

ing to a popular maxim, but also according to the soundest principles of morals. So far, however, is it from being true that proprietors of houses would suffer by such plans, that the very reverse is the case—property is made more valuable. A single case may be referred to in proof of this.

“The Windsor Royal Society, whose patroness is Her Most Gracious Majesty, and of which his Royal Highness the Prince is also president, was formed in May, 1852, with the express object of showing that better accommodation can be provided for the working classes than previously existed, at a cost which will be remunerative. The directors of this society purchased, for £412, one of the large houses in Church-street, London, the residence formerly of noble families attached to the court, but in latter days used for the most ignoble purposes, and suffered to fall into the last stage of dilapidation. This house they thoroughly repaired, drained, and ventilated, and provided with every convenience at a cost of £365.”* This, together with the other works of the company, has been found to yield a return of five per cent. on the outlay. Other works of a like kind by similar societies have been found equally remunerative.

This groundless objection being removed, the possibility of effecting an improvement without any great sacrifice is manifest, and its desirableness cannot be doubted by any who value the intellectual and moral elevation of the people.

IV.—*On the Disposal of our Convicts.*—By P. J. McKenna, Esq.

[Read 15th December, 1856.]

THERE are few social questions of the day of greater importance than that relating to the disposal of our convicts. Seldom have there been shown more ignorance, prejudice, and irrationality than are to be found in the observations made both in public and private upon this difficult and important topic. It is especially irksome to find men of education and intelligence adopting, without consideration or enquiry, the opinions of newspaper writers, whose object in the present day seems to be to reflect public opinion rather than to instruct or inform it. The public is irritated, and justly so, by the outrages of the ticket-of-leave men in England; and I am quite prepared for their running away with the subject, and losing their senses in talking about it, with the first impulse of that irritation; but that they should whirl along with them many who might fairly be expected to form sound conclusions, and to help in stemming the torrent, must be a matter of deep regret to all who have inquired into and take an interest in this subject. I consider it a duty to assist in setting the question fairly before the public, however small that assistance; and if, in stating my opinions and the

* *The Practicability of Improving the Dwellings of the Laboring Classes*, by Cheyne Braçy, Esq. 1854.

reasons for those opinions, I should bring forward facts known to many, arguments it may be common-place, and reasonings obvious on a moment's reflection, I shall hope to be forgiven.

Before proceeding to state the circumstances under which the present ticket-of-leave system had its origin, and the law relating to convicts as it is now administered, there is one principle which requires to be stated, which must be ever kept in view, and which will be found to afford the key to many things which we could not otherwise be satisfied with or understand. The great object to be attained by secondary punishments is, that the great mass of convicts should be absorbed by the honest labouring class, and should become inoffensive members of society. Either this must be done, or we must determine to make every convict a prisoner for life. I need hardly proceed to argue that reason, justice, and policy forbid the latter course. The great number of discharged prisoners who abandon their criminal pursuits shows that such an unjust and costly course (one only to be justified by the sternest necessity) needs not to be taken.

In this latter view, the absorption of these criminals into the mass of labourers, artizans, &c., as their ultimate destination, must be our object, not alone from motives of humanity but of self-interest. For this purpose there must be a society, a field for industry, and a demand for labour, wherever these men are to be discharged from prison, otherwise they must live either by plunder or be supported on government works. Up to 1852, our Australian colonies presented a ready though somewhat costly mode of disposing of convicts. We saw no more of them in these countries, and were content to pay for this luxury. About that time, however, the colonists began to grumble, and finally refused to receive any more convicts; the result of which was, that government should either provide prisons for them at home, or found, at a frightfully increased expense, penal colonies with the same final destination—absorption by the mother country. Some time previously (1850) a long and careful inquiry on the subject was instituted by a select committee of the House of Commons, and in conformity with the recommendations contained in a report made by that committee, the Ticket-of-leave Act (16 and 17 Vic., c. 99) was passed. By that act it was provided that no person should be sentenced to transportation for a period less than fourteen years, and that for offences which made them liable to transportation for fourteen years and upwards, the judge might award either transportation, or the confinement in penal servitude substituted by the act for the different periods of transportation. Penal servitude for four years was substituted for transportation for seven; for not less than four and not exceeding six years, for transportation between seven and ten years; from six to eight years' penal servitude for transportation for periods varying between ten and fifteen years; six to ten years' penal servitude in lieu of transportation for periods exceeding fifteen years; and penal servitude for life as a substitute for transportation for life.

