



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

### **Usage guidelines**

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

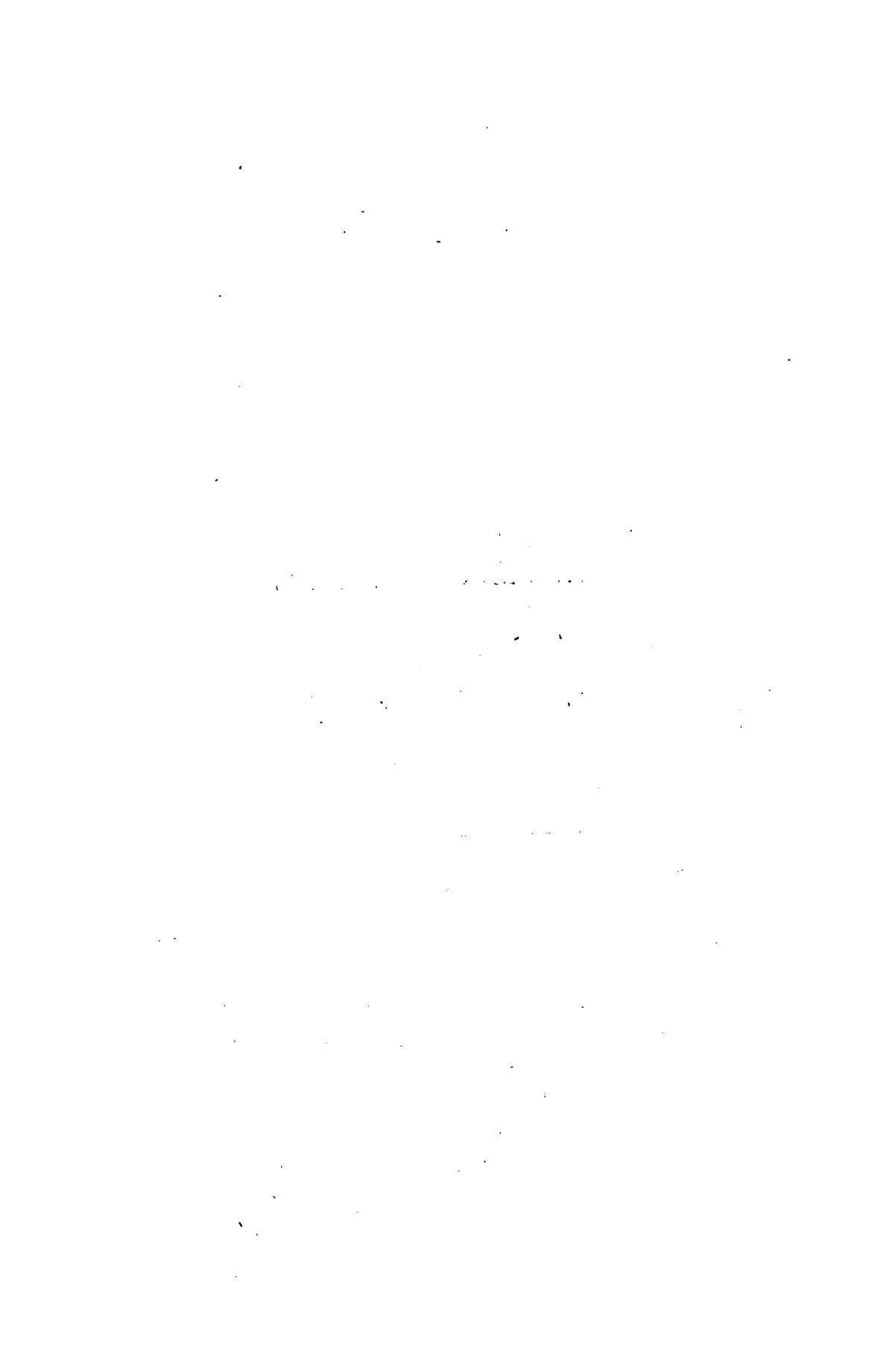
We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

### **About Google Book Search**

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

492



# STATEMENTS AND OBSERVATIONS

CONCERNING

## THE HULKS.

### PART I.

CONTAINING

Reasons for inquiring into the State of the Hulks; drawn from results of former inquiries, and from circumstances connected with the present Treatment and Condition of the Convicts confined in them.

### PART II.

CONTAINING

A review of the Acts of Parliament, passed at different times, for the Regulation of the Hulks, first established as Houses of Correction for the Punishment of Offenders at home, then regulated by Parliament as temporary places of confinement for Convicts about to be Transported, and now used indifferently for both purposes. With observations on the expediency of placing in separate vessels, such of the Convicts under sentence of Transportation as it is not intended to transport, and of reverting, for the management of that class of Convicts, to the principles of the acts passed for the Hulks as Houses of Correction,—and other suggestions relative to the future Treatment and Condition of such Convicts.

---

BY GEORGE HOLFORD, Esq. M. P.

---

LONDON:

PRINTED FOR C. AND J. RIVINGTON,

27. PAUL'S CHURCH-YARD; WATERLOO-PLACE; AND 148, STRAND;

AND HATCHARD AND SON, PICCADILLY.

1836.



**STATEMENTS AND OBSERVATIONS**

**CONCERNING**

**THE HULKS.**

of Commons, to go into a full investigation of this subject.

