - (d.) Estimate of expenditure for the Lyttelton Gaol for the financial period of twelve months, from 1st April, 1868, to 31st March, 1869.
 - (e.) Return of re-committals of previously convicted prisoners to Christchurch Gaol, for the last five years.
 - (f.) Return of number of prison punishments for the last five years in Lyttelton Gaol.
 - (g.) Information concerning the amount and value of stone work in the Breakwater, Lyttelton.
 - (h.) Return of gaol staff at Lyttelton.
 - (i.) Convict prison regulations for Canterbury, 17th October, 1862.
 - (j.) Return of punishments in Christchurch Gaol for the last seven years, ending 31st December, 1867.
 - (k.) Return of number of prisoners confined in the Lyttelton Gaol, 21st February, 1868.
 - (l.) Return of deaths in gaol for the last five years, dated 11th March, 1868.
 - (m.) Return of the number of re-committals of previously convicted criminals, from 1st January, 1862, to 31st December, 1867.
 - (n.) Rules and Regulations to be observed by officers of the Lyttelton and Christchurch Gaol Departments, 1866.
 - (o.) Return of books kept in the gaol.
- (3.) *Hokitika*—
 - (a.) Return of prison punishments; what sort, classifying them, what for punishment, &c. and showing the repetition of gaol offences by the same person.
 - (b.) Return showing the number of re-committals of re-convicted prisoners.
 - (c.) Return showing the number of prisoners for two years, classifying them.
 - (d.) Return showing the aggregate amount paid in salaries for two years ending 30th April, 1868.
 - (e.) Return of rations and cost by present tender.
 - (f.) Return of size of rooms and cells.
 - (4.) *Nelson*—
 - (a.) Return showing the number of prisoners confined in Nelson Gaol during the five years ending 31st December, 1867; together with the number of punishments inflicted during the same period.
 - (b.) Return of gaol expenses.
 - (c.) Return of remissions of sentence for good conduct during the five years ending 31st December, 1867.
 - (d.) Return of punishments for five years ending 31st December, 1867.
 - (5.) *Auckland*.—
 - (a.) Regulations for the gaol.
 - (b.) Return of books kept.
 - (c.) Number and amount of prison punishment for five years ending 31st December, 1867.
 - (d.) Return of previous convictions for five years ending 31st December, 1867.
 - (e.) Return showing the numbers of prisoners received during the five years ending 31st December, 1867.
 - (f.) Return showing the daily average of prisoners in gaol for the five years ending 31st December, 1867.
 - (g.) Return of scale of rations.
 - (h.) Catalogue of library books.
 - (i.) Return of pardons granted otherwise than through the stipulated time.
 - (6.) *New Plymouth*.—
 - (a.) List of books kept in the gaol.
 - (b.) Return of prison offences.
 - (c.) Return of re-committals of convicted prisoners.
 - (d.) Return of number of prisoners confined in the gaol at New Plymouth from 1st October, 1864, to 30th March, 1868.
 - (e.) Scale of rations.
 - (f.) Salaries of officers.
 - (g.) Return of pardons and remissions granted from 1st October, 1864, to 31st March, inclusive.
 - (7.) *Napier*.—
 - (a.) Rules and Regulations of the gaol.
 - (b.) Return of general routine by order of Visiting Justices.
 - (c.) Return of attempts to escape during the last seven years.
 - (d.) Return of re-committals of previously con-

Appendix.

- victed prisoners in the gaol, from 1st May, 1863, to 30th April, 1868.
- (e.) Return of rations. (Note by chairman, "not in printed regulations.")
- (f.) Return of average number of prisoners, from 1st May, 1863, to 30th April, 1868.
- (g.) Return of prison punishments during the last five years.
- (h.) Answers by Medical Officer to Commissioners' questions.
- (8.) *Dunedin*—
- (a.) List of books kept in the gaol.
- (b.) Regulations for officers of the prison.
- (c.) Rules for the messroom.
- (d.) Cell rules.
- (e.) Rules for prisoners in separate or solitary confinement.
- (f.) Gaol regulations for Otago. 23rd December, 1863.
- (g.) Return showing the number of prison punishments, with cause, amount, and repetition by the same prisoner, in Her Majesty's Gaol, at Dunedin, from 1st January, 1863, to 31st December, 1867.
- (h.) Return showing the total number of prisoners who have been re-committed, from 1st January, 1863, to 31st December, 1867.
- (i.) Return showing the total number of prisoners received into Her Majesty's Gaol, at Dunedin, from 1st January, 1863, to 31st December, 1867.
- (j.) Return showing the total number of debtors, received into Her Majesty's Gaol, at Dunedin, from 1st January, 1863, to 31st December, 1867.
- (k.) Return showing the total number of lunatics not criminals, received into Her Majesty's Gaol, Dunedin, from 1st January, 1863, to 31st December, 1867.
- (l.) Return showing the total number of prisoners for trial received into Her Majesty's Gaol, at Dunedin, from 1st January, 1863, to 31st December, 1867.
- (m.) Return showing the total number of prisoners received into Her Majesty's Gaol, at Dunedin, sentenced by summary conviction, from 1st January, 1863, to 31st December, 1867.
- (n.) Return showing the total number of prisoners received into Her Majesty's Gaol, at Dunedin, who were convicted, but without hard labour, from 1st January, 1863, to 31st December, 1867.
- (o.) Return showing the total number of prisoners received into Her Majesty's Gaol, at Dunedin, who were sentenced to hard labour, and the length of sentence, from 1st January, 1863, to 31st December, 1867.
- (p.) Return showing the total number of prisoners received into Her Majesty's Gaol, at Dunedin, who were sentenced to penal servitude, from 1st January, 1863, to 31st December, 1867.
- (q.) Return showing the total number of prisoners received into Her Majesty's Gaol, at Dunedin, who were sentenced to death, but whose sentence was commuted, and for what, from 1st January, 1863, to 31st December, 1867.
- (r.) Return showing the total number of juvenile offenders received into Her Majesty's Gaol, Dunedin, from 1st January, 1863, to 31st December, 1867.
- (s.) Return showing the total number of women and girls received into Her Majesty's Gaol, at Dunedin, from 1st January, 1863, to 31st December, 1867.
- (t.) Return showing the religious persuasion of all prisoners received into Her Majesty's Gaol, at Dunedin, from 1st April, 1867, to 31st March, 1868.
- (u.) Return showing a catalogue of books forming the Library, for the use of the prisoners in Her Majesty's Gaol, at Dunedin.
- (v.) Return showing the expenditure and value of prison labour for the year ended 31st March, 1868.
- (w.) Return showing the aggregate cost of rations issued to prisoners in Her Majesty's Gaol, at Dunedin, from 1st January, 1863, to 31st December, 1867.
- (x.) Return showing aggregate amount of salaries and wages of officers in Her Majesty's Gaol, at Dunedin, from 1st January, 1863, to 31st January, 1867; also details of all officers for the same period.
- (y.) Return of instructions to officers in Her Majesty's Gaol, in Dunedin.
- (z.) Return showing alphabetical list of prisoners in Her Majesty's Gaol, at Dunedin, sentenced to penal servitude.
- (aa.) Scale of rations.
- (bb.) Time table.
- (cc.) Return showing the number of pardons and remissions of sentences of prisoners in Her Majesty's Gaol, Dunedin, during the last seven years, with full particulars of the same.
- (dd.) Return showing the amount and description of work done annually by prisoners sentenced to penal servitude and hard labour in Her Majesty's Gaol, Dunedin, from 27th May, 1863, to the 31st December, 1867.
- (ee.) Return showing the amount of work done annually by prisoners sentenced to penal servitude and hard labour in Her Majesty's Gaol, Dunedin, from 27th May, 1863, to 31st December, 1867.
- (ff.) Return showing the annual expenditure of Her Majesty's Gaol, in Dunedin, from 1st January, 1863, to 31st December, 1867.
- (gg.) Return showing the estimated annual value as rent of the Dunedin Gaol, and other district gaols in the Province, 28th April, 1868.
- (hh.) Return showing amount expended on gaol buildings in the Province of Otago, to 31st December, 1867.
- (ii.) Return showing amount expended on gaols in the Province of Otago, from January, 1861, to the 31st December, 1867.
- (9.) *Invercargill*.—
- (a.) Return of gaol expenditure.
- (b.) Return of estimated value of prison labour.
- (c.) Return of pardons and remission of sentences granted to prisoners in Her Majesty's Gaol, Invercargill, from November, 1864, to 15th January, 1868.
- (d.) List of books kept in Her Majesty's Gaol, at Invercargill.
- (e.) Return of prison punishments from 3rd June, 1863, to 31st December, 1867.
- (f.) Return of prisoners received and of re-committal to Her Majesty's Gaol, at Invercargill, from 27th April, 1863, to 31st December, 1867.
- (g.) Return of prisoners received in Her Majesty's Gaol, at Invercargill, from 27th April, 1863, to 31st December, 1867.
- (h.) Return in detail of salaries of officers at Her Majesty's Gaol, at Invercargill, to April, 1868.
- (i.) Return showing the scale of rations, and total cost for month of March, 1868.
- (10.) *Pictou*.—
- (a.) Return of description and amount of work done annually by prisoners under sentence of penal servitude, or hard labour, from 1st January, 1861, to 31st December, 1867.
- (b.) Return of annual expenditure on gaol, between 1st January, 1861, and 31st December, 1867.

VI.—PLANS OF THE PRINCIPAL PRISONS.

- { Index Nos. in }
 { Guard Book. }
- I.—Wellington.
 II.—Lyttelton,
 III.—Christchurch, } Canterbury.
 IV.—Hokitika.
 V.—Nelson.
 VI.—Auckland.
 VII.—New Plymouth.
 VIII.—Napier.
 IX.—Dunedin.
 X.—Invercargill.
 XI.—Pictou.

COMMISSION ON PRISONS.

29 A.—No. 12.

Appendix A.