The ninth section then provides that "It shall be lawful for her Majesty, by an order in writing, under the hand and seal of one of her Majesty's principal secretaries of state, to grant to any convict now under sentence of transportation, or who may hereafter be sen-

tenced to transportation, or to any punishment substituted for transportation by this act, a licence to be at large in the United Kingdom and the Channel Islands, or in such part thereof respectively as in such licence shall be expressed, during such portion of his or her term of transportation or imprisonment, and upon such conditions in all respects as to her Majesty shall seem fit; and it shall be lawful for her Majesty to revoke or alter such licence by a like order at her Majesty's pleasure."

By the order of the Secretary of State, the operation of that act is limited to persons still liable to transportation, and who have been or shall be sentenced to transportation.

Having now nothing to gain by transportation, as if we send them to a purely penal colony we must either find them employment at the public cost or bring them home, the question presents itself, What are we to do with them?

Should the ticket-of-leave system be abolished? should it be extended and modified? and are there any and what means of rendering it more effective in its objects?

With regard to the first and most important of these problems, the extent and increase of ignorant prejudice and the erroneous and hasty views of many newspaper writers, involve the necessity of hastily summarizing the chief arguments on the topic, notwithstanding that the legislation upon the subject was consequent upon an extensive and careful consideration of the entire question. Nothing is more common, vexatious as it must be to those who have considered the matter, than to hear men of intelligence and education exclaim that the system is utterly rotten, adding such puerilities as that leniency to ruffians is madness or mawkish sentimentality. How often do we hear such observations as, "Why should those miscreants be comfortably lodged, clothed, and fed, while many of our poor and honest artizans are struggling with want, and working themselves to death for wretched food and worse clothing?" or, "The country will be uninhabitable if the legislature continues to let loose on society the hordes of footpads and burglars who are now swarming about, and rendering even our thoroughfares dangerous." There is a short way of disposing of these absurd remarks—namely, the simple interrogatory, What are we to do with them?

In replying to this question, we have to consider what is practicable as well as just and expedient; and further, to weigh and balance the different degrees of practicability, justice, and expediency, which each plan of dealing with convicts presents. Before doing so it would be as well to clear the subject of some of the popular opinions upon it. To those who cry out, "Punish them to deter from crime," we can say, "Certainly, but let your punishment be calculated to have that effect." It will hardly be contended that we are to restore our prisons to their condition in those barbarous times when prisons were pest houses, both moral and physical; that we should starve them, clothe them in rags, and abandon them to filth and disease. Better at once to forget that we have to deal not with brutes of the field, but with beings like ourselves, with the same faculties, feelings, and reasoning powers, fashioned after God's

image, and gifted with immortal souls, and return to that Draconian code which hung a man for stealing a shilling's worth of ribbon. Are they to be whipped or tortured? No man in his senses can persevere in talking about mistaken lenity, if he ponders on these things for a moment; or can fail to recognize the universally admitted principle, that expatriation, or removal from society by imprisonment, forced labor, the denial of every comfort and small luxury, and the various galling restraints of a prison-life, are the proper and only punishments to which men can be subjected. Again, with regard to the outcry that the country is overrun with ruffians liberated on tickets-of-leave, let it be borne in mind that do what you will with them, treat them well or badly, try to brutalize or reform them, these men will eventually be discharged, and the only evil to be complained of is, that for a short period the public are receiving more than their regular dividend of rogues, though not more than they must eventually receive. Let us throw humanity and reason out of consideration for the moment, and tell those who make that foolish outcry, that the only way to meet their difficulty is to lock all convicts up during their entire lives,—as it really would be; and leave those sensible and practical men to work out the consequences, both financial and otherwise, of such a scheme.