The committee which reported on the state of this establishment in 1812, was not originally appointed for that purpose; it was formed to inquire into the expediency of erecting Penitentiaries, a question, which at that time very much engaged the attention of many members of Parliament, several of whom had been intimately acquainted with the views of the first promoters of that measure; and I became the chairman of the committee, from my having undertaken, at the personal request of the then Secretary of State, to apply myself to the consideration of that subject. The House having afterwards referred it to us, to inquire into the state of the hulks; we went into such evidence on that head as lay within our reach, examining the superior officers of the vessels in which the convicts were confined, and we made a long Report, containing a general account of the establishment, and some suggestions respecting future improvements, but we were aware that a Report framed on such materials, must omit many

particulars, on which it might be desirable to obtain information, and could not be so satisfactory, as if the inquiry had been conducted on board the ships themselves, where the inferior officers might have been examined if necessary, and the convicts might have been allowed to tell their own story, in regard to any circumstances of which they might think they had reason to complain.

The first step towards any effectual change in the arrangements for regulating the hulks, should be an inquiry into all matters connected with the treatment and condition of the convicts confined in each vessel, made upon the spot, by commissioners appointed by the crown for that purpose, whose Report might either be laid before a committee of the House of Commons, if further inquiries before such a committee, on points connected with this subject, should be thought desirable, or might itself serve as the ground-work of a new Act of Parliament, for the better regulation of the hulk establishment.

I may perhaps be told, that with a view



to such a proceeding I might have addressed myself at once to the Secretary of State, without this publication; but here again I am not altogether without some experience to guide me. A short time after the Report of the committee of 1812 was made, a paper was addressed by Mr. Morton Pitt and me to Lord Sidmouth, then Secretary of State for the Home Department, containing such suggestions as had occurred to us relative to the mode, in which the measures recommended in that Report, might be carried into effect. This communication was referred to Mr. Graham, at that time acting as manager of the hulks. Mr. Graham observed on our propositions, in a paper of remarks also addressed to the Secretary of State, to which we replied in the same manner. There was nothing to complain of on either side, in the tone and temper of these communications; Mr. Pitt and I entertained a very high opinion of Mr. Graham, and Mr. Graham, although he felt that he done a great deal for the hulks, was not offended with us for thinking that it was possible to do more. The Secretary of State, however, took Mr. Graham's advice in preference to ours, as

might perhaps have been expected, and our propositions were not adopted.

With these circumstances fully in my recollection, I am not inclined to pursue a course which would probably lead to a controversy in writing, between me and Mr. Capper, the superintendent of the hulks, possessing (I make no doubt not undeservedly) the Secretary of State's full confidence, and being the only channel, through which the Secretary of State derives his information respecting that establishment, in which controversy, the Secretary of State himself must be the party to decide, the questions for decision being, first, whether there be any thing in the state of the hulk establishment to call for inquiry, and secondly, whether the powers now exercised by the Secretary of State, through the superintendent, over the large class of convicts, retained for punishment in this country instead of being sent abroad, ought to be continued.

My object in the present publication, is

1870  
1871  
1872  
1873  
1874  
1875  
1876  
1877  
1878  
1879  
1880  
1881  
1882  
1883  
1884  
1885  
1886  
1887  
1888  
1889  
1890  
1891  
1892  
1893  
1894  
1895  
1896  
1897  
1898  
1899  
1900  
1901  
1902  
1903  
1904  
1905  
1906  
1907  
1908  
1909  
1910  
1911  
1912  
1913  
1914  
1915  
1916  
1917  
1918  
1919  
1920  
1921  
1922  
1923  
1924  
1925  
1926  
1927  
1928  
1929  
1930  
1931  
1932  
1933  
1934  
1935  
1936  
1937  
1938  
1939  
1940  
1941  
1942  
1943  
1944  
1945  
1946  
1947  
1948  
1949  
1950  
1951  
1952  
1953  
1954  
1955  
1956  
1957  
1958  
1959  
1960  
1961  
1962  
1963  
1964  
1965  
1966  
1967  
1968  
1969  
1970  
1971  
1972  
1973  
1974  
1975  
1976  
1977  
1978  
1979  
1980  
1981  
1982  
1983  
1984  
1985  
1986  
1987  
1988  
1989  
1990  
1991  
1992  
1993  
1994  
1995  
1996  
1997  
1998  
1999  
2000  
2001  
2002  
2003  
2004  
2005  
2006  
2007  
2008  
2009  
2010  
2011  
2012  
2013  
2014  
2015  
2016  
2017  
2018  
2019  
2020  
2021  
2022  
2023  
2024  
2025

## PART I.

*Reasons for inquiring into the state of the hulks, drawn from the results of former inquiries; and from circumstances connected with the present treatment and condition of the convicts confined in them.*

OF the numerous prisons in this country, for the confinement of offenders, there are none, which have so strong a claim upon public attention, or which have of late years received so small a share of it, as the hulks, an establishment consisting at present of nine vessels, on board of which are distributed above \* 3,000 convicted criminals.

Mr. Howard, in whose days the persons confined in the hulks were much fewer in number than they are now, appears to have

\* The average number during the first six months of 1824, was 3289; during the latter six months it amounted to 3468.

had a due sense of the importance of these prisons, for he visited them repeatedly; and has mentioned them both in his book on "The State of Prisons in England and Wales," and in his "Account of Lazarettos." In an edition of the former of these works, in which he gives an account of several of his visits to the hulks down to 1783, he says, that the faults in the management of the convicts, to which he had adverted in his first edition, (published in 1777) having become so alarming, as to have attracted the notice of Parliament, a public inquiry had been instituted, on which it had appeared, that a great mortality had prevailed among the convicts, between August 1776 and March 1778; but he observes, that the account, which he was then able to give, would be such as to shew in a striking light the beneficial effects of the parliamentary inquiry as to the health of the prisoners; still, however, both in this book, and in his work on Lazarettos, particularly in the latter (in which he speaks of his visits to the hulks in 1787 and 1788,) he states serious grounds of complaint, and offers various suggestions for the benefit of the convicts, some of which

have since been adopted ;—In regard to the effect produced by imprisonment on board the hulks upon the dispositions and characters of the persons confined there, he makes a remark, which is, I fear little less true, as applied to the present state of the convicts in those vessels, than it was in his time, viz. that “the association of so many criminals is utterly destructive to morals.”