EXPENSES of the PRINCIPAL PRISONS for the five years ending 31st December, 1867 (exclusive of buildings and repairs), and Estimate of the value of Prison Labour for the same period. *Appendix A.*

Names of Prisons.	Gaol Expenses.	Value of Prison Labour.
	£ s. d.	
Wellington	11,834 8 8	Definite return not furnished. Prisoners have been variously employed on public works.
Lyttelton	21,627 3 7	£15,244 15s.
Hokitika (three years)	10,487 1 9	Governor unable to furnish returns. Prisoners have been employed clearing bush.
Nelson	5,436 15 2	Governor unable to furnish returns. Prisoners have been employed on public works.
Auckland	21,410 4 7	£10,000 (approximate).*
Napier	4,867 17 1	Definite return not furnished. Prisoners have been employed on public works.
Dunedin	34,613 10 2	£7,259 18s. 6d.
Invercargill	9,071 7 6	£750.†
New Plymouth (approximate)	4,037 17 3	Definite return not furnished. Prisoners have been employed on public works.
Picton	3,276 9 7	Provincial Government unable to furnish returns. Prisoners have been employed on public works.
Christchurch Gaol for females	3,039 9 0	£1,670 2s. 8d.
	£139,702 4 4	

* The exceptional circumstances of a large rush upon this Province in one year render this hardly a satisfactory return.

† The return for Prison Labour at Auckland is the average for two years and nine months only.

Appendix B.

STATEMENT of the NUMBER of PRISONERS in each PRISON, and the PROPORTION of OFFICERS to PRISONERS of all Classes, on 1st January, 1868. *Appendix B.*

Names of Prisons.	Number of Convict Prisoners, 1 Jan., 1868.	Average Number of Convict Prisoners for 5 Years ending 31 Dec., 1867.	Number of Prisoners not Convicts in Jan., 1868.	Average Number of Prisoners not Convicts for the preceding 5 Years.	Number of Officers.	Proportion of Officers to Prisoners of all Classes.	Remarks as to Accommodation.
Wellington	67	48	10	9	10	1: 7·7	Accommodation sufficient for 26 on a proper system.
Lyttelton	69	66	21	20	12	1: 7·5	Accommodation said to be sufficient for 70 under existing system.
Hokitika	64	59	12	15	13	1: 5·8	Accommodation sufficient for 20 on proper system. Erected two years since.
Nelson	22	25	8	8	5	1: 5·6	Insufficient for classification.
Auckland	167	155	21	20	14	1:13·3	Ditto.
New Plymouth	5	10	1	2·5	1	1: 6	Altogether insufficient.
Napier	11	12	1	4	5	1: 2·4	Accommodation for 44 under present system.
Dunedin	70	89	13	23	21	1: 3·9	Accommodation insufficient.
Invercargill	9	24	3	8	4	1: 3	Ditto.
Christchurch	14	10	3	3	2	1: 8	Ditto.
Picton	7	5	3	2	3	1: 3	Ditto.
	496	403	...	...	90		

Appendix C.

Appendix C.

RETURN of REMISSIONS and PARDONS Granted otherwise than in the Ordinary Course under Existing Rules, comprising Cases from 1858 to 1868.

Name of Prisoner.	Crime.	Previous Convictions.	Date of Sentence.	Convicting Judge or Magistrate.	Sentence. Years. Months.	Remission. Years. Months.	Date of Remission.	Petitioner.	Reasons urged for Pardon.	By whom recommended other than convicting Judge or Magistrate.	Whether recommended by convicting Judge or Magistrate.
Alexander Williams	Arson ...	...	1858 1 Mar.	Chief Justice ...	Death, commuted to penal servitude for life	Pardoned 30 Dec., 1862	30 Dec., '62	Prisoner	His age—fifty ...	...	Yes.
William Lucas	Housebreaking and rape...	...	17 Dec.	Ditto	15 0	10 6	22 June, '63	Ditto	His good conduct ...	Colonel Wyatt	Yes.
John Woods	Burglary (two indictments)	...	1 Sept.	Judge Johnston	8 0	5 0	4 Sept., '67	Ditto	Assistance afforded to a turnkey who was seriously assaulted by an insane prisoner	...	Yes.
John Woods	Shooting at with intent ...	...	1859 14 June	Ditto	6 0	2 2½	"	Ditto	Long confinement and good conduct	...	Yes.
Patrick Galway	Larceny and escape ...	...	1 Sept.	Chief Justice ...	6 0	6 5½	23 July, '63	Ditto	Prisoner's age—sixty; a cripple; good character, &c.	...	Yes.
William Parker	Rape ...	...	13 Jan.	...	10 0			Inhabitants of Wellington	Acceleration of death unpremeditated	...	Yes.
Charles Straker	Murder upon the high seas	...	2 Dec.	Judge Johnston	Death, commuted to p.s. for life; afterwards to 7 y.	Pardoned 1 Dec., 1866	1 Dec., '66	Inhabitants of Wellington	Perjury of witnesses by whom case got up ...	W. Lyon, V.J.	No.
Daniel Holding	Insubordination & refusal to join his ship	...	1860 8 Oct.	R.M., Mongonui	0 6	0 3	*	Prisoner	Contrition and good conduct	Prosecutor	Yes.
George Blackstock	Ditto ...	...	"	Ditto	0 6	0 3	*	Ditto	Ditto	Ditto	Yes.
Henry Dillon	Highway robbery ...	...	16 July	Judge Johnston	2 0	0 11½	*	Ditto	Perjury of a witness ...	...	Yes.
Benjamin Milner	Larceny (two indictments)	...	27 Apr.	Judge Gresson...	2 0	1 3½	*	Visiting Justice	Injuries received on public works	Superintendent of Canterbury	Yes.
Francis Madden	Drunkness and insubordination	...	16 Apr.	Court Martial ...	14 0	9 5½	*	E. Pierce, V.J.	Severity of sentence ...	W. Lyon, V.J.	Not consulted.
Francis Madden	Escape ...	...	1 Sept. 1861	Judge Johnston	1 0		24 Oct., '67				
Stephen Pell	Larceny ...	...	25 May	R.M., Auckland	0 4	0 3	*	Prisoner's mother	Prisoner's age—eight ...	...	Yes.
Abel Codd	Ditto ...	...	"	Ditto	0 4	0 3	*	...	...	...	Yes.
Daniel Vestie	Ditto ...	...	"	Ditto	0 4	0 3	*	...	...	...	Yes.
George McKinlay	Ditto ...	...	"	Ditto	0 4	0 0½	*	...	...	...	Yes.
Mary Pollock	Concealing birth of child	...	4 Oct.	Chief Justice ...	0 4	3 months 4-5ths	*	Residents of Auckland	Associates in gaol ...	F. Brookfield, solicitor	Yes, indirectly.
Rapira ...	Cattle stealing (two indictments)	...	18 Apr.	R.M., Wanganui	2 0	0 8½	2 Aug., '62	Prosecutors	Strong temptation	...	Yes.
William Wilson	Attempted mutiny on board ship	...	23 Apr.	Court Martial ...	7 0	3 6½	7 Oct., '64	Prisoner	Ill-health ...	Provincial Surgeon ...	Yes, by General Cameron.
Benjamin Griffiths	Habitual drunkenness, striking superior officer, and escape	...	23 Dec.	Ditto	4 0	1 3½	1 Sept., '64	Officer Commanding 70th Regt.	Reformation of character	General Cameron consented	...
Thomas Baggs	Attempt at mutiny ...	None	22 Apr.	Ditto	4 0	1 8	24 Aug., '63	Prisoner	Good character, &c. ...	Ditto	...

* Papers connected with pardons granted during the early part of 1862, and also the Record Book of Pardons, were lost in the "White Swan."

Appendix C—continued.
 RETURN of REMISSIONS and PARDONS Granted otherwise than in the Ordinary Course under Existing Rules, comprising Cases from 1858 to 1868—continued.

