their qualifications & previous avocations: It is true, I have not been accustomed to Office work: but You have had some proof of my mental capacity: I have been convicted very nearly Five Years, during the whole of which time I have been compelled to work with & to associate with, the lowest & most depraved men in the Stockade: There are Fifteen Billets, that educated men would desire to fill: These I have seen vacated & filled up, over & over again: & in almost every instance, by men direct from the Panopticon or nearly so, or by second convicted men: Three of these Billets have been so filled up only within the last three weeks; & out of these Fifteen Billets, Six are now occupied by second convicted men; I myself have worn the No. 2 Red Badge, Twelve Months. The Medical Officer will tell You, that the Five Years I have spent in the A. & B. divisions has told very severely on my constitution: & that a change is eminently desirable for me: an Opportunity now offers for You to give me this change: & thereby greatly to ameliorate my condition: if I have hitherto exhibited a restless and discontented disposition: It is one very foreign to my natural character: & your own sense of Justice cannot fail to point out to You, that I have great excuse. Give me I pray You, Sir, the reversion of this Billet: & You shall find a grateful servant filling it: You have a very erroneous opinion of my character: the Overseer, I have been under for four years will not say that I am a rebellious & insubmissive man: & the Schoolmaster will, I know be glad to have my services. Place me there Sir, and You will find that I shall occasion neither yourself nor anyone else any trouble so long as I may remain: & if there be anything connected with the appointment that appeals to my sense of Honor, You will find that I have a sacred sense thereof

I have the honor to be
Sir,
Your mo. Obedt. Humble Servant
G.H. Batson

6928

This man has so repeatedly offended by writing [illegible] improper language respecting the officers of the Government that I do not feel at all disposed to interfere in this matter

W Champ
26 Sept 65

The Supt
Pentridge

Read to Prisoner
[illegible]
Supt
28/9/65

To

The Inspector General

&c. &c.

Petersburg Va.
24th Augt. 1865

Dear Sir

The accompanying letter was written by Benison with a request that I would forward it to you. It is addressed should be allowed to testify it will help him on his way to freedom.

Yr. Respectfully
[illegible]

I send it to the Office now, so that it may be given to Overall on his discharge, if the Inspector General approves.

[illegible]
Insp

65/22

Subject to letters
in this office having
not been referred to
the [illegible] Commissioners
[illegible]
26 Aug

[illegible]

5616
Geo Malcom
11.9.65.

Pentridge, September, 1865.

Dear Sir,

I desire that you will kindly institute a rigid & searching enquiry into the facts of the case which has made me a Prisoner of the Government of Victoria for the purpose of transmission to my Brother the Reverend W. H. Bateson A.M. Master of St. John's College, Cambridge, & by him to be laid before the Right Hon. Edward Cardwell, Her Majesty's Secretary for the Colonies.

You will find that I have been convicted on principles that know no parallel in the history of British Jurisprudence; & such as could have occurred, nowhere in the civilized World, save in Victoria alone; for the conviction has been accomplished on the evidence of a clearly ascertained Conspiracy, got up by persons of most infamous character in the pay of the Victorian Government.

The conviction is bad in Law for these several reasons — First, there is a statute which states that no ~~man~~ conviction shall be obtained, on the evidence of a Particeps criminis, or that of any accessory, before or after the fact: nor can a case possibly arise shewing the necessity for such an enactment more strongly than this, for who shall say, that if men can be found sufficiently base, to combine together, to cause a crime to be committed, as they assert, for the sake of a conviction, it is not evident, that if their bare & undisputed assertion could cause a conviction, that they would hesitate to say such crime was committed, whether such assertion were true or false.

To prove that the Medical Testimony utterly failed, although a Witness called by the Crown, I will set the evidence down in full; Mr. Fisher said "The chief witness Gardner was brought to me, within a very short time of the alleged occurrence, for the purpose of being examined, with the view of establishing this charge: He complained of pain in the Penis & Rectum; I found the former in its natural state, perhaps a little red; I found a slight redness about the orifice of the latter; the sphincter was perfectly natural & undilated; On cross examination, he said, the appearances I found, did not indicate the pain complained of; the redness of the Rectum might have been

produced by the natural uses of the body, by a slight disorganization of the bowels, or by the witness's own act; the sphincter is the only organ that would give evidence of this crime had it been committed; dead or not, even told that the crime had been committed, I saw nothing that would have led me to suspect it."