The parliamentary inquiry, to which Mr. Howard here alludes, took place before a committee of the House of Commons in 1778 ; and the Report of that committee was presented to the House by Sir Charles Bunbury in the month of April in that year. It shews from the evidence of Mr. Howard and others, great mismanagement and abuse, but concludes by stating that there had been progressive improvement “in the accommodation, food, employment, and means of preserving the health of the convicts ;” and recommends the continuance, for a limited time, of punishment on board the hulks by hard labour.

Another Report was made by Sir Charles

to draw to these questions the attention of those persons, who are connected in different ways with the administration of criminal justice in this country, or who have been most conversant with its prisons, in the hope that some of them, particularly some of those in the higher departments of the law, may be induced by the imperfect hints here thrown out, to urge upon the Secretary of State, the expediency of taking this establishment into his serious consideration, either on being consulted by him on this head, or by voluntarily tendering their advice to him upon the subject. I look upon the hulks as regions unexplored, as forming a terra incognita, in which few, besides those who inhabit it, have ever set foot; and I believe I may venture to assert, that those who are best acquainted with other prisons and places of confinement in this kingdom, know little or nothing about the hulks.

I trust, that the Secretary of State (my right honourable friend, as a public man, I presume to call him) will not be offended at the freedom, with which I have discussed points connected with his office. I can as-

sure him, that my remarks are not offered in any unfriendly spirit, for I fully concur with all who know any thing of the leading men of the present day, in estimating very highly his character, both public and private, and in expecting much from the application of his talents to the public service, and if I shall succeed in pressing the revision of the hulk establishment upon his notice, at an earlier period than that, at which it would otherwise undergo his particular scrutiny, in the survey, which, I doubt not, he will take of every branch of his department with a view to its improvement, provided he shall remain long enough in his present office, I am confident that I shall become, by so doing, the humble means of conferring no inconsiderable benefit upon the country.

17



been stated to him. Mr. Graham's reports were unfavourable to the system of management then pursued, but before any new plan could be adopted, viz. in February 1802, the keeper of a country gaol, who had brought up some convicts to the hulk at Langston harbour, finding that a great mortality had prevailed on board that vessel, the cause of which appeared to him to be a want of proper food, addressed a letter to Lord Pelham, who had succeeded the Duke of Portland in the Home Office, upon that subject, the conclusion of which letter was as follows—

“I have reported to sundry gentlemen these  
 “ many years past, but the evil is not reme-  
 “ died, it will be a humane act, would any  
 “ gentleman of note examine the convicts in  
 “ person, by having them before him sepa-  
 “ rate from the presence of the overseers, &c.  
 “ The late worthy Mr. Howard was deceived,  
 “ when he visited; the overseers, &c. being  
 “ present, the convicts were afraid to com-  
 “ plain.”

On the receipt of this letter Lord Pelham, who had succeeded the Duke of Portland in the Home Office, authorised two

commissioners, Sir Henry Mildmay, and Mr. Nield, to inspect the state and management of the convicts at Portsmouth and Langston harbour, by whom Reports were made concerning the prisoners at each place, dated on the 16th March, 1802.

Upon the whole the commissioners were not dissatisfied with the treatment and condition of the convicts at Portsmouth, but in the vessel stationed at Langston harbour (La Fortunee) they found great abuses, particularly in the article of provisions. In regard to the discipline of the convicts on board this ship, they say that "they have reason to believe it to be considerably improved," but they conclude their Report on the state of the convicts at Langston harbour, with the following paragraph, which I quote, because it states an evil not yet corrected. "We have only farther to remark, that we lament the great proportion of persons on board the hulks generally, who from age, infirmity, accident, or incurable disease, are wholly incapable of work, and we suggest it to the consideration of the Secretary of State whether it might

●

“ not be advisable, that persons of that de-  
 “ scription should be removed to some place  
 “ exclusively appropriated for their recep-  
 “ tion. Whilst they continue where they are,  
 “ they are constantly exposed to insult and  
 “ injury from their companions ; they occa-  
 “ sion great additional trouble, and occupy  
 “ the place of those, who might be employed  
 “ with effect in the public service.”

In the act passed this year (1802) for the  
 renewal of the acts, by which the hulks  
 were regulated, a provision was introduced  
 for the appointment of an inspector with a  
 salary, whose duty it should be to visit these  
 vessels quarterly, and to make an annual  
 Report thereupon, to the two Houses of Par-  
 liament, reporting on any urgent occasions  
 to the Court of King's Bench. The ap-  
 pointment of Mr. Graham as inspector, took  
 place immediately after the passing of this  
 act, but though Mr. Graham displayed great  
 zeal and intelligence in the execution of his  
 office, he appears to have been unable to  
 prevent abuse, for when Mr. Nield visited  
 the hulks in 1807, he found reason to com-  
 plain of the quality of more than one of the

articles, supplied for the use of the vessel at Langston Harbour.