To return, however, to that question, really replete with difficulty, and which embarrasses those who have thought and inquired long and deeply on the subject, should the ticket-of-leave system be continued? There is in the country a mass of crime found unfortunately to be consequent on a high state of civilization, a crowd of men more or less criminal, whom to leave at liberty in their present condition and with their present ideas, or rather absence of ideas, as to right or wrong, is incompatible with the well-being, comfort, and safety of society. We cannot hang them; we cannot shut them up for life; we cannot foist them on our neighbours. This being so, our object must be to take the harm out of them, and as far as lies in our power to make them unobnoxious members of society, both by frightening them from the perpetration of crime, removing the temptations which ignorance, idle habits, and want hold out, and giving them a fair start should they be willing to earn an honest livelihood. For this purpose there are but three modes known—transportation, imprisonment for a fixed time, and imprisonment on the ticket-of-leave system. Before offering a few brief remarks on these different modes of disposing of convicts, I should wish to quote some observations of Captain Whitty, sometime governor of Portland Prison, and subsequently director in superintending prisons for public works; a gentleman who, according to Colonel Jebb, “can speak with an experience and authority which no one else in the kingdom possesses.” I am the more anxious to do so, as his remarks bear upon and illustrate each one of the several questions which I propose considering.

In a memorandum dated 13th July, 1855,* he says:—

* Report on the Discipline of the Convict Prisons, on the operation of the Act 16 and 17 Vic., c. 99, by which penal servitude was substituted for transportation,

“The question of dealing on public works with the convicts under sentence of penal servitude is becoming a very serious one, and presses for immediate consideration and settlement.

“If their sentence of penal servitude is to be considered as one of actual imprisonment for the whole period awarded, their position becomes entirely different from that of men under sentence of transportation with whom they are associated: the main inducement to good conduct and industry which has hitherto operated so beneficially in the management of the latter will be wanting, and it is to be apprehended that the penal servitude-men will become generally reckless and indifferent, and that the incorrigible class, which has been almost extinguished under the system of the last few years, will comprise a very large proportion of the whole number.

“The whole present system by which convicts are managed on public works, and good order and willing industry maintained among them, and often under circumstances of much difficulty (of apparent want of ordinary means of security and control) is founded on encouragement to the well-conducted, and must break down if the means of encouragement are taken away.

“It appears very doubtful whether any gradual accumulation of the privileges, though amounting towards the end of the sentence to the greatest indulgence that could be allowed within a prison, would operate on the minds of the general body of the convicts sufficiently to produce much effect upon their general conduct, if the period of their detention continued to be a fixed one for all alike. The relaxation necessarily implied in such a case, combined with the convict's knowledge that he could not be detained beyond a certain approaching day, would directly tend towards the end of his sentence to make him less careful of his conduct; and on leaving the prison *he could plunge at once into vice and irregularity* without the slightest fear of control. Under the present system, on the contrary, his motives to good conduct not only continue, but grow stronger till the last moment of his remaining within; and *even then, the licence being a revocable one, there is for a time a check upon his conduct which induces caution in his mode of life at the very period when circumstances obviously render such a check necessary.*”

Bearing these observations in mind, I shall now proceed to consider the ticket-of-leave system.

