7. to engage a large number of the officers to absent themselves Friday: that this would be followed by the usual locking up of half a day on Saturday: that this again would be followed by our being locked up, during the whole of Sunday, because it happened to rain for five minutes & no more throughout the day, We were locked up, on the Thursday also. On this occasion a man with whom I was working, saw the then Inspector General Colonel ~~Scamp~~ Champ, to remonstrate: on his return he told me, he opened the audience by saying "Are you aware Sir, that notwithstanding the Superintendent knew We were to be locked up, during the whole of Friday, the half of Saturday, & the whole of Sunday, he had us locked up the whole of Thursday also?" to which the Inspector General is said to have replied — "No, I did not know it: but the Superintendent can lock you up whenever he likes" & so the interview terminated. Mr. Champ positively discouraged work: he had but one object, which was the grand feature of his administration: & to which every thing was made subordinate, viz. to keep up the strength of the establishment. At present, as respects the men working in the open air, matters are on a much better footing: there are much fewer holidays to the officers: & slight showers are no longer availed of, to lock up the men during the whole day: in fact, every effort is now made to get the men out whenever practicable: still something should certainly be done to enable the men who work in the shops, the mechanics, who are much the most valuable portion of the convict community, to obtain air & exercise: I submit, that when not at labor, or at meals, or in school or Church service, they should be in the open air, so long as it is daylight, except in the very longest days: the shops they now work in, are much unhealthy: when the new ones now erecting are completed, they will be so contiguous to the cells, that they will literally pass out of one into the other, without ever being for any appreciable

time, in the air at all. —

Sick Time. A most monstrous injustice exists in compelling prisoners to perform over again, time spent during sickness in the gaol hospital: In my own case, I was after completing Ten Years wrongfully & illegally compelled first to perform Six Months additional imposed, in wanton wickedness, for acts that instead of being offences were in truth positive virtues: the full detail of these will be brought before the Public in the form of a Petition to the Assembly. Subsequent to the performance of Ten Years & Six Months, under circumstances that I know the present Inspector General believed to be a gross violation of Justice this gentleman thought fit to impose upon me, the performance of Four Months, for hospital time, though he knew that all my sicknesses, which had sometimes been very grievous, had resulted solely from the food & discipline of the place. The rule is that all sick time shall be so much addition to the time to be performed, but an absolute discretion is lodged with the Inspector General, to enforce or remit it, at his pleasure: as Mr. Duncan was pleased, in my case, to enforce the performance of this sick time, after he had power to release me, I consider that virtually, he made me his individual prisoner after I had ceased to be a prisoner of the Crown. It is contended that this rule is necessary, in order, to prevent the hospital being flooded by schemers or malingerers: I ask if there be any place in the civilized world, save in Victoria alone, where such a regulation is thought necessary? If it be thought necessary to retain such a rule in certain cases, where the disease real or simulated be obscure & the symptoms not obvious to the eye of a medical man

or where discoveries are made at a period subsequent to the treatment of the patient, giving strong presumptive evidence of malingering, can there be any reason why it should be enforced in cases of malignant type, in which there has been imminent danger? Again, the class of men most prone to make the hospital their head quarters, consists of just such persons as the rule cannot affect, the thorough gaol loafer, the habitual thief, who having no "indulgence" that is who has to perform his entire sentence, cannot be retained after its expiration to perform hospital time. I hope the Government will banish this stain from their Gaol regulations. — I should have added that I know of many deaths having resulted from men being deterred from availing themselves of the hospital in consequence of this most pernicious rule, in proof of which I record the names of Will. Broom, Hall & Van. Wainwright, all men who were peculiarly valuable, being each a foreman in some branch of labor.

Inquests

The subject suggested by the foregoing - or rather the treatment received by men while undergoing imprisonment sometimes results in a certain form of Judicial inquiry bearing the style & title written in the margin. I have an excellent memory & Dr. Read's Pharmacopoea did not contain the Aqua Lethe: I will therefore tax my memory & call upon it to yield up the following cases; In the months of July & June 1867, I was an inmate of the hospital: during that time, an accident by a fall of earth in an excavation, by which one man was killed & another broke his arm: the first was brought into the hospital in a dying state: & breathed his last in about half an hour: he was a thoroughly respectable young man: was acknowledged to be innocent, in virtue of which he had received a mitigation & was to have been released shortly. The following morning I was told by the man

with the broken arm such an account of the accident that, were his account correct, there could have been no doubt, that no lesser verdict than one of "Manslaughter" would have been returned: by this man's special request, I signified to the superintendent, Mr. Duncan the man's desire to be brought before the coroner & Jury, for the purpose of giving evidence: Mr. Duncan exhibited the strongest indignation at my interference told me, he had spoken to the man: that he had no wish to be examined: & ordered him, to be transferred to the Model, where I remained locked up, till the inquest had terminated. While locked up, I requested to see the superintendent, to whom I signified my desire to be brought myself before the Coroner, my object being to inform the Coroner that important testimony: other men who had witnessed the occurrence, who had expressed their desire to give evidence were locked up.