Name of Prisoner.	Crime.	Previous Convictions.	Date of Sentence.	Convicting Judge or Magistrate.	Sentence. Years. Months.	Remission. Years. Months.	Date of Remission.	Petitioner.	Reasons urged for Pardon.	By whom recommended other than convicting Judge or Magistrate.	Whether recommended by convicting Judge or Magistrate.
Duvs Russell	Attempt at mutiny	None	1860. 22 Apr.	Court Martial	4 0	1 8	24 Aug., '63	Prisoner	Good character, &c.	General Cameron consented.	...
Waiaa	Rape	...	1862 3 June	Judge Johnston	2 0	0 11	6 July, '63	Ditto	Meritorious conduct	...	Yes.
Mikaora	Ditto	...	"	Ditto	2 0	0 10½	25 July, '63	Ditto	Good conduct	...	Yes.
John Cain	Breach of Licensing Act	...	"	R.M. Coronamandel	0 6	0 5	15 Aug., '63	Ditto	Good character and family	...	Yes.
Thomas Fitzgerald	Larceny	...	24 Sept.	R.M., Wanganui	4 0	0 2	*	Major Logan	Ditto	...	Yes.
John Tracey	Ditto	...	"	Ditto	4 0	0 2	*	Ditto	Ditto	...	Yes.
Hugh Williams	Arson	...	19 June	Judge Gresson	Death, commuted to 6y. p.s.	...	19 July, '62	...	...	...	Yes.
Te Herewini	Stealing (two indictments)	...	31 Oct.	R.M., Auckland	0 7	0 3½	12 Feb., '63	Five Natives	...	...	Not consulted.
John Franson	Murder	...	16 Oct.	Judge Gresson	Death	P. s. life	22 Nov., '62	...	Evidence insufficient	...	Yes.
Joseph Hayes	Wounding a cow	...	2 Sept.	Ditto	1 0	0 5	28 Mar., '63	Prisoner	Provocation sustained	...	Yes.
J. S. Downes	Breach of Licensing Ordinance	None	15 Oct.	R.M., Dunedin	0 3	0 1½	28 Nov., '65	Ditto	Circumstances prevented an intended appeal; good character; ill-health	...	Yes.
William Preston	Assaulting Major Dwyer	...	19 Mar.	Court Marshal	P. s. life	Pardoned 31 March, 1866	31 May, '66	Ditto	Excitement and absence of malice at time; subsequent contrition	Rev. A. Stock and Colonel Dwyer	General Chute consented.
George Johnston	Murder	...	1863 17 Apr.	Chief Justice	Death	P. s. life	9 May, '63	...	Absence of premeditation	...	Yes.
John Miller	Desertion from ship	...	24 July	R.M., Auckland	12 weeks	5 weeks	29 Aug., '63	Captain Pope, of "Telegraph."	Scarceness of seamen; wanted prisoner	...	Not consulted.
Honi Pokili	Murder	...	20 Nov.	Judge Johnston	Death	P. s. life	28 Dec., '63	...	...	Provincial Surgeon	No.
Henry Fox	Highway robbery	...	June	Judge Richmond	4 0	3 6	19 Jan., '64	...	Consumption	Ditto	Yes, by implication.
Andrew Hayes	Receiving stolen property	...	"	Ditto	1 0	0 2	7 May, '64	...	Ditto	...	...
John Lundon	Obtaining money by false pretences	...	1 Sept.	Chief Justice	1 6	0 7½	11 July, '64	Prisoner	Dying state of his mother	Dr. Wright	Not consulted.
Aporo	Larceny	...	5 Sept.	Ditto	2 0	0 8½	17 Dec., '64	Ditto	Ill-health	...	No.
John Golberg	Rape on child under ten	...	22 Jan.	Judge Richmond	8 0	6 1	"	Ditto	Subsequent proof of bad character of child's mother confirming prisoner's plea of a conspiracy	...	Yes.
John M. Christie	Rape	...	16 Sept.	Ditto	4 0	2 0	12 Sept., '65	Prisoner's father and others	Girl consented; prisoner's age—sixteen; contaminating influence of other prisoners	Mr. Storde and other Members of General Assembly	Yes, indirectly.
Edward Owen	Cattle stealing (two indictments)	...	2 Dec.	Judge Gresson	2 0	0 11	29 Dec., '64	Residents of Christchurch	Absence of felonious intent, and mistaken identity of cattle	...	Yes.
William Davidson	Ditto	...	"	Ditto	2 0	0 11	"	Ditto	Ditto	...	Yes.
James Lafont	Larceny, prison breach, and stealing a blanket	...	Nov.	Judge Johnston	2 0	0 8	3 Mar., '65	Prisoner	Ill-health	Gaol Surgeon	Yes.
Thomas Frost	Horse stealing	...	8 Dec.	Judge Richmond	2 0	0 6½	6 May, '65	Ditto	Blindness, caused by imprisonment	Ditto	Yes.
Matthew Lennon	Striking Lieut. Henson	...	"	Court Martial	4 0	1 5½	18 June, '66	Lieut. Henson	Prisoner a recruit, and ignorant of nature of his offence	Defence Minister.	...

* Papers connected with pardons granted during the early part of 1862, and also the Record Book of Pardons, were lost in the "White Swan."

Appendix C—continued.
RETURN of REMISSIONS and PARDONS Granted otherwise than in the Ordinary Course under Existing Rules, comprising Cases from 1853 to 1868—continued.

Name of Prisoner.	Crime.	Previous Convictions.	Date of Sentence.	Convicting Judge or Magistrate.	Sentence. Years. Months.	Remission. Years. Months.	Date of Remission.	Petitioner.	Reasons urged for Pardon.	By whom recommended other than convicting Judge or Magistrate.	Whether recommended by convicting Judge or Magistrate.
Hori ...	Murder ...	...	1863 4 July	Chief Justice ...	Death	P. s. life. Pardoned 22 Nov., 1867	22 Nov., '67	Rev. T. Thom and Natives R. Graham, M.H.R.	Not guilty; property found on prisoner given to him by murderer Kindness and assistance of prisoner to passengers, &c., wrecked in "Lord Worsley" Papers sent to Auckland.	...	Yes.
Tangataware Iwitiaia	Ditto	...	26 Mar. 1864	Ditto	Death	P. s. life	Apr. '68	...	...	...	C. J. absent.
Francis Locke	Ditto	...	17 May	Judge Johnston	Death	P. s. life	7 May, '64	Prisoner's wife and others	Provocation experienced, and absence of design	G. H. Johnston and others	Yes.
Charles Henry Hunter	Larceny ...	...	1 Mar.	Judge Gresson...	1 0	0 4½	14 Oct., '64	Prisoner ...	Shock caused by attempted suicide of a Warder in prisoner's presence	Visiting Justice ...	Yes.
Timoti Waikaro	Not stated	...	8 July	R.M., Wanganui	0 6	0 1½	18 Nov., '64	Jury at inquest on Renny	Attempt of prisoners to save life of Renny ...	...	Yes.
Humphrey Connor	Larceny ...	...	24 Aug. 27 Sept.	Ditto Chief Justice ...	0 6 0 5	0 2 0 1½	15 Dec., '64 5 Jan., '65	Ditto Prisoner, Members of Gen. Assembly, &c.	Ditto Provocation sustained; good character, &c...	Superintendent of Auckland	Yes.
Thomas Gay	Assault on high seas	...	...	...	...	...	...	...	...	...	No.
Philip Paddon	Abusive language towards Major St. John	...	4 July	General Court Martial	4 0	2 4½	19 Feb., '66	Prisoner ...	Sentence illegal ...	Judge Advocate General.	Not consulted.
Thomas Horsfield	Larceny ...	...	2 June	Chief Justice ...	4 0	2 0	2 June, '66	General Chute...	Regiment leaving for England	...	Yes.
James Calvin	Stealing from the person...	...	5 Dec.	Judge Johnston	2 0	1 8½	12 Mar., '66	Prisoner ...	Finding property stolen from Museum, &c...	Gaoler	Yes.
Albert Klaprodi	Obtaining goods by false pretences	...	6 Dec.	Chief Justice ...	2 0	0 5¼	8 June, '66	Prosecutor and others	Contrition of prisoner, and his being a foreigner	...	Yes.
Leonard Clare	Stealing in a shop	...	1865 1 Sept.	Ditto	2 0	0 5½	7 Mar., '67	General Chute ...	Regiment leaving the Colony	...	Not consulted.
Alexander Campbell	Obtaining money by false pretences	...	7 Sept.	Ditto	2 0	0 5¼	"	Ditto	Ditto	...	Not consulted.
John Perry	Burglary, larceny, and prison breach	...	1864 15 Nov.	Judge Johnston	4 0	0 8	14 Mar., '67	Prisoner	Exertions in extinguishing fire	Gaoler	Yes.
Thomas Johnson	Stabbing ...	None	16 May	Ditto	4 0	2 11	17 Jan., '67	Ditto	Ditto, and bed-ridden wife	...	Yes.
Thomas Johnson	Prison breach	...	Nov.	Ditto	1 0	...	...	...	...	...	...
Robert Fisher	Rape ...	...	1 June	Judge Gresson...	8 0	4 11	25 Jan., '67	Ditto	Prisoner's age—eighteen; light character of prosecutrix	Gaoler	Yes, indirectly.
John Flannigan	Robbery from person with violence	2	13 July	Judge Chapman	5 0	1 9¼	13 Sept., '67	Ditto	* Assistance in extinguishing fire at gaol	...	Yes.
John Murphy	Ditto	1	"	Ditto	5 0	1 9¼	"	Ditto	*Ditto	...	Yes.
Patrick Rough	Embezzlement	...	11 Oct.	Ditto	1 6	0 7½	"	Ditto	Ditto, and money embezzled since returned	...	Yes.
Charles McDewitt	Robbery from person with violence	...	11 July	Ditto	4 0	1 7	"	Ditto	Assistance in extinguishing fire at gaol	...	Yes.
Walter Tricker	Murder ...	...	10 June	Judge Johnston	Death	P. s. life	17 Nov., '64	Residents of Wellington, Rev. A. Stock, &c.	Doubts as to guilt ...	Messrs. Hammond, Hardwick, W. W. Taylor, &c.	His Honor recommended delay in execution of sentence.

* Bad conduct in gaol debarred prisoners from benefit of regulation.

Appendix C—continued.
 RETURN of REMISSIONS and PARDONS Granted otherwise than in the Ordinary Course under Existing Rules, comprising Cases from 1858 to 1868—continued.