I am not aware, \* that any inquiry was made into the management of the hulks, either by private persons, visiting after the manner of Mr. Howard and Mr. Nield, or under any special authority exercised on behalf of the public, between 1807 and 1812, when it was referred by the House of Commons to the committee, which had been named in the preceding year, upon the subject of penitentiaries, "to inquire into the state of punishment on board the hulks, and to report their opinions thereupon, together with any improvement, which may appear to be practicable therein."

This committee, after looking into the Acts of Parliament then in force, respecting the hulks, and the powers, very irregularly if not illegally, exercised in regard to them by the Secretary of State, through the inspector,

\* Mr. Graham of course continued his visits under the title of inspector, but it will be seen hereafter, that he soon became the manager of the hulks, and in fact visited in that character.

entered into inquiries of some length concerning the system of management pursued in each vessel, on board of which convicts were confined, examining as to the manner in which these prisoners were lodged, instructed, fed, employed, &c. the several captains and chaplains of the establishment, and sending for returns from the different places at which hulks were stationed, to questions framed by the committee, concerning the nature and value of their services, which returns, together with other documentary evidence, were printed in an appendix to the Report.

The opinions of this committee upon the general merits of the hulk establishment, are given in two paragraphs of their Report, although the Report itself is of considerable length. Adverting to some of the statements which were made to them concerning the manner in which the hulks were managed, the committee say, "It appears from these documents, as well as from the evidence taken by your committee, that the arrangements under which offenders are now confined on board the hulks, cannot reasonably be

“ objected to, as either insufficient for the  
 “ safe custody of the prisoner, or unfavour-  
 “ able to his health ; in regard to his moral  
 “ amendment, or to the preservation of the  
 “ young offender from being rendered more  
 “ vicious by his confinement, they are by no  
 “ means satisfactory.” After mentioning va-  
 rious facts and observations connected with  
 the moral condition of the convicts on board  
 these vessels, the Report goes on as follows :  
 “ Under the circumstances which have been  
 “ stated, your committee cannot but consider  
 “ the situation of the convicts imprisoned on  
 “ board the hulks upon their present plan,  
 “ as one, from which these persons must be  
 “ expected to return into society with more  
 “ depraved habits and dispositions than  
 “ those with which they went into confine-  
 “ ment, although it may happen in these, as  
 “ in all other places of punishment, that the  
 “ sufferings of the offenders, may in some in-  
 “ stances awaken reflection, and lead to  
 “ amendment.”

The committee recommended “ that a  
 “ hulk should be fitted up as an experiment,  
 “ according to a design furnished by the navy

“ board, which would enable the officers to  
“ inspect the behaviour of the convicts by  
“ night as well as by day, and would admit of  
“ divisions for the separation of them into a  
“ greater number of companies or classes,  
“ than could be formed according to the  
“ construction of the vessels then in use, and  
“ after other suggestions, some of which  
“ have, and others have not, been adopted,  
“ they concluded by recommending the ap-  
“ pointment by the crown (under an act pass-  
“ ed for that purpose) with competent sala-  
“ ries, of one superior officer, to be overseer  
“ of the hulks, who, in addition to the duties  
“ marked out in the 42 Geo. III, cap. 28, for  
“ the inspector, should take upon him the  
“ superintendence and controul of every  
“ part of the hulk establishment, and should  
“ be responsible for the proper management  
“ of the whole, acting himself under such in-  
“ structions as might be issued by his Ma-  
“ jesty, for his direction;” and of a “ subor-  
“ dinate officer at each place at which con-  
“ victs are employed, to reside constantly  
“ upon the spot, and to act as an assistant  
“ or deputy to the person above-mentioned,  
“ communicating with him and taking his

“ directions upon all matters relating to the  
 “ establishment, but attending in particular  
 “ to the arrangement connected with the  
 “ constant employment of the convicts, and  
 “ to the regular valuation of the work done  
 “ by them, and depending for a part, at  
 “ least, of his emoluments upon such esti-  
 “ mated value of their labour \*.”

In consequence of this Report a new hulk was fitted up, in conformity to the design there given, and some alterations were made in the construction of those already in use, but the Secretary of State did not think fit to adopt the recommendation contained in the Report concerning the appointment of assistant or deputy-superintendents at the different places at which hulks were stationed. Mr. Morton Pitt and I had a good deal of communication with Lord Sidmouth, then Secretary of State, and Mr. Graham, upon the subject, but we did not succeed in

\* It was the prevailing opinion at that time, that those, who superintended convicts should be paid out of their earnings, but we have learned now to consider profit from the labour of convicts, as of less importance than was attached to it in those days. I do not believe this mode of paying their officers would be recommended now.



carrying that point ; though we pressed it very strongly, as affording, in our judgment, as well as in that of the other members of the late committee, the best prospect of an improved management of the hulk establishment. We contemplated the selection of a higher class of persons for these new situations, than those hitherto in charge of the hulks, and suggested the list of half-pay lieutenants of the navy, as the quarter from which they might be taken with most advantage, it appearing to us, that individuals of this description would not only be most competent to arrange, with the officers of the dock-yards, the manner in which the convicts should be employed, and to see that proper accounts were kept of their earnings, but would be able to afford that constant attention to the treatment and condition of the prisoners on board the ships, which cannot be given by an individual residing in the metropolis, (even if he had no other duties to perform,) and only visiting the different branches of the hulk establishment occasionally, at the several ports and places at which they are stationed, at a considerable distance from London and from each other. These officers would also have had opportu-

nities of daily intercourse with the convicts, and with those in charge of them, and would have become thoroughly acquainted with the details of management pursued on board the vessels as well as on shore; and the selection of the individuals to be employed in this service must have been very unfortunate, if some one of them had not shewn himself possessed of such intelligence and activity, as would have led to the formation of a better code of rules and regulations for the hulk establishment than has yet been in operation.