Daniel Evans

James Simms

In the month of December 1863 died James Simms under circumstances that can leave no doubt, that great culpability rested with the medical officers, had the actual facts been permitted to transpire: this man had been suffering from stricture of the Urethra & was under treatment during the same time that, I myself was for the same complaint: I was thoroughly conversant with his case: his was a very mild form of the complaint mine a very aggravated one: in proof of this assertion, I may state that though he was first treated, by the catheter in the depth of winter, a season very unsuited to overcome the obstacle, it yielded very easily: I saw him many times subsequently, when his report of himself was always the same, that he had the instrument passed occasionally, as a prevention only. On the morning of the day of his death, I saw him for the last time: this was the third day previous to his intended discharge: he told

Vide in this unfinished State 10.11.0

~~41790 Re~~ 71/11791 Date 14 Sept / Regd 16 "

Geo. Barden
as to necessity for reorganizing the plan for imparting religious and moral instruction to prisoners in Penal Establishments

Melbourne, September 14. 1871.

Sir,

I have the honor to address you, for the purpose of calling your attention to the pressing necessity that exists, in the reorganization of the Penal Establishments, for a complete & radical change, in imparting religious & moral instruction to the prisoners: at present this is merely nominal.

When there was but one Protestant Gaol Chaplain at Pentridge; and services were performed in two divisions of the Stockade, there were, at all events, valueless as these may have been, two weekly services, on Sundays: when three chaplains were appointed, the number of services were reduced to one in the week: and though there are three Protestant Chaplains, it has been most ingeniously arranged & have reasons to suppose by the Chaplain of the established church & Mr. Bardin that the sphere of usefulness of the dissenting Chaplains shall be reduced to a minimum and this with eminent success. Mr. Bardin holds one hard, cold service, on Sunday Mornings, which lasts about three quarters of an hour. The Wesleyan & Presbyterian Ministers have much against their will compelled to hold their services, in other portions of the Stockade, at the same time, as Mr. Bardin's service is proceeding: though why all denominations of Protestants may not, by proper arrangements, be permitted to attend all the Protestant services, none but Mr. Bardin can say.

Mr. Bardin has been Chaplain of the Stockade about ten & a half years, during which time, I believe

The Honorable
The Chief Secretary
&c. &c. &c.

71/2099 Sec 16/8/71
to Ch. Sec
JP
33728
Act 19 June 2019

I am almost literally correct in saying that no prisoner ever heard his voice, on the subject of morality or religion, except when he was in canonicals, on Sundays, unless it were men presumed to be on their deathbeds. The communications between the chaplains & prisoners are regulated in this way — During the performance of the model time, when the prisoners are in cells the whole day, the chaplains can have access to them as often as they think proper, so far as the prisoners belonging to each chaplain's denomination are concerned. Though I believe there is but one day a week, on which the Wesleyan & the Presbyterian Minister visit their men. These two latter Reverend Gentlemen are most worthy, zealous & assiduous: & are, as I believe deeply mortified that they are not supposed to be more efficacious than they are: they are also much respected by the prisoners of their congregations. Mr. Bardin spends a large portion of two days a week, in the model, though for what purpose, no man can divine. In this division Mr. Bardin virtually officiates as Librarian, & that alone: The intercourse between Chaplain & Prisoner is mainly, may almost universally this; Mr. Bardin sometimes enters the cell, more frequently stands outside the door, & says "do you want a book"; in the case of the better educated he perhaps adds, "is there any particular book, you would like": — this in the very hardest & most repellant voice; & departs: & so are lost, golden opportunities that can occur no more during each man's sentence. After the prisoners have completed their Model time, the chaplains can be seen only by the prisoners "applying to the chief Officer of each division, to be inserted in the book kept for that purpose": half an hour a week, is allowed to reply to such applications, which are never made, but for the purpose of begging some