Name of Prisoner.	Crime.	Previous Convictions.	Date of Sentence.	Convicting Judge or Magistrate.	Sentence. Years. Months.	Remission. Years. Months.	Date of Remission.	Petitioner.	Reasons urged for Pardon.	By whom recommended other than convicting Judge or Magistrate.	Whether recommended by convicting Judge or Magistrate.
George Angell	Arson	...	1865. Mar. 6 June	Judge Johnston	Death	P. s. life	1 Apr., '65	...	...	H. E. the Governor	Yes.
Thomas Whitehead	Murder	...	...	Judge Richmond	Death	P. s. life	15 July, '65	Residents of Dunedin	Supposed provocation and absence of premeditation	...	No.
John Henderson	Assault	...	9 June	R.M., New Plymouth	0 1	0 0½	4 Nov., '65	Prisoner	Extreme provocation	Superintendent of Taranaki	No.
Leonard Y. Provost	Forgery	...	Feb.	Chief Justice	2 0	1 7	8 July, '65	Prisoner's wife and others	Evidence in prisoner's favour, furnished after the trial	...	Yes.
Mrs. Greany	Larceny	...	26 June	R.M., Onehunga	0 3	0 1	22 Aug., '65	Prisoner's husband, prosecutor and others	Children requiring mother's care; crime caused by drink; good character	Major Paul	Not consulted, case being urgent.
Thomas Hayman	Larceny of timber from a wreck	...	1 June	Judge Gresson	0 4	0 0½	16 Sept., '65	Prisoner	Absence of felonious intent	...	Yes.
John Brown	Stealing two coats	...	3 July	R.M., Blenheim	0 6	0 3	3 Oct., '65	R.M., Blenheim	Crime caused by drink; good conduct	...	Yes.
John Buckridge	Assault on police	...	4 Sept.	Judge Johnston	1 0	0 10½	14 Oct., '65	Prisoner's father and others	Contaminating influence of other prisoners, &c., &c.	Mr. Fitzherbert	Not consulted.
Hori Taka	Murder	...	18 Sept.	Chief Justice	Death	Pardoned, 14 October, 1865	"	...	Not actual murderer; only accessory	J. Mackay, Civil Commissioner	No.
Matu	Ditto	...	"	Ditto	Death	Pardoned 14 October, 1865	"	...	Ditto	Ditto	No.
Emilius L. Morod	Threatening language	...	10 Jan.	R.M., Auckland	1 y. in default of sureties to keep peace	0 4½	13 Aug., '65	Prisoner	His uncomfortable position	Rev. C. Baker	Yes.
Gerald Fitzmorris	Breach of Arms Act	...	1 Sept.	Judge Johnston	3 0	2 6	1 Mar., '66	Ditto	Ignorance of the law	...	Yes.
Elizabeth Richardson	Stealing in a dwelling	...	7 June	Chief Justice	4 0	3 3	2 Mar., '66	Ditto	Incurably diseased	Provincial Surgeon	Yes.
Michael Clark	Assault and robbery	...	16 May	Judge Johnston	2 0	0 9½	27 July, '66	Ditto	Activeness in extinguishing fire in gaol	Gaoler	Yes.
George Armstrong	Assault on police	...	7 Sept.	Judge Gresson	0 6	0 3	8 Sept., '65	Residents of Akaroa	Provocation caused by illegal committal of prisoner for contempt of Court by Resident Magistrate, Akaroa	Hon. John Johnston	No.
Francis Falcon	Burglary	...	1 June	Chief Justice	3 0	1 1½	4 Apr., '67	Prisoner	Chronic rheumatism	Provincial Surgeon	C. J. absent.
Joseph Parfitt	Larceny	...	3 Mar.	Ditto	4 0	1 7	31 July, '67	Ditto	Severe accident to leg and foot while at hard labour	Ditto	C. J. absent.
Adam Elliott	Malicious libel (two indictments)	...	6 Sept.	Ditto	1 y. and to find sureties for 2 y.	2 months on condition of finding sureties	25 Sep., '66	Ditto	Four-fifths of sentence served with good conduct	...	C. J. absent.
Michael Grimes	Assault on turnkey and escape	...	7 Sept.	Ditto	1 6	0 9	2 Jan., '66	General Chute	Regiment leaving for England	...	Not consulted.
Joseph Mooney	Larceny	...	6 Sept.	Ditto	1 0	0 3	"	Ditto	Ditto	...	Not consulted.
Patrick Hudston	Ditto	...	"	Ditto	1 0	0 3	"	Ditto	Ditto	...	Not consulted.
John Enright	Ditto	...	1866 2 Mar. 1865	Ditto	0 6	0 3	"	Ditto	Ditto	...	Not consulted.
John Burke	Felony	...	3 Mar.	Ditto	2 0	0 9	"	Ditto	Ditto	...	Not consulted.

Appendix C—continued.
RETURN of REMISSIONS and PARDONS Granted otherwise than in the Ordinary Course under Existing Rules, comprising Cases from 1858 to 1868—continued.

Name of Prisoner.	Crime.	Previous Convictions.	Date of Sentence.	Convicting Judge or Magistrate.	Sentence. Years. Months.	Remission. Years. Months.	Date of Remission.	Petitioner.	Reasons urged for Pardon.	By whom recommended other than convicting Judge or Magistrate.	Whether recommended by convicting Judge or Magistrate.
William Baker	Burglary	...	1866 1 June	Chief Justice	1 0	0 11	22 Jan., '66	General Chute	Regiment leaving for England	...	Not consulted.
James Robinson	Felony	...	23 Feb.	Ditto	0 4	0 0 $\frac{3}{4}$	2 Jan., '66	Ditto	Ditto	...	Not consulted.
Absalom Brook	Manslaughter	...	15 Jan.	Judge Gresson	0 5	0 4	1 May, '66	Residents of Hokitika	Death caused by previous disease more than by prisoner; extenuating circumstances	...	Yes.
William White	Stealing	...	22 Jan.	R.M., Nelson	0 8	0 3 $\frac{1}{2}$	1 Jan., '66	Prisoner	Exertions in extinguishing fire at gaol	Gaoler and Visiting Justices	Yes.
Richard Farrell	Murder	...	5 Feb.	Judge Johnston	Death	P. s. life	19 Feb., '66	Residents of Napier	Prisoner <i>non compos mentis</i>	...	Yes.
Bernard McLaughlin	Breach of Fraudulent Trustees Act	...	1 Mar.	Chief Justice	2 0	1 3 $\frac{1}{2}$	17 Nov., '66	Prisoner	Disease of kidneys, &c., not likely to be cured	H. Carleton, V.J. Provincial Secretary, &c.	C. J. absent.
Mohi Te Poali	Receiving stolen goods	...	27 Mar.	Ditto	3 0	1 4	26 Nov., '67	Rev. T. S. Grace	Former good conduct of prisoner	...	C. J. absent.
Eria Te Hakino	Ditto	...	"	Ditto	3 0	1 0 $\frac{3}{4}$	1 Mar., '68	Ditto	Will take charge of him	...	C. J. absent.
Te Meihana Te Tawa	Ditto	...	"	Ditto	3 0	1 4	26 Nov., '67	Ditto	Former good conduct of prisoner	...	C. J. absent.
Wiremu Kapa Te Anopu	Ditto	...	"	Ditto	3 0	1 0 $\frac{3}{4}$	1 Mar., '68	Ditto	Will take charge of prisoner	...	C. J. absent.
Panapa Rangirevaia	Ditto	...	"	Ditto	3 0	1 0 $\frac{3}{4}$	"	Ditto	Ditto	...	C. J. absent.
Penetito	Murder	...	"	Ditto	Death, communicated to p. s. l. y.	...	15 Oct., '66	G. Graham and prisoner	Prisoner acted through fear, and is only a boy; prisoner was absent eating melons	† Mr. Graham	Yes.
Hekara	Ditto	...	5 Apr.	Ditto	Death, communicated to p. s. life	...	10 May, '66	Ditto	...	...	No.
Himone Te Aura	Ditto	...	"	Ditto	Death, communicated to p. s. life	...	"	Ditto	Was Horomona's agent, and drunk	...	No.
Paraharaha	Ditto	...	"	Ditto	Death, communicated to p. s. life	...	"	...	Interfered to save White	Died, 18th Dec., 1866	Yes.
Hoani Hupe	Ditto	...	"	Ditto	Death, communicated to p. s. life	...	"	Ditto	Not guilty	...	No.
Utuku Te Rangī	Ditto	...	"	Ditto	Death, communicated to p. s. life	...	"	Ditto	Ditto	...	No.
Te Aka O Tau Te Hura	Ditto	...	"	Ditto	Death, communicated to p. s. life	...	"	Ditto	Ditto	...	No.
Heabea Te Pakihiwi	Ditto	...	"	Ditto	Death, communicated to p. s. life	...	"	G. Graham and prisoner	Prisoner deaf and dumb, &c.	The Jury	Yes.
Hawera Te Hihira	Ditto	...	"	Ditto	Death, communicated to p. s. 4 y.	2 1 $\frac{1}{2}$	1 Mar., '68	Rev. T. S. Grace and prisoner	Not guilty; good character; protected White, &c.; will take charge of him	...	Yes.
Raniera Te Weretoko	Ditto	...	"	Ditto	Death, communicated to p. s. 4 y.	2 1 $\frac{1}{2}$	"	Ditto	Protected White and others; will take charge of him	...	Yes.
Haki Tukino	Ditto	...	"	Ditto	Death, communicated to p. s. 4 y.	2 1 $\frac{1}{2}$	"	G. Graham and Rev. T. S. Grace	Prisoner had no gun, and was on board to save life; will take charge of him	...	Yes.
Hepeta	Accessory before murder	...	"	Ditto	Death, communicated to p. s. 7 y.	...	10 May, '66	G. Graham and prisoner	Prisoner not on board; wishes to come under protection of Governor	The Jury. Died, 26th Dec., 1866	Yes.
Te Hemara	Ditto	...	"	Ditto	Death, communicated to p. s. 7 y.	...	"	Ditto	Not guilty	The Jury	Yes.

† At Mr. Graham's request prisoner was handed over to his custody on October 15, 1866.

Appendix C—continued.
 RETURN of REMISSIONS and PARDONS Granted otherwise than in the Ordinary Course under Existing Rules, comprising Cases from 1858 to 1868—continued.