About three years after presenting the Report of 1812, I had an opportunity of learning by experience, how little security the public had for the good management of the hulks at a distance from London, in the superintendence of Mr. Graham, residing in the metropolis, and yet Mr. Graham was a gentleman of great talent and activity, and far above the suspicion of conniving at any improper practice or abuse. In the spring of 1815, previous to the introduction of a new bill for the regulation of the hulks, the ship fitted up on the improved construction

having then been occupied for about a year at Sheerness, I visited it at that place ; and I will now mention the information which I collected on the spot, respecting the transactions on board that vessel, in the words of a speech which I thought it my duty to make in the House of Commons on the 22d of June, 1815, when the 55 Geo. III. cap. 156. was on its passage through the House, and which was afterwards printed.

“ On the third night after the convicts  
 “ were placed on board, those on the lower  
 “ deck tore down the bars which divided  
 “ their cells from the inspection passage, and  
 “ forcing their way through hatches not pro-  
 “ perly secured, into the upper decks, in-  
 “ duced the convicts confined there to join  
 “ them, and put an end for a time to all sepa-  
 “ ration ; there were, when this happened,  
 “ no guards in the inspection passage ; nor  
 “ does it appear that any attempt was made  
 “ to controul this violence at the time, or to  
 “ punish or discover the ringleaders after-  
 “ wards ; on the contrary the men were told  
 “ that they had done enough, and might as  
 “ well be quiet ; and from that time to this,

“ though the iron bars have been replaced,  
 “ the cells are left open unless the prisoners  
 “ themselves choose to fasten them ; which,  
 “ when they have visited their companions  
 “ as long as they think fit, and are disposed  
 “ to retire to rest, they generally do. When  
 “ I went down” (between eleven and twelve  
 “ o’clock at night) “ I found most of the cell  
 “ doors fastened by the convicts with chains  
 “ and padlocks of their own. The House  
 “ will not be surprised that the convicts  
 “ should have endeavoured in this manner to  
 “ get rid of the practice of confining them in  
 “ their cells, or that the attempt should have  
 “ succeeded, when I mention a fact connect-  
 “ ed with the state of discipline on board the  
 “ ship. Up to the time when I visited Sheer-  
 “ ness, beer was sold in the hulks by night,  
 “ as well as by day, to the convicts, with the  
 “ connivance, I was going to say, but in truth  
 “ with the sanction and by the authority of  
 “ the captain, and, if I am not much misin-  
 “ formed, for his profit. I also believe that the  
 “ means which the convicts possess of pur-  
 “ chasing this beer have been in general de-  
 “ rived from the plunder of the dock-yard,  
 “ The captain of the hulk endeavoured,

“ when I was at Sheerness, to persuade me,  
 “ that the convicts did not steal more than  
 “ to the amount of 30l. or 40l. from the  
 “ dock-yard in the course of a year ; but I  
 “ have to state, in opposition to this assertion,  
 “ that in a search made by the police on  
 “ board the Edgar, in February last, stolen  
 “ articles were actually found in the convicts’  
 “ boxes to the value of more than 30l., the  
 “ particulars of which are enumerated in a list  
 “ which I hold in my hand, and which was in-  
 “ closed in a letter of complaint from the  
 “ commissioner at Sheerness to the Navy  
 “ Board. It must be recollected, that the  
 “ purpose for which these men steal, is not to  
 “ lay up hoards as a provision for their future  
 “ support, but to procure the means of grati-  
 “ fying their present appetite for liquor ; and  
 “ if plunder to the amount of 30l. has been  
 “ discovered in their possession at one time,  
 “ it may fairly be presumed, that the annual  
 “ loss by their depredations should be esti-  
 “ mated at a much larger sum.”

My object upon this occasion was to show  
 the necessity of a more effective superin-  
 tendance of the hulks than had prevailed up  
 to that time ; and with that view I urged

again upon the House the plan of appointing a deputy-superintendent at each place at which hulks were stationed, which, as I have already mentioned, had been recommended in the Report of the committee of 1812, and pressed in vain by Mr. Morton Pitt and myself on the attention of the Secretary of State. The House appeared to view the proposition in a favourable light, but as it seemed to be the opinion of many members that it was too late in the session to discuss an important question respecting the hulks, I contented myself with moving a short clause limiting the duration of the Act to the 1st of May following, which was consented to.

By this Act the office of inspector was discontinued, and that of superintendent created in its stead, with the powers which Mr. Graham had exercised under the authority of the Secretary of State, as inspector for a considerable length of time.

On the renewal of this Act in the next year, the framers of it inserted, in conformity to what had appeared to be the opinion of

the House in the preceding session, a provision for the appointment of the officers for whom I had contended, in the following terms, coming in immediately after the authority given to the Crown to appoint a superintendent; "and in case it shall be deemed expedient, it shall and may be lawful for his Majesty to appoint one fit and proper person to be assistant or deputy to the said superintendent at each or any of the said places of confinement, and to be constantly resident at or near such places of confinement."