Transportation, as I have I trust already shown, being, under existing circumstances, quite out of the question, there remain only the ticket-of-leave system, and imprisonment for a fixed time. In attempting to decide between these two systems, we shall find that that decision entirely depends upon this question: Are we to place our hopes of reformation and future good conduct on punishment alone, or should a wholesome and proper amount of punishment be accompanied by efforts to pave the way to future good conduct, by instructing convicts, by pointing out to them the folly as well as

wickedness of criminal courses, by fitting them for society, and giving them such a start in life when they are discharged from custody as will, if they are inclined to be honest and industrious, remove them above want?—a trial to which few, if any amongst us, could be exposed with safety. Were we dealing with hounds, no doubt, the former course would be found most effective, although even with brutes most is effected by a mixture of punishment and kindness. Can there be any reasonable doubt that with reasoning beings the latter is the fit course to be adopted? Bearing in mind, then, the observations of Captain Whitty already quoted—observations, whose justice the sense of every man recognizes,—the ticket-of-leave system as a principle, differ as we may about its details, must be approved of and adopted as the basis of our system of secondary punishments.

In order, however, to render the ticket-of-leave system fully effective, there should be, in my opinion, an extension of its operation to persons sentenced to penal servitude as well as to transportation. The result of the present rule is to confine the operation of the ticket-of-leave system to the very worst class of offenders, as it is only such who are sentenced or subject to transportation. The present rule would seem one of those half measures which hardly satisfies any, and it gives no fair trial to the new system. If, as I have already urged, the absorption into the general mass of inoffensive population be the object of our punishment, and that that object is best attained by the ticket-of-leave system, I cannot see why persons sentenced to four, six, or ten years' penal servitude should not be eligible for the same licence. The only reward found to give a stimulus to good conduct is the prospect of liberty to be attained by good behaviour.

It will be said that if such a rule is now made, the convicts will escape the amount of punishment intended to be inflicted by the judges who have tried them, and have proportioned the punishment to the offence. That objection, however, might be obviated by making some special provision for those now undergoing their sentences. Let almost every convict feel that by good conduct he may obtain his liberty, were it but a month sooner than he should be discharged in due course of law, and the desired object will be attained. The less hardened criminal, whose return to the path of honesty is less difficult than the old and dangerous offender, should not be shut out from his fair chance of reformation; or rather, we should not deprive ourselves of the fair chance of reforming such convicts. In this respect it would seem desirable to reconsider the regulations of the Secretary of State on the subject, and render the benefit of the ticket-of-leave system more extended in its application. He has the power, under the Act, of giving the benefit of it to every person under sentence of penal servitude; and as soon as the new rule should be promulgated, judges would take into account the fact that, after the expiration of a certain proportion of the period of his sentence, a convict might be liberated, and I would accordingly duly mete out the fitting punishment.

Although the complaints of the public and the press of the out-

rages committed by ticket-of-leave men seem to me perfectly just, the mistake is to argue thence that the ticket-of-leave system should be abolished. A pain or ailment in the human body, though it exist, only shows that some remedy should be applied; but what the remedy is to be is the question. It can hardly be to remove the affected member or use some such remedy as, while it cures one ill, may cause many others more serious. While, on the one hand, I would not treat all convicts as irredeemable; on the other, I would show no false weakness or pity in punishing those exceptional cases of confirmed depravity. These men should get a fair chance, by moral and physical training, of becoming orderly members of society. In nine cases out of ten, I might say ninety-nine out of one hundred, crime is the child of ignorance, want, vicious education, and bad habits. If, then, a convict gets his fair chance, if the State gives him every assistance and encouragement to reform, and he again betake himself to crime, as will occur, and has in many instances occurred, let him be imprisoned for life, and let society be rid of him. Those numerous assaults on life and property by footpads and burglars, to whom tickets-of-leave have been granted, and who have been put in the right path but will not continue in it, are utterly intolerable; and it seems to me that the legislature should, without the slightest compunction, render obligatory a sentence of imprisonment for life for attacks with violence upon the person, accompanied with robbery or with the intention of robbing, and for burglaries, by ticket-of-leave men. In offences of a less daring character, a discretion might be given to the judge, who would take into account the condition of the prisoner, the temptations to which he was exposed, and all the circumstances of the case.