Name of Prisoner.	Crime.	Previous Convictions.	Date of Sentence.	Convicting Judge or Magistrate.	Sentence. Years. Months.	Remission. Years. Months.	Date of Remission.	Petitioner.	Reasons urged for Pardon.	By whom recommended other than convicting Judge or Magistrate.	Whether recommended by convicting Judge or Magistrate.
Hokaria Hora	Accessory before murder	...	1866 5 Apr.	Chief Justice	Death, commuted to p.s. 7 y.	5 4	26 Nov., '67	Rev. T. S. Grace and prisoner	Not guilty. Prisoner's former good conduct, &c.	The Jury	Yes.
Turi Te Matutarew...	Ditto	...	"	Ditto	Death, commuted to p.s. 7 y.	5 1½	"	Rev. T. S. Grace	Not on board; will take charge of him	Ditto	Yes.
Hoani Poururu	Murder	...	"	Ditto	Death, commuted to p.s. 14 y.	...	16 Dec., '67	G. Graham and prisoner	Prisoner helped to rescue White, &c.; not on board	...	Yes.
Hunia Marupo	Ditto	...	"	Ditto	Death, commuted to p.s. 14 y.	12 3	10 May, '66	G. Graham and Native Chiefs	Prisoner in the hold, and not present at actual murder. Prisoner is of a loyal tribe	...	Yes.
Haki Waihou	Ditto	...	"	Ditto	Death, commuted to p.s. 14 y.	12 7	4 Sept., '67	Prisoner	Ill-health	...	Yes.
Tamarii O Ngatihoko	Ditto	...	"	Ditto	Death, commuted to p.s. 14 y.	...	10 May, '66	G. Graham and prisoner	Prisoner had no gun, and no evil intent, but was forced on board by Horomona	Died, 1st Aug., 1866	Yes.
Tio Wahu	Ditto	...	"	Ditto	Death, commuted to p.s. 14 y.	...	"	Prisoner	Did not touch the Pakehas	...	Yes.
Te Hura Te Tai	Accessory before murder	...	"	Ditto	Death, commuted to p.s. 14 y.	...	"	G. Graham and prisoner	Not guilty; not on board	...	Yes.
Te Pitowhi Te Puta-rera	Ditto	...	"	Ditto	Death, commuted to p.s. life	Pardoned 26 Nov., 1867	26 Nov., '67	Mrs. Grace and prisoner	Ditto. Prisoner's former kindness to her	...	Yes.
Te Mohi Te Haraki...	Ditto	...	"	Ditto	Death, commuted to p.s. life	...	10 May, '66	Prisoner	Not guilty, and love for His Excellency	The Jury	Yes.
Kereama Toitoti	Ditto	...	"	Ditto	Death, commuted to p.s. life	...	"	G. Graham and prisoner	Wisdom of Governor; prisoner not on board	...	Yes.
Thomas Hawke	Stealing a bullock	...	6 June	Judge Moore	0 6	0 4½	23 July, '66	Prisoner and 100 others	Prisoner's innocence	Mr. Izard	Yes.
William Phillips	Breach of Customs laws...	...	2 June	R.M., Wellington	Imprisonment till fine of £25 paid	Pardoned 21 Sept., 1866	21 Sept., '66	Prisoner	Inability to pay, and period in prison	...	Yes.
John Hawley	Unlawfully removing tobacco from ship	...	"	Ditto	Imprisonment till fine of £25 paid	Pardoned 29 Sept., 1866	28 Sept., '66	Ditto	Ditto	...	Yes.
John Nicholl	Ditto.	...	"	Ditto	Imprisonment till fine of £25 paid	Pardoned 29 Sept., 1866	"	Ditto	Ditto	...	Yes.
Patrick Mulhern	Stealing from premises	...	1 June	Judge Moore	1 0	0 2½	7 Mar., '67	General Chute	Regiment leaving for England	...	Not consulted.
Bryant Corcoran	Burglary	...	4 June	Ditto	1 0	0 2½	"	Ditto	Ditto	...	Not consulted.
George Fuller	Larceny	...	2 July	R.M. Ngauruawahia	1 0	0 3½	"	Ditto	Ditto	...	Not consulted.
James Good	Ditto	...	27 July	Ditto	1 0	0 4½	"	Ditto	Ditto	...	Not consulted.
Thomas Miley	Ditto	...	"	Ditto	0 9	0 1½	"	Ditto	Ditto	...	Not consulted.
John Heywood	Stealing from person with violence	...	4 Sept.	Judge Moore	1 0	0 5½	"	Ditto	Ditto	...	Not consulted.
Stephen Spencer	Ditto	...	"	Ditto	1 0	0 5½	"	Ditto	Ditto	...	Not consulted.
Peter Graham	Larceny	...	1867 29 Jan.	R.M., Tauranga	0 6	0 4½	"	Ditto	Ditto	...	Not consulted.

Appendix C—continued.
RETURN of REMISSIONS and PARDONS Granted otherwise than in the Ordinary Course under Existing Rules, comprising Cases from 1858 to 1868—continued.

Name of Prisoner.	Crime.	Previous Convictions.	Date of Sentence.	Convicting Judge or Magistrate.	Sentence. Years. Months.	Remission. Years. Months.	Date of Remission.	Petitioner.	Reasons urged for Pardon.	By whom recommended other than convicting Judge or Magistrate.	Whether recommended by convicting Judge or Magistrate.
Abraham Poole	Larceny ...	...	1867 12 Feb.	R.M., Otahuhu	0 3	0 2	7 Mar., '67	General Chute ...	Regiment leaving for England ...	...	Not consulted.
Henry Elliott	Stabbing with intent to kill	None	1866 1 June	Judge Moore ...	2 0	0 6½	12 Nov., '67	Prisoner ...	Good character, and length of time under committal ...	...	Yes, to ordinary remission.
Sarah Guy	Breach of Licensed Victuallers Ordinance	...	11 Sept.	Mayor of Dunedin	Fine £20	Pardoned 21 October, 1866	27 Sept., '66	Inhabitants of Dunedin	Prisoner's age — seventy-eight, and good character	...	Not consulted.
Patrick Dolan	Murder ...	...	12 Sept.	Judge Moore ...	Death, commuted to p.s. 14y.	...	11 Oct., '66	Inhabitants of Auckland	Prisoner on duty as sentinel, and drunk; absence of malice; good character, &c.	Crown Solicitors, Auckland and Wellington	Yes.
Frederick Wheatcroft	Removing warlike stores without license	None	3 Sept.	Ditto	Imprisonment till fine of £25 paid	Pardoned 1 December, 1866	1 Dec., '66	Ditto	Inability to pay, and ignorance of law ...	...	Yes, indirectly.
Edward Clarke	Uttering a forged cheque	None	1 Sept.	Ditto	0 9	0 2½	6 Mar., '67	Prisoner ...	Heart disease ...	Provincial Surgeon ...	Judge Moore stated that prisoner was tried by C. J.
Edwin Clarke	Larceny ...	None	12 Sept.	Ditto	0 9	0 3½	27 Feb., '67	Prisoner's sister-in-law	Death of petitioner's husband in prison; her desire to leave Colony with prisoner, &c.	Superintendent of Auckland	Not consulted.
William R. Boyle	Embezzlement ...	...	3 Sept.	Judge Johnston	1 0	0 3	1 Jan., '67	Prisoner's wife ...	Prisoner's good character; destitution of his family, &c.	...	No.
Joseph Smith	Horse stealing ...	None	6 Sept.	Judge Moore ...	1 6	0 11	6 Aug., '67	Prisoner ...	Incurable disease, and incapacity for hard labour	Provincial Surgeon ...	Yes, indirectly.
Walter Greenshields	Embezzlement ...	...	3 Sept.	Ditto	2 0	1 0	4 Sept., '67	Ditto	Extenuating circumstances; ill-health ...	Members of General Assembly, &c.	Yes.
Joseph Thos. Sullivan	Murder ...	...	12 Sept.	Judge Johnston	Death, commuted to p.s. life	...	25 Sept., '66	Ditto	Information given by prisoner to police, and at trial of Burgess, Kelly, and Levy, for murder	Superintendent of Nelson	Yes.
Matiu Haka	Assault ...	...	10 Nov.	R.M., Mongonui	1 0	0 5½	7 May, '66	R.M., Mongonui	To obviate necessity for prisoner's removal to Auckland	Bench of Justices ...	Yes.
John Rowley	Larceny ...	...	1 Oct.	R.M., Nelson	0 6	0 2½	3 Jan., '67	Prisoner ...	Not guilty; death of wife; destitution of children, and imprisonment illegal	...	No remarks to make.
John Pearce	Killing ox to steal carcass	...	7 Dec.	Judge Moore ...	1 6	0 11½	25 June, '67	Ditto and others	Prisoner believed cattle to be wild; good character during nine years residence in Auckland	D. Graham, J.P., &c.	Yes, indirectly.
Wm. Pounteny Collett	Sheep stealing ...	...	3 Dec.	Judge Gresson...	0 3	0 1½	2 Jan., '67	Resident in Canterbury	Custom to allow scabby sheep to be killed; and good character of prisoner	...	Report referred to Hon. John Hall, and not returned.
Benjamin Peyman	Larceny of Bill of Exchange	...	1 Nov.	Judge Ward ...	2 0	0 11	30 Nov., '67	Prisoner, his wife, and residents of Wanganui	Large family to support, and mitigating circumstances	Counsel for prosecution	No.
John Mitchell	Deserting from "Mataura"	...	1867 14 Jan.	R.M., Wellington	10 weeks	6 weeks	11 Feb., '67	Prisoner ...	Misapprehension as to time of sailing; no intention of deserting	...	Yes.

Appendix C—continued.
RETURN OF REMISSIONS and PARDONS Granted otherwise than in the Ordinary Course under Existing Rules, comprising Cases from 1858 to 1868—continued.