From the time, however, of passing this Act to the present hour no such officers as are there described have ever been \* ap-

\* I admit, that the words "in case it shall be deemed expedient" are not imperative, but leave the question of the expediency of such appointments to the Secretary of State, but when that expediency had been argued in the House of Commons, and when a former bill not containing a power to make such appointment, had been limited in its duration on that account, until the question could be more deliberately considered, I certainly expected, that something more was meant by the insertion of this provision in the new Act (differing from the former in nothing but in the words inserted) than to get rid of the question. It must have been intended at that time to

pointed, nor am I aware that the expediency of such appointments has ever been taken into consideration. It is clear, that it is not now intended to attach any such officer to each place, at which hulks were stationed; for by a slight change in the language of this clause in the 5 Geo. IV. cap. 27, (the last act passed for the renewal of the powers, under which the hulks are regulated) the authority of the crown appears to be confined to the appointment of one such assistant or deputy only\*.

I appeal to all magistrates, who have been in the habit of attending to the management

make some trial of the effect of the measure suggested, and not to allow the provision inserted under such circumstances to continue a dead letter.

\* The power in the 55 Geo. III, above mentioned, is to appoint one person to be "assistant or deputy to the the said superintendant, at each or any of the said places of confinement." The words in the 5 Geo. IV, are to appoint "one person to be assistant or deputy to such superintendant, at *one or more* of the said places of confinement;" the substitution of the word "*one*" instead of *each*, limits the crown, I presume to one appointment only, (which may be for one or more hulks) instead of one at each station.



of gaols or houses of correction, whether any of the larger county prisons could go on satisfactorily, with no other superintendance on their part, than four or five visits of inspection in the course of the year, even with the advantage, which they generally possess, of hearing of any circumstances, which may require their particular notice, from persons who may visit these prisons casually, whereas it should be recollected, that no persons visit the hulks casually. So remote are these vessels from ordinary observation, that although some years have elapsed since the Society for the Improvement of Prison Discipline, called the attention of the public to the state of our prisons, and solicited information upon this subject from all quarters, no single communication appears to have reached them, respecting the hulks; and among all the statements in their annual reports concerning the treatment and condition of offenders in every other prison, there is no mention to be found of this large class of convicted prisoners, whose treatment is of more importance than that of any other inmates of an English prison, in proportion as the time, for which they

are confined, exceeds that which is passed in any other place of confinement in this country.

It appears from what has been here said, that every inquiry which has been instituted into the management of the hulks, since any establishment of that nature has existed, has disclosed some evils, and been followed by some improvement in the treatment and condition of the convicts, and that the committee of the House of Commons, who reported upon this establishment in 1812, near fourteen years ago, not only expressed themselves dissatisfied with the moral condition of the convicts, but recommended additional superintendance, which, though since sanctioned by the Legislature, has not been afforded. Perhaps these facts would of themselves be sufficient to warrant a proposition for enquiring into the present state of the hulks, even if I were not prepared to point out existing evils in the management of the convicts; I will now, however, proceed to show, that the latter ground for inquiry is not wanting.

The alterations made in the fitting up of the hulks, after the Report of the committee of the House of Commons, in 1812, certainly led to some improvement in discipline, and I believe that the employment, of late years, of an officer to keep watch over the prisoners on each deck, has put a stop to much of the turbulence, vice, and profligacy, which formerly prevailed among them, after they were locked down in the evening; they can no longer fight, without interruption, they probably gamble less, and I suppose they could not now employ themselves in beating halfcrowns\* into sixpences, even if the state of the coin should become such as to afford an opportunity for a manufac-

\* See Report of the Committee of the House of Commons of 1812, page 139, for the following paragraph.  
 "The same captain" (the captain of the Portland hulk)  
 "states upon the subject of the manner, in which the  
 "convicts employ themselves at night, that if any noise  
 "like rapping or hammering is heard after a certain hour,  
 "they are desired to go to bed, it being known that they  
 "are making money, hammering out crowns and half-  
 "crowns into sixpences, the manufacture of which he re-  
 "presents as having been carried on by the convicts, for  
 "some years."

ture of that kind. But if good money can no longer be made into bad, on board the hulks, it is still suffered to confer advantages on its possessors, which ought not to be enjoyed by one prisoner over his fellows in the same prison, nor indeed be enjoyed by such convicts, as are sent to the hulks at all.

I object altogether to the practice of allowing these prisoners to receive money from their friends, and to purchase with it food of a better description, than that provided for them under the law. When the attention of the public was much engaged, by questions connected with prison discipline, a few years ago, some difference of opinion prevailed among those who took up that subject, in respect to the propriety of stimulating convicted prisoners to be industrious, by allowing them to spend a small portion of their earnings in that manner, a practice which prevailed at that time in most of the prisons\*, which were considered as well regulated. The result, however,

\* I believe in all, except the Penitentiary at Gloucester, where Sir George Paul never would consent to the introduction of any food, but the prison allowance.

of the consideration then bestowed upon this point, was, that convicts, in general, should be confined to the prison dietaries; the clause on this head in the act now in force, for regulating gaols and houses of correction, runs as follows: "no prisoner, who  
"is confined under the sentence of any court,  
"nor any prisoners confined in pursuance of  
"any conviction before a justice, shall receive  
"any food, clothing, or necessaries, other than  
"the gaol allowance, except under such re-  
"gulations and restrictions, as to the justices  
"in general quarter sessions assembled, may  
"appear expedient, with reference to the  
"several classes of prisoners; or under spe-  
"cial circumstances, to be judged of by one  
"or more of the visiting justices." As this rule extends to persons convicted of different classes of offences, and who may be of very different descriptions and situations in life, it leaves, of course, great latitude of discretion to the magistrates managing the gaols, but I know of no prison, in which convicted felons are now permitted to spend any portion of their earnings in the purchase of food, and, if it be not thought advisable to allow the produce of their own labour to be so employed, much less ought

it to be permitted to them to live in luxury, with money derived from any other source.