small secular service; in the case of Mr. Bardin, these requests are sometimes promised to be complied with, but which promise is very rarely redeemed: these interviews are only momentary: the answers monosyllabic. I have myself observed Five cells thus entered and left in less than as many minutes. If Mr. Bardin's book be examined it will be seen how exceedingly few are the applications to see him. I dont exaggerate the feeling entertained towards this Reverend Gentleman, by saying that he is held in nearly universal detestation and abhorrence: that he is fully aware of this fact, I may state that when the stipends of the chaplains were suspended: and it was for a time in contemplation that they should not be renewed, Mr. Bardin told myself that he believed, his presence had not only produced no good, but he feared, he had been a positive evil: for a Minister of Christ to retain so responsible an office as this Reverend Gentleman holds, under such circumstances argues a total absence of principle. That Mr. Bardin's one sermon weekly is always a learned, scholarly literary & well finished composition, I am quite prepared to admit: but not more than one man in a fifty has capacity to comprehend it: and fully 90 p. c. take positive pains to abstract their attention from the proceedings. Before souls can be won, hearts must be gained: and as Mr. Bardin cannot help betraying the fact, that he has a natural & invincible repugnance to the men under his charge, this he never can accomplish.

I have said that the religious services are confined to one per week: substantially this is correct, in actual fact in order that a form shall be observed to meet objections, a few words from the prayer book are gabbled over, each morning, while the men are assembled for breakfast, which occupies the space of from 28 to 32 seconds: the protestant service is performed by a warder: the catholic by a prisoner: both in the messroom, at the same time, the words, of course intermingling. In these services, there is a very grievous omission: the service, to be complete should invariably terminate with these words — "Here endeth the insult to the deity".

There are numerous instances of men who have been in confinement for all periods, up to fourteen years, who never had a personal interview with Mr. Bardin, save perhaps one or two of a minute each, while performing their model time: a personal examination of the men ~~with~~ by a Gentleman representing the Government will fully corroborate this assertion.

There are some few instances of prisoners in Pentridge who, I can confidently assure the Government, are in spite of positive discouragement on the part of Mr. Bardin ~~are~~ thoroughly changed men: & who have been for some years ministering spirits of grace & mercy: I refer more particularly to Thankin and Johnson, both under life sentences: these men, feeling deeply, how terribly the place suffered

from lack of moral & religious teaching, some years ago, by dint of great perseverance, were, at length, suffered to establish what is styled a Bible class & a catechism class: but they meet with no encouragement on the part of Mr. Bardin; every discouragement on that of the authorities: yet in spite of all obstacles, they have accomplished a large amount of real good: of this I am certain: and in proof of which I may say, that whereas the prisoners as a whole consist of eighty five % of men that have been previously convicted, since these classes have been established, about seven years, I think the number who have returned, who have passed through these classes have not exceeded four %: apart from this, I know, of my own personal knowledge, that there are many poor creatures making efforts to be better, who are dragged back into the slough, overwhelmed by the adverse influences by which they are surrounded, for ~~what~~ want of some moral support which a suitable chaplain might & would render Mr. Bardin's presence at Penitridge is not only of no use: but he is a positive evil: and that of very great magnitude: it would be utterly vain to attempt any reform: & retain him. To effect change in Mr. Bardin, he must be a new man: a new body, animated by another soul.

They leave to request Your to be pleased to order a letter from John Johnson to the Inspector General, written about Four Months since, and I believe never replied to, to be laid before You. —

G. W. Selwyn

I have the honor to suggest a remedy.

There are at present three Protestant Chaplains, receiving these salaries – viz. £250. ~~£200~~ £100 & £100. and a schoolmaster, or more correctly speaking an entirely valueless officer, who receives, I think £200. with house, prisoner servant, & fuel &c &c: these salaries amounts collectively to £650. It will doubtless surprise you, to learn that I propose to dispense with the services of a schoolmaster: but that surprise will cease when I tell you, that during the Eleven Years I acquired the experience, I am now giving you, the benefit of, I never once knew the schoolmaster perform any scholastic act, even so much as setting a copy head. A hundred such schoolmasters would not be worth in the aggregate twenty shillings per annum. Mr. Wilson certainly, at present, enters in a book, the number of each book, as his prisoner assistant issues it, to the men: but there is no reason why just as complete a record may not be kept by a prisoner making these entries, a warder, corporal or chief officer being present during the issue of books, which occupies an hour of each of four days weekly. Instruction is imparted solely by prisoners acting as monitors: Mr. Wilson being occupied the while in reading any book congenial to his taste, within the rails of the altar.