Secondly the conviction is illegal, because the indictment charges the offence with having been committed on the 16th Nov.; whereas the Judge directed the Jury to find me Guilty of having committed it, on the 13th a day not named in the indictment, & to establish it for that day there is no evidence whatever, but the unsupported testimony of the subornED witness, who for a large money payment has described himself as a Particeps criminis & not merely a fully consenting party, but an anxiously soliciting one.

The actual Perjury of the inventive Police could at any time during the last 4½ years, have been ascertained by the Government, by the examination of the premises: but though there an certain absolute barling distance of the Melbourne Court House the Government could never be induced to make such examination. The only corroboratory testimony adduced, is, that on the 16th the detectives were in a cupboard, which cupboard was in a corridor, separated from the room I occupied by a "locked" door, & a wall at least 18 inches thick, of stone. — The actual Perjury of the Witness Gardner may also be ascertained, in consequence of his having sworn to a document to have been in my handwriting, which can at any time be proved to be that of Mr. John Murchison of Tipperary Creek, Goulbourne River &c. —

I desire it be signified to the Imperial Government that I attribute the success of the Conspiracy & the non-reversal of the Verdict, solely to the extraordinarily injudicial conduct & undue influence of the Judge that presided on the Trial. —

I subjoin a copy of the Judge's address to the Jury, as nearly as possible verbatim: I wish you to be good enough to see the two Gentlemen whose names you have been furnished with, & to obtain from them an Affidavit of the correctness of such portions of this Address as they remember, together with their general comments on the Trial.

I have also been informed by Mr. Stoddart, Governor of the Gaol immediately, that, when called upon he will "state his opinion, & certify to the leading incidents of the trial" "at the risk of any appointment he may be holding." — I attach the highest possible importance to the Colonial Secretary giving order & that I may more effectually & without restraint, furnish a statement, for the guidance & information of Her Majesty's Government: & further that, to secure the ends of Justice that he will be pleased to issue H. M.'s Commands that this statement shall be forwarded to him, sealed by me, & shall be reserved from the inspection of any of the Colonial Officials. — Harry Davies, a serenader, but a true American Black, can give important information, as to a confession of Gardner made to him: & I believe would do so, if he did not apprehend the consequence of incurring the vengeance of the Melbourne Professional —

Judge's Address —

"The Prisoner has defended himself, with great ability & ingenuity: & suppose, it was for the sake of making that display, he declined the assistance of Counsel: however he has lost nothing by it; he is evidently a man of great experience, where he obtained it, is not for me to say; but my duty is to tell you, that that ability & ingenuity must not avail him, in this place".

"There are two very remarkable features in this case, certainly very remarkable indeed: the first is the conduct of my Witness Gardner, & I must say, his conduct seems inexplicable: the other is the conduct of the Police themselves: & as long as I sit here, I will always maintain that, it is better that Crime should go unpunished, than that it should be brought about, for the sake of a conviction: But the conduct of the Police does not mitigate the Prisoner's guilt. The Prisoner has attempted to account for the attitude in which he was found; But, Gentlemen, could it be necessary for one man to get on the top of another, to look into his face?" (Silence Sir! How dare you interrupt me) "He has also occupied the time of the Court with much irrelevant matter: however he was entitled to prove his innocence, if he could; but he has failed to do so: It is of no consequence from which person the stock of water proceeded; if it came from either

both are equally guilty. Tell me that two men are found in the same bed & require no further proof of their intentions. You can have no doubt that the offence was committed on the Tuesday the 13th; that that day is not included in the indictment, is of no consequence; That the detectives saw & heard on the 16th, You may consider corroboration of what took place on the 13th. You cannot doubt that what the detectives say they heard, no doubt, the door was out of order, these bedroom doors often are. (Gardner swore it was locked) & if You cannot believe that, why (You cannot believe a word that's been said. —

Although years have elapsed, Mr. Stoddart & the two Gentlemen above named, will not fail to remember most of this most startling summing up; they will also remember that when the Jury yielding to the commands of the Judge found the verdict, he had so plainly demanded of them, that on my commencing to speak in a very subdued & perfectly respectful tone of voice, in answer to the usual question "What have you to say why sentence shall not be passed &c" the Judge with great violence struck the Bench & with his clenched fist extended towards me said "Stop there Sir, It shall be worse for You for that" "Put the Prisoner down" If this incident be remembered & I desire it may be included in the Affidavits. —

I am

Your's ever. Faithfully

G. W. Walsh.

Mr. J. P. Overend

Together with

Copies of Two letters addressed

by G.W.W. to the Bishop of

Melbourne

B3/934.