Name of Prisoner.	Crime.	Previous Convictions.	Date of Sentence.	Convicting Judge or Magistrate.	Sentence. Years. Months.	Remission. Years. Months.	Date of Remission.	Petitioner.	Reasons urged for Pardon.	By whom recommended other than convicting Judge or Magistrate.	Whether recommended by convicting Judge or Magistrate.
Charles Kingcome	Stealing a pig	...	1867 20 Mar.	R.M., New Plymouth	0 3	0 1½	29 Apr., '67	Inhabitants of New Plymouth	Prisoner's good character	...	Yes.
Jonathan Rider	Breach of Stamp Duties Act	...	16 Mar.	R.M., Hokitika	0 3	0 2	8 Apr., '67	N. S. Rees, Solicitor	Prisoner had no intention of evading payment of duty	...	Not consulted.
Patrick Power	Breach of Arms Act	...	6 Mar.	Judge Moore	Fined £20	Pardoned 24 June, 1867	21 June, '67	Prisoner	Inability to pay, and period imprisoned	...	Yes, indirectly.
Herbert M. L. Innes	Attempting suicide	None	"	R.M., Auckland	1 y. in default of sureties of £50 or 2 m.	0 5	5 Aug., '67	Ditto	Crime committed under influence of drink; a stranger, and unable to find securities	...	Yes.
Thomas Goodisson	Breach of Licensing Ordinance	...	16 May	R.M., Otaki	...	0 1½	6 Aug., '67	Ditto	Insolvent; long period between date of alleged offence and day of trial rendered defence impracticable	Mr. Cheeseman and Attorney-General	Yes.
Margaret Lynch	Stealing a gold ring	...	6 May	R.M., Auckland	0 1	4-5ths month	12 May, '67	Ditto and residents of Auckland	Prisoner's innocence proved by facts of case	...	Yes.
John Vincent	Stabbing with intent to murder	...	16 May	Judge Richmond	Death, communicated to p. s. 20 y.	...	11 July, '67	...	...	...	Yes.
Lewis Baker	Persuading militiamen to desert	...	4 June	R.M., Tauranga	0 4	0 1	4 Sept., '67	Ditto Tauranga	Assistance in capture of Maori charged with murder, attempting to escape	...	Not consulted.
John McCormick	Stealing porter from a church	...	15 June	Ditto	0 4	0 0½	"	Ditto	Ditto	...	Not consulted.
James Drysdale	Disorderly conduct and resisting police	...	2 Aug.	R.M., Charleston, Nelson	0 3	0 0½	14 Oct., '67	Residents of Charleston	Prisoner's good character, &c.	...	Yes.
Alexander Russell	Being idle and disorderly	5	14 Aug.	R.M., Westport	0 3	0 2½	28 Aug., '67	R.M.	Ill-health, &c.	Gaol Surgeon	Yes.
Ropaka Te Whareniui	Stealing in a dwelling	...	4 July	R.M., Wellington	0 6	0 2	2 Nov., '67	Dr. Grace	Ditto	Gaoler	Not consulted.
James Battersby Wray	Uttering a forged cheque	...	3 Sept.	Judge Moore	2 0	1 5½	28 Mar., '68	Prisoner	Dangerous hemorrhage from intestines	Gaol Surgeon and Rev. C. Baker	Only for ordinary remission.
George Smith	Larceny	...	14 Sept.	R.M., Port Chalmers	6 weeks	5 weeks	17 Sept., '67	R.M.	Anxiety of captain of "Courser" to take the prisoners, who are sailor boys and respectably connected, back to America with him	...	Yes.
George Hopkins	Ditto	...	"	Ditto	6 weeks	5 weeks	"	Ditto	Ditto	...	Yes.
James Green	Ditto	...	"	Ditto	6 weeks	5 weeks	"	Ditto	Ditto	...	Yes.
Joseph Martin	Ditto	...	"	Ditto	6 weeks	5 weeks	"	Ditto	Ditto	...	Yes.
Ah Long	Wounding with intent to murder	...	5 July	Judge Chapman	Death, communicated to p. s. life	...	4 Oct., '67	Residents of Otago	Insufficiency of evidence to prove identity	...	Yes.
John Gere	Bestiality	...	2 July	Ditto	Death, communicated to p. s. life	...	"	...	...	...	Yes.
Geo. Edward Matheson	Habitual drunkenness	...	16 July 1868	R.M., Brighton	0 3	0 0½	29 Nov., '67	Residents of Brighton	Good character of prisoner; wife unable to support herself	Superintendent of Nelson	Yes.
Samuel Wile	Breach of Customs Act	None	28 Jan.	J.P.'s, Auckland	0 6	0 4½	5 Mar., '68	Prisoner	Offence trifling; severe blow received from Customs' officer; good character	Collector of Customs, Auckland	Yes.

RECAPITULATION.

Number of Prisoners whose sentences have been remitted or who have been pardoned, according to Return Cases in which remission, &c., was not recommended by convicting Judge or Magistrate 175
Cases in which convicting Judge or Magistrate was not consulted 6
Of these 39 cases, 22 were convictions in the Supreme Court; the rest in the Resident Magistrate's Court; and one in the District Court. Moreover, there are 10 cases of convictions before the Chief Justice, in which he was not consulted, on the ground of his absence from the Colony. 39

Appendix D.

Appendix D.
SUPPLEMENTARY RETURN of certain PRISONERS PARDONED, or whose Sentences were Remitted in the early part of 1862.
See Note ante p. 30, 31, of previous Return.

Name.	Offence.	Date of Conviction.	Sentence.	By what Court Sentenced.	When Pardoned or Sentence Remitted.	Amount of Sentence undergone.	By whom recommended for Remission of Sentence or Pardon.	Remarks.
John D'Arcy ...	Military ...	8 Feb., 1854	Penal servitude for life	Military Court Martial	Committed to 10 years' penal servitude, 4 Sept., 1857	ys. ms. ds. 8 3 5	Visiting Justices	
John D'Arcy ...	Escape from gaol	7 June, 1858	1 year's imprisonment from the expiration of existing sentence, (i.e., 10 years' penal servitude)	Supreme Court	Pardoned, 13 May, 1862	...		
John Straker ...	Manslaughter ...	1 Dec., 1859	6 years' penal servitude	Ditto	Pardoned, 13 May, 1862	2 5 13	Visiting Justices	
Charles Straker ...	Murder ...	1 Dec., 1859	Death by hanging	Ditto	Committed to penal servitude for life, 24 Jan., 1860; and again committed to 7 years' penal servitude, on and from 8 May, 1862	2 5 8	Visiting Justices	Pardoned and discharged 1 Dec., 1866, after having completed 7 years from the date of his conviction.
James Gaffney ...	Setting fire to gaol when awaiting his trial for felony	23 Jan., 1858	Death recorded	Ditto	Committed to 4 years' hard labour, 17 Feb., 1858	4 3 13	Visiting Justices	
James Gaffney ...	Shooting at Abernham with intent to kill and murder him, at a general outbreak	14 Jan., 1859	Penal servitude for life	Ditto	Committed to 7 years' penal servitude, on and from 8 May, 1862	...		
Patrick Cullen ...	Stabbing a Police Officer, with intent to murder him	1 Sept., 1856	10 years' penal servitude	Ditto	Pardoned, 13 May, 1862	5 8 13	Visiting Justices	Has since been employed as one of the Chatham Island Guard, but returned to Wellington a few weeks ago in the steamer "St. Kilda."
Patrick Cullen ...	Escape from gaol	7 June, 1858	12 months' imprisonment from expiration of existing sentence	Ditto		...		
Patrick Cullen ...	Shooting at James Slight, with intent to kill and murder him, at a general outbreak	11 June, 1859	Penal servitude for life	Ditto		...		
William Darley ...	Felony ...	25 Jan., 1858	2 years' imprisonment with hard labour	Ditto	Pardoned, 13 May, 1862	3 3 18	Visiting Justices	
William Darley ...	Escape from gaol	2 Sept., 1858	1 year's imprisonment with hard labour, from expiration of former sentence	Ditto		...		

Appendix D—continued.
 SUPPLEMENTARY RETURN OF PRISONERS PARDONED, or whose Sentences were Remitted in the early part of 1862—(continued).

Name.	Offence.	Date of Conviction.	Sentence.	By what Court Sentenced.	When Pardoned or Sentence Remitted.	Amount of Sentence undergone.	By whom recommended for Remission of Sentence or Pardon.	Remarks.
William Darley ...	Felony	2 Sept., 1858	1 year's imprisonment with hard labour, from expiration of existing sentences.	Supreme Court		ys. ms. ds.		
William Darley ...	Escape from gaol at a general outbreak	14 June, 1859	6 year's penal servitude, from expiration of existing sentence	Ditto				
Benjamin Stringer	Felony	25 Jan., 1858	2 years' imprisonment with hard labour	Ditto	Pardoned, 13 May, 1862	3 3 18	Visiting Justices	Tried at the Supreme Court 1 March, 1866, and sentenced to 10 years' penal servitude for horse stealing.
Benjamin Stringer	Escape from gaol	2 Sept., 1858	1 years' imprisonment with hard labour, from expiration of former sentence	Ditto				
Benjamin Stringer	Felony	2 Sept., 1858	1 year's imprisonment with hard labour, from expiration of existing sentences	Ditto				
Benjamin Stringer	Escape from gaol at a general outbreak.	14 June, 1859	6 years' penal servitude, from expiration of existing sentences	Ditto				
James Kelly ...	Escape from Gaol when waiting trial for felony.	22 Mar., 1858	15 calendar months' imprisonment with hard labour	Ditto	Pardoned, 13 May, 1862	3 1 21	Visiting Justices.	
James Kelly ...	Felony	2 Sept., 1858	1 year's imprisonment with hard labour, from expiration of former sentence	Ditto				
James Kelly ...	Felony	2 Sept., 1858	1 year's imprisonment with hard labour, from expiration of existing sentences	Ditto				
James Kelly ...	Escape from gaol at a general outbreak.	14 June, 1859	6 years' penal servitude, from expiration of existing sentences	Ditto				

MICAH READ,
 Warden of Gaol.

Wellington Gaol, 14th March, 1868.

Appendix E.

Appendix E.

REPORT by Dr. HECTOR on a SITE for a PENAL ESTABLISHMENT in NEW ZEALAND.

THE only point under the various heads suggested by the Commissioners upon which I feel competent to offer an opinion is with reference to the localities where facilities exist for a Penal Establishment in the vicinity of stone quarries which would afford a remunerative employment for the convict labour. The building stones which are available in New Zealand may be classed as follows:—

1. Freestones, including limestones of various degrees of purity.—These are generally found in districts where there is valuable land for settlement, and therefore unsuitable for penal establishments. In one district in Otago, near Oamaru, one of the stones of this class is already extensively and profitably quarried, notwithstanding that it is shipped under great disadvantages. I mention this to show the possibility of a profitable production and export of building stone.

2. Bluestones or Basalts.—These are found throughout the islands, and at Dunedin and Auckland prison labour is employed in dressing this variety of stone into blocks, kerbstones, road metal, &c. As a rule where basaltic rocks occur in situations convenient for shipment, settlements are already formed.