I propose in lieu of three Protestant Chaplains & schoolmaster to substitute one Chaplain, who will be permanently resident on the Stockade & who will have no other duties to perform except a weekly attendance at the Hulks: one who will be with the men, under all circumstances, at their work & in their cells: & who will become acquainted with the character & idiosyncracy

X

of each individual. This resident Chaplain should also take charge of the school, which should be held four days in each week: & on the remaining two, I would have the same hour occupied in the Reading, either by the Chaplain or a prisoner selected by him, of a judicious & well chosen lecture: the lecture books to be purchased by the moneys annually voted for the purchase of books. The principal difficulty would be in finding from the ranks of the clergy of the Established Church in this colony, a gentleman suited to discharge the duties of Gaol Chaplain, zealously, faithfully & efficiently: & if, it be considered indispensable that this appointment must be filled from the ranks of the Establishment, I admit the difficulty would be insuperable. I dare say an outcry would be raised if a gentleman were selected from one of the sectarian bodies: but, I think such outcry can be appeased. I have seen several Wesleyan Clergymen in the Central Gaol & some in Pentridge and their superiority, for this vocation, over the clergy of the Church of England is enormous: I believe a better man than Mr. Whewell the present Wesleyan Chaplain could scarcely be found: and if his exclusive services could be secured: & every facility could be furnished to enable him to carry out his own arrangements this department would be on a very superior footing to the present. I have no doubt that a Wesleyan Clergyman would consider himself fairly remunerated by a stipend of £250. & a house &c. To get over the difficulty of public censure of the resident chaplaincy being in the hands of a dissenter, I would suggest that the Bishop of Melbourne, be asked to arrange that a Clergyman of the Establishment perform one complete service, every Sunday, for which the sum of Fifty two Pounds per Ann. should be voted. The resident Chaplain should also

hold a Sunday service: & of course, daily morning & evening prayers: all protestant prisoners to attend all protestant services. The dissentients from this proposal may, with perfect truth, be assured that by the one proposed service of the Church of England Clergyman, all the religious instruction, devotion & ordinances secured that is now available, while all the ministrations of the resident chaplain would be so much clear gain. The annual cost of these suggestions if carried into effect would be £250 & £50 = £300 compared with the present expenditure of — Chaplains £250, £100 & £100 schoolmaster £200 = £650, or a clear saving of £350 per ann. with a result in reformatory influences of incalculable value. I should in its proper place, have given force to the foregoing statement by a powerful illustration: A few weeks ago, I spoke to a youth of twenty three (George Lewis) of shrewd acute intellect, can read well, has been fourteen years in Government Establishments, Jail, Training Ship, Hulks Pentridge, in all which establishments there are Chaplains: has been six years under the charge of Mr. Bardin: can say the Apostles' creed, & the Lord's prayer: but his mind, on the subject of religion, I found a total blank. In answer to my enquiry, if he could tell me, who Jesus Christ was? mm. after saying the creed, he seemed to reflect; & then replied, "yes! the son of Adam & Eve. — If enquiry be instituted, as to the amount & nature of the intercourse, between the prisoners & Mr. Bardin, the Government cannot fail to be amazed, that such grievous neglect can have been suffered so long to have continued: but up to the present time, with every determination to make this & other equally flagrant abuses known, there was no possibility of accomplishing so desirable an object. —

G. Batt. D.D.

Vic 7 Core 71/2099 71/23728 Date 27 Mar Regis. 30

Susp: Genl. Penal Serv.

Forwards letter from Prisoner Bateson as to the time at which his term of imprisonment should commence.

For the Home Sec. The Chief Secretary

Recd 15-5-71

Recd 18-5-71

Attorney General 7842

Law officers

The Convict was sentenced to hard labor: and he appears by this case.

But the Governor entertains very great doubt whether the convict had at the time of the commission of the murder (as is suggested in the letter of the 19 Jan. 1870, of the Inspector General of Prisons) attained the age of 16 years, and he does not think that the decision on this case should be regarded as a precedent inasmuch as it involves the abandonment of a sentence, on the ground that the convict had been previously sentenced to imprisonment, or

Law officers

Should it be so, the Prisoner, in the opinion of the undersigned, is entitled to the benefit of the doubt, and the sentence should be reduced accordingly. There is no doubt in this case, and the Prisoner is no longer a boy. The Governor has not been consulted.

May 5/71

Whilst he had not been sentenced

41286

41246

7/1471

To the Hon: the Solicitor General with whom are former papers. W.A. Collard 12/4/71

Sent per Mr. Duncan 12/4/71

Sent back from the Law Office 1/5/71

I am not aware of the authority by which a prisoner under recorded sentence of death is put to hard labour before his case has been dealt with by the Executive. Where however it is done I think that the sentence afterwards imposed should date from the time here hard labour commenced & I therefore think that the prisoner in this case is entitled to what he asks —

H J Wilson
19/4/71

opinion 31/7c

I concur with the Solicitor General and beg to submit the case to his Excellency the Governor

Thos. Cullen

25728

Crown Law Offices.