20 Feb/03
Rec. 21

Resp. Gen. Penal Estab.ts

Requests papers re
Bateson.

All the papers in this prisoner's case are at the present in the possession of the Hon.ble the Chief Secretary.

J. W. Foster
Major absence Sec.tary

C. R. B.

Geo Bateson
63/176

The Superintendent
at Pentonville will
be good enough to
inform Jerémiah
G. Bateson that his
Letter of 24th instant
addressed to me
has been forwarded
for the consideration
of the Hon. Secretary
of State for Justice

W. Thomas
27 April 63

Prisoner informed

[illegible]

Supt

29.4.13

The Supt General

[illegible]

934

65740

With the Honorable
the Minister of Justice
oblige me with the
document of any Papers
in his Office relating
to the case of a convict
named Bateson.
There were Sheriffs
two memorials submitted
one I think in 1861 or
1862, another in April
1862, and I also
forwarded a letter from
Bateson to the Minister

Letter in April 1863
which was not returned
to me. I think also
that there was some
correspondence respecting
the case with a
Volunteer named
Bagley

G. Thomas
20 Jul. 65

W4248 62 / V5763

Oct 28 Aug.
Jis 30.

Insp. Genl. Pris.
requesting return of Papers in the
Bateson —
Further letter from him dated for forwarding
a copy of the report of Dr.

3 July

Penal 2.10.62 ✓
W 29.8.65

Jail 2 Sept 62

Papers W4248

Sec 1/10/62 ✓

82/3531

Referred to the Hon the Minister of
Justice as desired by the Inspector
General of Penal Establishments.

C.S.O.
1 Sept. 62.

E. Moore

R593/62.

Return papers. The letter throws
no new light on the case.

E.W. 24/9/62

W6387/62

Old papers in this case
in P. Secs Office

62
Oct 1562

Papers returned to the Inspector General of Penal Establishments as requested

C.S.O
20th.62

For and in the absence of the Under Secretary

W. H. Odgers

62/652 1857/63

With the Honorable
the Chief Secretary
oblige me by returning
to me the Papers
forwarded to him
on 30th June last
relating to a convict
named Bateson.

This man is becoming
exceedingly troublesome

and

Sincerely in writing
letters in a very
unbecoming style,
as witness the enclosed
which it is perhaps
as well the Chancellor
& Justice should
see, before further
steps are taken
with respect to it

G. T. Ferrier

28 Augt 62

Penitentiary, August 23rd 1862.

J. G. M. Wigley Esq.

Dear Sir,

I wrote you last, on the 23rd June, since which time, I have not heard from you; On the 29th March, you advised me, that the memorial was prepared & was going in immediately; therefore, by the time this reaches you, five months will have elapsed; Months are becoming years: & life is ebbing away, while the Government halts between two opinions, whether I are to be governed by the Law, or a Judicial Autocracy; In three & a half months, I shall have served a Three Years' sentence. &c.

I regret exceedingly, that I have failed to cause you to appreciate the paragraphs in my two last, on the subject of obtaining the intervention of a Member of the Assembly; writing as I do from here, under surveillance, I may not have expressed myself as fully as I could have desired: but, all that I have written has been worthy of your observation; I wish to impress upon you, that you are my only medium of communication with the outer World: & you will be a serious responsibility, if you suffer my thoughts expressed in writing to slumber unheeded in your bureau; I know that Mr. Wood's opinion on the case, is precisely what you would expect it to be; but, there is powerful influence being used to counteract the efforts I am making: & I am sure that he would not object to have his hands strengthened, by the pressure of one or more of the people's representatives; about five months ago, I spoke to Mr. Humphray M. L. A. for Ballarat, who then promised me

that he would see the present & late Attorney General: & communicate with me again: but, as I have heard no more I can only conclude, that promises to a prisoner are held in as light estimation, as pre-election promises to constituents; therefore, you see, any effectual aid can only be had by movement from without. —