In the hulks, convicts receiving money from their friends, may purchase tea, coffee, sugar, &c. at their pleasure; and some of them are appointed by the captains of the vessels as shopkeepers to sell to the rest. I saw a few months ago, on board the *Justitia* at Woolwich, two of the convicts, employed in the preparation of peppermint-drops, for sale in the ship; and the officer who went round with me observed, that these drops were very much liked by the prisoners, being very comfortable in a raw damp morning, when they were going to work. I do not mean to dispute the truth of this observation; but it is repugnant to every feeling of propriety, that a convict who has opulent friends or connections, or has himself a command of money, however acquired, should drink tea and coffee in prison, and should comfort or fortify his stomach with peppermint before he goes to work, while his fellow-prisoner, who is friendless and in indigence, is to have his

draught of cold water, rendered less palatable, than it would be otherwise, by the sight of these luxuries, of which it is not in his power to partake. I believe the practice of licensing some convicts to open shops for the sale of articles to the rest, is peculiar to the hulks; and I am satisfied, that the permission to the convicts to have any money in their own possession, cannot but lead to much inconvenience and mischief.

I am aware, that in the Report of 1812, we suggested the propriety of assigning a small portion of their earnings to the prisoners, and of permitting them to spend a part of it, but at that time this permission was general in all prisons, in which any earnings were allowed, and there can be no reason why it should be continued in the hulks, when it has been withdrawn from offenders confined elsewhere, for crimes of a less serious nature than those, for which the convicts on board these vessels are under punishment.

The practice of laying up a portion of the

prisoner's earnings for his benefit, to be paid to him on his discharge, is a very useful one. In addition to the encouragement which it gives to industry, it accustoms the mind to dwell with pleasure on the accumulation of petty savings; it aids discipline by furnishing a fund out of which the prisoner can be compelled to make good any wilful damage to the property, public or private, with which he may be entrusted; and it affords the only means, by which he can pay for letters, which may be lying for him at the post-office, from such of his relations or friends as are too poor to pay the postage, or as may have written to him without so doing. But here again the hulk establishment furnishes matter of inquiry—I understand that at some of the places at which hulks are stationed, the convicts are allowed from one-and-sixpence to two shillings per week, as earnings for themselves, while at Woolwich, those on board the *Justitia* earn nothing, though their labour is very severe. I do not know upon what principle it can be contended, that prisoners confined under the same sentence, and in prisons which the Legislature has placed under the same manage-



ment\*, ought to be subjected to such different treatment on a point of so much importance, without some legal provision for that purpose.

To come now to the subject of cleanliness, which those who have paid much attention to the management and discipline of prisons, have always held to be of very great importance, not merely as being conducive to health, but as intimately connected with our best moral habits and qualities, if not itself a virtue. Few persons visit the hulks, and those who do walk through them, when they see a considerable number of convicts washing and scrubbing the decks, come away with an impression, that every thing is kept clean and neat aboard; but whatever may

\* I believe this difference is owing to the circumstance of one department of government, being willing to make an allowance to the convicts they employ, while in another department, some objection is made to the allowance; but surely if the allowance be proper, it should be made as a part of the expense of the hulk establishment—the advantages to be enjoyed by the convicts, ought not to depend on the convenience or will of the particular boards of government for which they work.

be the appearance of the ship itself, the persons of the convicts who inhabit it abound with vermin\*. I believe this is mainly owing to the want of sheets, an article not allowed in the hulks—I understood indeed some time ago, that it was in contemplation to allow sheets, but I have since been informed on the best authority, that when the sheets were issued, it was found impossible to prevent the convicts from cutting them up into trowsers, in consequence of which the use of them is now discontinued—a fact which speaks loudly in condemnation of the discipline on board these vessels.—If this be so, I am curious to learn by what contrivance combs and knives are preserved in the possession of the convicts, or whether they have recourse to their fingers to supply the place of these inventions of civilized life †.

\* I speak here of the *Justitia* hulk, which is indeed the only one of which I have much knowledge—if however the hulks at different stations, differ materially from each other, it is high time that they should be all placed upon the footing of those which are the best regulated.

† It is fair to say, that I do not recollect to have

The committee of 1812, went into an inquiry of some length, concerning the arrangements for the religious instruction of the convicts, in the different ships, and were by no means satisfied with the information they received on that head.

Reports were made by the chaplains in those days to Mr. Graham, as they are at present to Mr. Capper; and some of those Reports spoke of the convicts in strains of as high panegyric as can be used now.

The chaplain then employed at Portsmouth, several of whose Reports were laid before the committee, seemed quite at a loss in April, 1808, for language to describe the very orderly deportment of the convicts both at Portsmouth and at Langston harbour. In 1807, more than half his congregation in a

heard of prisoners coming from the hulks to the Penitentiary with vermin in their heads—the existence of the vermin in their bodies when received there, notwithstanding the ablutions which they underwent on leaving the hulks, was notorious, when convicts were sent thence to the Penitentiary;—we have not received any prisoners from the hulks lately.

hulk containing about 400 convicts had been in tears at his discourses; and on Easter Sunday, 1808, he had in the Captivity hulk sixty-five communicants "men of exemplary character." In 1811, he states, that the average number of communicants for some years had been seventy, that "out of the whole number, to whom he had administered the sacrament, he did not recollect five cases of improper, or even suspicious behaviour," and that "he can venture to declare his belief, that no where can an equal number of communicants be found, who have acted more uniformly consistent with their religious professions."