Melbourne 15/5/1871.

Memo.

The Papers in Re Bateson are hereunto returned to the Honorable the Chief Secretary by the Solicitor General's direction, he having noted the minutes thereon.

C. R. Hammond

Cl. Cl.

Inst. Insp. G. as to decision in Balsam's case

W. H. O

18/5

5616
Geo. Bateson
24. 3. 71.
Spec. Insp.

71/1064

2099

23728

Penal Establishment, Pentridge
March 24th 1871

The Inspector General,

Sir,

Referring to the letter I had the honor to address to you, dated the 14th instant, I beg leave to submit some further remarks calculated to influence the Government ~~to~~ in arriving at a favorable conclusion.

Sentences of "death Recorded" are comparatively rare; I think that during the last Ten Years, they will be found not to exceed six in number; of these, nearly the whole received the commuted sentence, almost immediately after conviction: I now cite one, the case of James Thompson, who though tried at Maryborough, received the commuted sentence <u>four days</u> after trial.

There can be no doubt that the unusual length of time that was suffered to elapse between the trial & the commuted sentence, in my case was owing to the difficulty, the Executive felt, as to the propriety of giving a sentence at all; and that I should be made to perform Three Months more than offenders of whose guilt there could be no doubt, because in my case there were most grave causes for doubt, is precisely the reverse of the manner in which such cases are usually treated.

I desire also to draw your attention to

the case of a Chinaman, received into the Penal Establishment, within the last ~~three~~ Twelve Months. This man is an instance I imagine where a longer interval than usual elapsed between the Trial & commutation of sentence: in this case, I have been informed that the Warrant directs that the sentence shall be computed from the day of Trial.

Under such circumstances as these, I cannot suppose, that the Government would for a moment entertain the idea of enforcing the repetition of the performance of the three Months in question.

I have the honor to be,

Sir,

Your ob^t. Obedient Servant

[illegible]

Submitted for the consideration of the Chief Justice

Moriss out [illegible]

7 Balfours Lyne

to Cornwall Esqr with

a request that we be

informed whether

the prisoner

Balfour

71/33

Forwarded to the Inspector General
I permitted Bateson to write this
Letter, as he urges that it be subm-
itted before his Case is decided.

H. Gardiner
Capt.

25.3.71

The Inspector General
&c. &c. &c.

5616.
Geo. Bateson
14. 3. 71.
Spec.
S. G.

71/963.

20728

Penal Establishment, Pentridge
March 14th 1871.

The Inspector General

2099

Sir,

I have the honor to address you, under these circumstances;

Sentence of death having been recorded against me, on the 17th December 1860, which was subsequently commuted to fifteen years, hard labor, I was placed, on the following day, in the Melbourne Gaol, at hard labor, at which, from that date, ~~uninterruptedly~~ I have been kept uninterruptedly

It is but just, that a sentence when thus immediately enforced, should be computed from the time of its commencement: in a parallel case, that of George Whitehouse, the present Attorney General, when formerly in Office, directed, on application being made to him, that the prisoner should be discharged in conformity with this obvious interpretation.

Placing a man at hard labor would seem of itself an admission on the part of the Crown that the sentence has commenced, but as I have been informed, the period of three months intervening between my sentence & its commutation is not to be taken into account in my favor, notwithstanding my being at hard labor during that period, & that I am to be made again to undergo

it, I beg that you will have the goodness, to represent the character to the Government, that I may not, after undergoing more than Ten Years' Penal Servitude, be subjected to an additional punishment so manifestly unjust.

I have the honor to be,

Sir,

Your ob. Obedient Servant

G. W. Blackburn

Transmitted to the Chief Justice General,
the prisoner having otherwise
served his term.

7/2/71

G. W. Wickersham
Atty Genl

Should be placed upon the Pardon
roll the good enough to accede
for me, if he can, if this man
was really put to hard
labor unnecessarily after
his conviction, or if
he was merely detained
in custody pending
the commutation
of his sentence.

Geo. Boyce
Gov
17.3.71

Prisoner was placed in the lock-up at Melbourne for the 22nd December 1860.

Coroneilleit

Merritt

21.3.71

The Inspector General

Penal Department

21/1130

V16730

Law Department.

Crown Law Offices,

23rd Feb 1871

Papers in the case of prisoner George Bateson.

Submitted to His Excellency the Governor

69/3938

68/2769 ✓

65/934 ✓

63/5717 ✓

61/3936 ✓

3735 ✓

Submit to Minister.

Canterbury.

Feb 23/71

Write to Insp. Genl. W.E. having had his petition under Crown Law no grounds for re-opening the matter.

Stone 28/2/71