Having learnt, as I have before conveyed to you, that when Mr. Aspinall gave such advice to His Excellency, that caused the Private Secretary to write you, "the Honorable the Attorney General saw no cause to impugn the correctness of the verdict," his real opinion was diametrically opposed to this advice: & supposing that the same influence which had been so successfully used before would inevitably be brought to bear again, I thought it right, to address 2 letters to Mr. Leader, in his legislative capacity, under dates 16th May & 7th June recording & commenting, certainly in no gentle terms, upon some of the extraordinary incidents of my trial, with the express object, that these remarks should reach the Government; in consequence of the strength of the language used, the Inspector General objected to transmit these letters to the Gentleman, to whom they are addressed: but, he has since informed me, that they have been placed in possession of the Chief Secretary; now, in vindication of the course I have adopted, I must remind you, that one memorial in which we were perfectly silent as to the Judge's conduct, had been rejected: & we know the reason why; As a question of policy, it was absolutely necessary that the Executive should be informed of this point; however great & terrible a wrong I have to complain of, at the hands of the Judge, I am quite willing, for injuries that have been committed, to leave

him to be dealt with by "Him to whom vengeance belongeth;" but would he stamp the last advocate of Christian forgiveness required of me, to forgive by anticipation, sins intended yet to be committed; I mean to neutralize his malignity for the future, that those letters were written.

The money in your hands may be expended: but while I am here, there is no hope of your getting more; your labors are nearly terminated: & I feel persuaded from the position of the case, that a very small amount of exertion in the proper quarter will bring the matter to a successful issue; What I now have to ask of you is this. Will you endeavor to get some Member of influence & good common sense, to inform himself in the case, to support the prayer of my petition: & for obvious reasons, to get the Governor's own individual mind applied to the case: & if you fail to obtain the intervention of a member within fourteen days from receipt of this, please obtain an interview with the Minister of Justice: there is nothing unusual in this stage him to arrive at a decision & do not fail to inform me of it, alone, whatever it may be: & pray let the Minister know, that in the event of this Government deciding with the Judge & against me, I am fully aware of my right to appeal to the Imperial Privy Council; upon whose decision there can be no doubt; But to accomplish this, the intervention of a Member will be absolutely necessary —

I am, dear Sir,

Your's ms. faithfully,

G. W. Stakes.

Solicitor &c. &c.

To

J. G. M. Wigley Esqre

Solicitor &c. &c.

83 Swanston Street

Melbourne

Insd Pensd

M 15824 B/5717 15/M 1824 2nd Dec./63

Recd 2nd

S. G. Wesley

Melbourne

Requesting that Prisoner G. F. Bateson may be permitted to petition the Secretary of State.

In my opinion the request made by this Prisoner cannot be complied with. I do not see what right this Grace the Duke of Newcastle can have to interfere ~~[illegible]~~ with the internal administration of our affairs, and His Excellency is already fully empowered under Her Majesty's Commission, to deal with all such cases as ~~[illegible]~~ are put forward for the favorable consideration of the Crown. Were we to permit such a Petition, as suggested, to go, it would by necessary implication admit, that effect might be given to it, but as I am of opinion that no effect ought to be given to it, I think the Petition ought not to be allowed to go at all.

W.M. Decr. 26th/63

File

Letter 28/12/63

No 1824

Penal
20 feby 65

Memo

The accompanying Papers re the prisoner Bibson have been obtained from the Law Dept. and are now forwarded to the Inspector Genl. of P. Establishts. at his request. — The other paper numbered $\frac{62}{5763}$ was sent to Mr. Champ on the 20th May 1863 from the Attorney Genl. Office

20 feby 65.

E. Moore

5717

Melbourne December 2nd 1863

Sir,

I have the honor to acknowledge receipt of your letter of 13th October in which you decline to advise his Excellency to favorably consider the case of G. T. Bateson —

Having communicated the same to the Prisoner I am requested by him to ask that he may be allowed to forward a Memorial to His Grace the Duke of Newcastle as Secretary of the Colonies and if no objection lies to his doing so. I am also to ask that your permission may be communicated to the Inspector General of Penal Department and that a copy of such Memorial be forwarded to me, as his Solicitor

I have the Honor to be
Sir
Your most Obedient Servant
J. Wrigley

The Honorable
The Minister of Justice
Crown Law Offices
Collins Street
Melbourne.

B 4488.

30 Sept. 1863.

J. G. M. Wigley

Requesting revision of prisoner Bateson's case.

2372/B.

Reply that the Minister of Justice has carefully read, and re-considered all the papers in this case — including the Report of the Chief Justice & the Object "that he is perfectly satisfied with the Verdict". The M. of J. therefore, ~~[illegible]~~ declines to recommend the Prisoner to the favourable consideration of His Excellency.

Home, 18/10/63

Pr. 13/10/63

File