Mercury Island, in the Bay of Plenty, has been mentioned to me as a place free from this objection, but I am not personally acquainted with the quality or quantity of stone available there.

Building stones of this class abound in Banks' Peninsula, but there is not much probability of there ever being more than a limited and quite local application of this description of material to constructive works.

3. The Granitic Rocks afford the most suitable class of building materials for the profitable employment of unskilled labour in their preparation.

For the construction of all great harbour works granite should be used in preference to other kinds of stone, and for such purposes the consumption of dressed granite in Europe is enormous. At the present time if any harbour or dock works were commenced in this Colony (and several are already projected), granite would have to be imported from other countries, notwithstanding in New Zealand there probably exists the greatest variety of valuable granite in accessible positions which is to be found in the world.

The granitic rocks are confined to the western coast of the South Island, and have already been worked to a small extent at Adèle Island in Blind Bay, where a fine speckled grey granite occurs under very favourable conditions for being quarried; but it is on the West Coast of the Otago Province that granitic rocks have the grandest development in New Zealand, forming, in conjunction with other rocks chemically allied but physically dissimilar, mountain masses intersected by fiords, only a few of which are available as harbours owing to their great depth.

The locality on the West Coast which affords the greatest advantages for a penal establishment, on account mainly of its being adapted to the employment of convict labour in quarrying and preparing stone for the market, is Resolution Island. This island lies between Breaksea Sound and Dusky Bay, and has an extent of sixty square miles. It is bounded on the north by Breaksea Sound, three miles wide, and on this side presents steep mountain slopes with neither harbours or anchorage. Connecting this Sound with Dusky Bay is a narrow passage half a mile in width and eight miles long, overlooked on both sides by absolute precipices, having a height of 3000 feet, there being only one small bay where it is possible to effect a landing, but which is quite inaccessible from the interior of the island.

The seaward side of Resolution Island, formed by a peninsula seven miles in length with land of moderate and equal altitude and well wooded, is not bold, but the outer shore is so exposed to the swell breaking on the rocks as to be also quite inaccessible.

Towards Dusky Bay the southern aspect of the island is very irregular, and affords several good harbours, in which there is safe and easily accessible anchorage. These anchorages are fully described in the *New Zealand Pilot* and depicted on the Admiralty Charts, as Duck Cove, Anchor Island Harbour on a detached island three and a-half miles in length, and Facile Harbour.

Resolution Island is composed of a variety of crystalline rocks, adapted both for works of constructive and ornamental purposes. To determine the exact locality in the island where quarries could be opened with greatest advantage would require a special survey having this economic question in view; but I have sufficient knowledge of the island to enable me to assert that building stones which would find a ready market both in the Colony and elsewhere, could be worked under great natural advantages, both as regards the application of quarry labour and facilities for shipment. There is not a large extent of level land in any part of the island, but it is intersected by valleys which radiate from the above anchorages, and which would afford a sufficient extent of available land.

On Anchor Island there is a large fresh water lake, at an elevation of fifty feet above the sea, but very little is known of the interior nature of Resolution Island.

On the opposite side of Dusky Bay, which has a width of four miles and penetrates into the mountains of the interior twenty-five miles, there are two snug anchorages, Pickersgil Cove, where Captain Cook spent his first six weeks on shore in New Zealand, and Cascade Cove, both of which might be available as free settlements in connection with the Penal Establishment.

The climate of this part of New Zealand, from observations which I have made, is milder than the same latitude on the East Coast; but owing to the proximity of the mountains to the sea it is subject to violent extremes, being either very tempestuous or very fine. The easterly weather is clear, sharp, and bracing, and in winter frosty at night. From the S.W., the wind brings a clear sky with passing clouds, but on the whole fine weather. With north-westerly weather, it is at first a dead sullen calm, followed by a tempestuous wind and torrents of rain, during which all work at sea or land must be suspended. From the character of the native vegetation and the growth of a few garden plants introduced by the whalers, I think that root crops and green vegetables would succeed well, but no cereals could be expected to ripen. As a rule the cold weather is fine, and the tempestuous weather is accompanied by a mild temperature, so that with properly built house-accommodation, the climate would not be so injurious to health as might be supposed by those who have experienced all the hardships of visiting this country in its natural state.

Considering it merely as the most eligible position for the establishment of quarries with which I am acquainted, I offer the following remarks with respect to—

1. Accessibility—It is accessible for steamships of large tonnage at all times, and for sailing vessels also, if assisted by a tug steamer. For sailing vessels the approach is frequently not only difficult but dangerous from the violence of the squalls. Boating outside the shelter of the islands and small harbours is only safe in fine weather.
2. Centrality—In this respect Dusky Bay is defective, as it is one of the most distant parts of New Zealand from all centres of population.
3. From Dunedin, 260 miles; from Hokitika, 270 miles; from Lyttleton, 400 miles; from Wellington, 580 miles; from Auckland, 660 miles.
4. Although not a good climate as compared with the rest of New Zealand, I do not think that with proper house-accommodation it will, in any way, tend to produce an increased mortality.
5. Escape is almost impossible, being surrounded by sea on every side, and even if an escape were effected to the neighbouring shores, the country is almost impassable.
6. The facility of guarding would depend on the exact locality fixed on, but in any case only a minimum force would be required.
7. The temporary buildings of wood or iron at first used might be replaced by permanent works of masonry erected by the convicts, or for a time accommodation might be provided by hulks moored close alongside the works.
8. The quarrying and dressing of granite, if carried on in a systematic manner, though perhaps not reproductive at first, would be conducted without collateral outlay, and in time as building material of this description was required, would become a highly remunerative industry.

With respect to the value of the application of the convict labour I would make the following remarks:—Convict labour in a central establishment affords an opportunity of applying unskilled labour in an organized manner to the construction of great works that are of utility to the whole community, but in this country from natural circumstances, the only great works absolutely required are those which tend to facilitate internal communication, and to such convict labour cannot be applied. Such public works as docks, harbours, reclaiming land, tillage, &c., being mainly advantageous to the particular locality in which they are constructed, should only, I think, be assisted by convict labour if the great collateral expenditure for skilled labour and also imported and manufactured materials which they necessitate, is borne by the particular district. The quarrying of building stone, such as granite, is free from this objection of requiring collateral expenditure, as the first cost is small, and the marketable value is almost wholly created by the amount of unskilled labour expended on the material. I believe that the facility is so great for working granite quarries on the West Coast, that in time the stone might become an important article of export.

In making the above suggestions to the Commissioners, I wish it clearly to be understood that I do not recommend that quarrying should be preferred as the application of convict labour, to the exclusion of all other industries usually employed as prison discipline, and for which suitable establishments might be furnished in much more advantageous localities than that which I have indicated.

As possessing in some respects similar advantages to Resolution Island, Stewart's Island might be suggested as a site for a Penal Establishment. Granitic rocks abound there, surrounding excellent harbours, but the great disadvantage would be the large extent of the island, which would increase the difficulty of guarding the prisoners, and its greater exposure to cold severe weather from the south, from which Dusky Bay is to a great extent free.

For a Central Penal Establishment where various industries might be employed, though quarrying would be a subordinate consideration, I would recommend the Commissioners to consider the merits of D'Urville Island, which, from its occupying a central position for the whole Colony and possessing good harbours, offers several advantages.

In the northern districts of the Colony, the most favourable site for a penal establishment would be the Great Barrier Island. It is easily accessible, and yet quite isolated, possesses a good choice of harbours, facilities for cultivation and various industrial employments, and is to a certain extent advantageous for the opening of quarries of marketable stone. On this latter point Captain Hutton has recently reported as follows:—

“Dykes of various igneous rocks are numerous, especially in the northern part of the island, and form a very interesting study. The diorite dykes are usually light coloured, and have the hornblende in well marked black crystals embedded in a white felspathic base. It is this rock that has been quarried for building purposes, under the name of ‘Great Barrier granite.’ Although not a granite, it is a very superior stone for buildings or kerbstones; the various dykes, however, vary very much in quality and in power to resist the weather. Great care should therefore be taken to select for working only those dykes of good quality. These dykes average perhaps ten feet in thickness, so that the supply of stone would be large, but not by any means unlimited.”

The following is a list of the localities where building stone can be quarried in New Zealand in places advantageous for shipping:—

Wangarei.—Limestones, sandstones, basaltic and trachytic rocks.

Great Barrier Island.—Primitive diorite, resembling grey granite in appearance but not so durable.

Auckland.—Scoriaceous lavas, having only a local value.

Mercury Island.—Basalts and trachytes.

D'Urville Island.—Syenite, also slates and flagstones.

Astrolabe Roadstead (Adele Island).—Granite.

Collingwood.—Marble.

Banks' Peninsula.—Trachytic and basaltic rocks, in great variety.

Moeraki.—Calcareous freestone of fine quality, but involving land carriage for fifteen miles.

Appendix E.

Otago Harbour.—Basalt and trachytic rocks, in great variety; also tufaceous sandstone and breccia rocks that are used locally.

Paterson Inlet, Stewart's Island.—Granites of several kinds.

Bluff.—Syenite.

The West Coast Sounds, from Preservation Inlet to Milford Sound.—Granites, syenites, diorites, gneiss, serpentine, marble, and porphyry.

Wellington, 1st June, 1868.

JAMES HECTOR

*Appendix F.**Appendix F.*

EVIDENCE of J. M. BALFOUR, Esq., as to the best Site for a PENAL ESTABLISHMENT in NEW ZEALAND.