While dealing thus with incorrigible offenders, it should be borne in mind that, in point of well-being as well as economy, the fewer relapses into crime the better; and that for this purpose a little trouble and expense in launching convicts, on their liberation, in an honest course of industry would be judiciously expended. The wonder should be in England that, with such a crowd of convicts turned loose, there should have not been a greater number of relapses into crime. In this country a much greater amount of caution is exhibited, and much greater care exercised, in not liberating them until they are both eligible to receive their liberty, and have also a fair prospect of obtaining employment and of earning their bread honestly. Previous to liberation, ticket-of-leave men are sent either to Smithfield prison, Dublin, or that at the Cove of Cork, both conducted on the same principle. Here, in addition to working at some trade, they receive the rudiments of an education such as may be useful to them, and they attend lectures every evening on particular subjects likely to be of use to them; as on the Benefits of Temperance; the Causes of Crime; Idleness; the Necessity for Exertion; Emigration; Labour and Capital; Steam; Electricity; Mining, etc. On each Tuesday and Saturday evening there is a kind of competitive examination, in which the men, divided into two divisions, in turn ask and answer questions on the different subjects which have been lectured on during the week. Before they are liberated some situation or em-

ployment is obtained for them by the officers and persons connected with the prison, or is promised them by some of their own friends or persons who know them. The men are frequently sent out on messages through the city, and treated on the whole rather as would be the inmates of a charitable institution who were submitted to certain restraints. An account is kept of every man who leaves, and the satisfactory result has been that, of 158 discharged within the last few months, 106 on tickets-of-leave, and 52 with free pardons, but 3 have been recommitted. Of those discharged, 29 are receiving employment in Dublin and its vicinity, and giving to their employers perfect satisfaction.

I have been present on several occasions at Smithfield, looking and listening sceptically, prepared to find fault and to discover that the favourable reports of the officers were at best exaggerations. I have looked through the books and seen the original letters which told of the men who had gone out of the institution, and I feel bound to say that in every department nothing more is professed than what is effected, and have only to regret that it cannot be permitted to me in this paper to give at some detail the management and statistics. I should not omit to mention the anxious concern manifested by the Lord Lieutenant in the management and progress of this institution. Its success is fraught with interest to the scholar, the statesman, and the philanthropist; and the anxiety of Lord Carlisle for its welfare, manifested as it is by his frequent and unostentatious visits and inquiries, is but in keeping with all we know of one whose least title to our respect is his exalted rank.

Having, I fear, exceeded my allotted time, I must pass in a few lines over those patronage societies which prevail on the Continent, for the purpose of fitting persons *provisoirement libres* for entering on the honest pursuits of industry, and assisting them to obtain employment. Perhaps it is as well that I should leave (as I purpose doing) this subject to form the subject of a separate paper, important and difficult as it is; and I must remain for the present content with having, as far my humble abilities and the permitted length of this paper allow me, made a case for the continuance and extension of the ticket-of-leave system, and helped, be it in ever so small a degree, in dissipating popular prejudices and mistakes on the subject. I might have quoted from Blue Books both figures and evidence to support my statements; but with the present feeling about official evidence and figures, I have thought my object should be best attained by stating popularly, although it may be somewhat loosely and roughly, the bearings of the question; and if I have at all succeeded, I shall be better content than to have acquired a reputation for extensive information or fine writing.

NOTE.—An observation made by a member of the Society in the course of the discussion which followed this paper, suggested to me the propriety of stating the certain term of imprisonment which a convict must undergo before he becomes eligible to receive a ticket-of-leave. A convict sentenced to transportation must remain in prison for the period substituted by the 16 and 17 Vic., c. 99. Thus, a person sentenced to seven years' transportation must remain in prison for four years, and for similar periods proportion of their sentence of transportation.—*Vide p. 2.*