1. I have made several voyages round the coasts of the Colony. My attention has been called to the eligibility of some place for a Central Penal Establishment. Taranaki is the place. It would be very desirable to have a harbour of refuge at Taranaki. That is the only place on the West Coast of this island with which I am acquainted at which there are facilities for the construction of such a work. I do not think the position convenient for hulks. I think after quarrying part of the outer Sugar Loaf, a convenient prison might be erected for say 500 prisoners. The material is fair building stone, and fairly workable. I found a small amount of powder brought down a large amount of rock: Two bores of one and a half inches diameter, about three feet deep and two-thirds full, brought down a block weighing about ten tons. I think temporary erections might be made on land. There is, I believe, ample material at hand for the construction of a harbour of refuge at the outer Sugar Loaf. A harbour of refuge, capable of providing for the shipping wants of New Zealand for a very long period, might be constructed by joining the outer Sugar Loaf with the shore, and carrying out a mole to the eastward, thus sheltering about a square mile of water surface. Average depth at low water about three fathoms, but some of the sheltered area would have a depth of about five fathoms. A very large proportion of the labour required would be unskilled labour. In round numbers, I believe such a work would cost from £750,000 to £1,000,000, if constructed by free labour. It is a work which could be constructed so as to become gradually available. It would take about eighteen months to two years for 300 free men to make the first junction, making a large allowance for time lost through bad weather; and, with the same number of men, the extension eastward from the Sugar Loaf (Moturoa) should progress at the rate of about 200 yards per annum. Were prison labour largely employed, I should incline to estimate the value of a prisoner's labour at about half that of a free man. I know of no special circumstance tending to make Taranaki a peculiarly eligible site for a penal establishment, except the fact that the unskilled labour of a large number of prisoners could there be employed for many years with very great advantage to the commerce of the Province, which stands greatly in need of better protection to shipping. A Harbour of Refuge at Taranaki would be a national benefit. I believe that the trade of Taranaki is sufficient to procure the necessary supplies for the prisoners, and that the site would be in a very healthy situation.

2. I think a Harbour of Refuge is much wanted on the West Coast of the Middle Island; and if a place could be found near the rivers Grey and Buller where a Harbour of Refuge, or even a good and easily accessible commercial harbour, could be constructed, it might be desirable to the interests of the whole Colony to construct a harbour there in the first instance, as thereby the coal trade of the adjacent country would be developed.

3. I think that Napier is not an eligible spot for a great seawork, constructed by prison labour, on account of the want of proper material in the neighbourhood.

No. 4.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor Mr. Justice JOHNSTON.
(No. 562.)

Colonial Secretary's Office,
Wellington, 21st July, 1868.

SIR,—

I have the honor to acknowledge the receipt of the Reports, dated respectively the 8th and 14th instant, from the Royal Commission on Prisons, and to state that they have been duly laid before His Excellency the Governor, who has been advised to direct their presentation to the General Assembly.

It affords me much pleasure to convey to your Honor the thanks of the Government for the great zeal displayed by the Commission in executing the onerous and important task confided to it, and for the very valuable Reports and evidence which it has furnished, which, with the conclusions arrived at, cannot fail to be attended with great advantage in relation to a subject of so much interest and public importance.

I have, &c.,

His Honor Mr. Justice Johnston,
Chairman, Royal Commission on Prisons, Wellington.

E. W. STAFFORD.

No. 5.

MEMORANDUM by ALEXANDER J. JOHNSTON, Esq.

To His Excellency Sir GEORGE FERGUSON BOWEN, G.C.M.G., Governor of New Zealand and its Dependencies, &c., &c., &c.

As late Chairman of the Royal Commission on Prisons, I am desirous of calling attention to a misrepresentation which has been pointed out to me in the Report, and which, having occurred through an oversight of my own, I am anxious to correct, although it does not affect any of the opinions or conclusions arrived at by the Commissioners.

In the Report, page ten, line thirty-seven, it is said—"In Wellington an empowering Ordinance, 1854, passed or professed to transfer the powers of the Lieutenant-Governor of New Munster to the Superintendent; but the Prisons Ordinance is not one of those enumerated in the Schedule, and therefore the powers derived therefrom by the Lieutenant-Governor of New Munster have not been transferred to the Superintendent of Wellington. In the Province of Hawke's Bay, the empowering Ordinance, like that of Wellington, from which it is derived, does not contain the Prisons Ordinance in the Schedule." Now it appears, that while the New Munster empowering Ordinance enumerated in its Schedule the Ordinances which contained the powers transferred by it from the Governor of the Colony to the Lieutenant-Governor of New Munster, the Provincial Ordinances of Wellington and Hawke's Bay transferred the powers under the Ordinances enumerated in the Munster Ordinance, *except* those enumerated in the Schedules attached to the new Provincial Ordinances respectively; and the Prisons Ordinance being omitted from those Schedules, the powers of the Governor under the Prisons Ordinance *were* transferred to the Superintendents of Wellington and Hawke's Bay.

It appears, however, that the Superintendents of those Provinces have not exercised their powers for the purpose of making such rules as they are thereby authorized to make, although they seem to have (legally) appointed Visiting Justices.

At Wellington, no rules have been made for prisoners under sentences of imprisonment with hard labour; and for Napier, such rules have been made by the Governor, apparently in derogation of the powers transferred to the Superintendent.

The correction now suggested will apply not only to the passages of the Report above quoted, but also to the sentences beginning respectively at the thirty-fifth and forty-seventh lines of page twelve of the Report.

ALEXANDER J. JOHNSTON.

Wellington, 29th July, 1868.

No. 5.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor Mr. Justice JOHNSTON.
(No. 709.) Colonial Secretary's Office,
Wellington, 5th October, 1868.

SIR,— I have received the enclosed letter, dated the 29th ultimo, from the Superintendent of the Province of Otago, drawing attention to an alleged error in that part of the Report of the Royal Commission on Prisons which refers to the value of labour performed by prisoners in Dunedin Gaol. I forward this letter, which I request may be returned, in order that your Honor, as late Chairman of the Commission, may have the opportunity of making such remarks thereon as you may think desirable.

His Honor Mr. Justice Johnston,
Late Chairman Royal Prisons Commission.

I have, &c.,
E. W. STAFFORD.

Enclosure in No. 5.

Copy of a Letter from His Honor J. MACANDREW to the Hon. E. W. STAFFORD.
(No. 8675-6.) Superintendent's Office,
Dunedin, 29th September, 1868.

SIR,— I have the honor to direct your attention to an error in the Report of the Royal Commission on Prisons recently presented to Parliament—see Appendix, A. 12—from which it appears the value of labour performed by prisoners in Dunedin is only £7,259 18s. 6d. I enclose copy of the Return which was furnished to the Commissioners.

I have, &c.,
J. MACANDREW,
Superintendent.

The Hon. the Colonial Secretary, Wellington.

Sub-Enclosure to Enclosure in No. 5.

RETURN (A) showing the AMOUNT and DESCRIPTION of WORK done by PRISONERS sentenced to Penal Servitude and Hard Labour in HER MAJESTY'S GAOL, DUNEDIN, from the 27th of May, 1863, to the 31st of December, 1867.

YEAR.	DESCRIPTION.	AMOUNT.	TOTAL.
		£ s. d.	£ s. d.
1863 From May 27 to Dec. 31	Removing Bell Hill	2,211 12 0	2,335 9 0
	Work done by Blacksmiths, Carpenters, Wood-cutters, Tailors, Shoe-makers, Mat-makers, Cooks, Wardsmen, Wards-women, Washer-women, and Needle-women	123 17 0	
1864	Removing Bell Hill and Reclaiming the Harbour ...	7,219 1 6 ¹ / ₂	7,906 14 0 ¹ / ₂
	Work done by Blacksmiths, &c., as above ...	687 12 6	
1865	Removing Bell Hill and Reclaiming the Harbour ...	5,669 16 5	6,630 15 5
	Work done by Blacksmiths, &c., as above ...	960 19 0	
1866	Removing Bell Hill, Reclaiming the Harbour, and Dredging	5,056 3 3	6,221 7 0
	Work done by Blacksmiths, &c.	1,165 3 9	
1867	Removing Bell Hill, Reclaiming the Harbour, and Dredging	5,854 4 0	7,017 16 2
	Work done by Blacksmiths, &c.	1,163 12 2	
	GRAND TOTAL	...	£30,112 1 7 ¹ / ₂

APPENDIX TO REPORTS.

REPORT showing the AMOUNT of WORK done annually by PRISONERS sentenced to Penal Servitude and Hard Labour in HER MAJESTY'S GAOL, DUNEDIN, from the 27th of May, 1863, to the 31st of December, 1867, deducting the Cost of Material.

YRAB.	COST OF MATERIAL.				NET TOTAL.		
				£ s. d.	£ s. d.		
1863	Amount as per Return A.	...	...	2,335 9 0			
	Cost of Material	...	...	Nil.			
					2,335 9 0		
1864	Amount as per Return A.	...	...	7,906 14 0½			
	Cost of Material	...	...	1,060 16 6½			
					6,845 17 6		
1865	Amount as per Return A.	...	...	6,630 15 5			
	Cost of Material	...	...	907 11 3¼			
					5,723 4 1½		
1866	Amount as per Return A.	...	...	6,221 7 0			
	Cost of Material	...	...	463 15 11½			
					5,757 11 0½		
1867	Amount as per Return A.	...	...	7,017 16 2			
	Cost of Material	...	...	971 2 0			
					6,046 14 2		
	TOTAL NET VALUE OF LABOUR	...	...		£26,708 15 10¼		

No. 6.

Copy of a Letter from Mr. Justice JOHNSTON to the Hon. E. W. STAFFORD.

SIR,—

Wellington, 8th October, 1868.

I do myself the honor to acknowledge the receipt of your letter of the 5th instant, respecting an alleged error in the Report of the Royal Commission on Prisons, and in reply, beg leave to state that, having directed the Secretary to make the necessary inquiries, an explanation has been furnished, of which I beg to annex a copy.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

ALEXANDER J. JOHNSTON.

Enclosure in No. 6.

7th October, 1868.

A mistake appears to have been made in filling in the table in Appendix A., with respect to Dunedin Gaol. I cannot at all account for it. The figures should be—Gaol Expenses, £45,406 5s. 10d.; Value of Prison Labour, £26,708 15s. 10¼d. The appendices were compiled by Mr. O'Neill and myself. An explanatory sheet should be issued, making the necessary corrections.

C. E. HAUGHTON.