When, however, the committee discovered, that, in addition to the care, which he extended to three convict ships at Portsmouth and Langston harbours, containing 1,000 convicts, he performed a Sunday duty on board the Admiral's ship at Portsmouth, in consequence of which he was obliged to limit his labours on board two of his three hulks to a Sunday duty once a fortnight, that he permitted the alternate duty to be done in one of these vessels by a convict, and that

he believed the church service to be read on board the other on the Sundays, on which he did not attend there, by one of the guards, whereas in fact, such service had been then discontinued for four years, in consequence of the misconduct of the person previously employed for that purpose ; and when it further appeared to the committee, on the examination of this gentleman, that his opportunities of personal communication with individuals were very slight, and that he was not in the habit of keeping lists of convicts distinguished according to their behaviour, or any note or memorandum upon that subject, we could not but consider many of his representations as founded rather on his wishes than on his knowledge \*. The chaplain employed at Sheerness, represented his opportunities of conversing with the convicts on board the single ship under his

\* See the Report of the committee, and the papers in the Appendix to it, for further statements upon these subjects. I have adverted here to these chaplains' Reports, to shew how little reliance can be placed upon Reports of this kind, without some examination into the circumstances under which they were made, and the means of knowledge possessed by those who make them.

charge as very insufficient, and gave a very unfavourable account of their morals—and the chaplain at Woolwich, while he represented the convicts as orderly during the performance of divine service, in one of his Reports, very properly attributed that circumstance to the vigilance of the ship's officers, since (as he stated) he could neither be seen nor heard by the major part of his congregation. In regard to the sacrament, (for the administration of which, Mr. Graham appeared to have been anxious) he said in the same Report, "I am at a loss how  
 " to proceed in the solemnization of that sa-  
 " cred service, without some decent provision  
 " for the celebration, without the bare uten-  
 " sils even for the ministration." And on being questioned by the committee, whether he had "any opportunity of being personal-  
 " ly acquainted with any individual convicts  
 " as the establishment was then constituted," he answered as follows, "It is a point I have  
 " not devoted myself to, not having received  
 " any command to that effect, and they are  
 " characters one does not choose to volun-  
 " teer acquaintance with—whenever I am  
 " called to visit an individual who requests

“ it, I have never refused whether sick or  
“ well, but as my duty is, as I conceive, of a  
“ spiritual nature, I have avoided that, which  
“ would be irksome to myself, as well as I  
“ conceive, no part, of my duty.”

This inquiry took place 13 years ago, and the same chaplain is now in office at the same station, with two ships under his care instead of one. A chapel has been fitted up in the larger vessel, but it lies in a part of the river, in which it is not, I believe, always accessible in rough weather, and the chaplain does not reside on board. I have no reason to believe, that the communications between this gentleman and the individuals of whom his flock is composed, are more frequent now than they used to be, when it was less numerous.

The opinions of the committee of 1812, upon the subject of spiritual instruction to the convicts, were expressed in the following terms, “ Your committee are of opinion,  
“ that a separate chaplain should be attached to each hulk, and that he should not  
“ have any other duty to perform on Sundays, which might prevent him from spend-

“ ing as much of the remainder of the day  
 “ on board, as might be usefully employed  
 “ in endeavouring to make himself acquaint-  
 “ ed with the disposition and feelings of the  
 “ convicts, on the subject of religion, and in  
 “ affording them individually, such instuc-  
 “ tion or consolation as they might require,  
 “ it being obvious that Sunday is the most  
 “ convenient, as well as the fittest time for  
 “ such communications.—Your committee  
 “ also think that the visits of the chaplain  
 “ during the remainder of the week should  
 “ be frequent, if not daily, and should be re-  
 “ gularly noted in the journal of occur-  
 “ rences, kept on board each vessel. That he  
 “ should act under written instructions. And  
 “ that, in case any of the hulks should be in  
 “ a situation, which would not admit of the  
 “ chaplain’s being properly lodged within a  
 “ convenient distance on shore, accommoda-  
 “ tion should be fitted up for him on board  
 “ the hospital ship.”

I believe that all the convict ships, except  
 those at Woolwich, have now separate chap-  
 lains, but whether they act under written  
 instructions, and if so, what duties are



pointed out to them therein, and whether they are prohibited from contracting other engagements than those connected with their chaplaincy to the convicts, I do not know; nor am I acquainted with the amount of their *emoluments*; Unless, however, these are greater than they were in 1812, they are much too low, and far beneath the salaries given to chaplains in county prisons. By the 4 Geo. IV. cap. 64, the county magistrates are empowered to give to the chaplain of a prison, built for more than one hundred prisoners, (including debtors) £250 per annum, and where the number which the prison is calculated to contain, exceeds two hundred, the justices are not limited as to the amount of the chaplain's salary, but may appoint such salary "at their discretion, having reference to the duties to be performed." The salaries of the three chaplains to the hulks, in 1812, were £200 each, at Portsmouth and Woolwich, and £150 at Sheerness. The county magistrates have long since discovered the expediency of affording to their chaplains, a provision more suitable to the extent and importance of the duties expected from them, than the small allowance which they formerly received, and

it would certainly have been creditable to the government of the country, to have set an example of liberality on this head, instead of violating every principle of justice and policy, by giving little to those, from whom much is required, and appointing the lowest stipends to those members of the clerical profession, who have to make the greatest sacrifice of worldly comfort, and to attack vice in her strongest holds.

I know there are persons, who will say, that the appointment of chaplains to the hulks, can only be intended as a decent mark of respect to the established religion of the country, for that little or no good is to be expected from their exertions in attempting the reformation of convicts; and I fear there are more who entertain a lurking feeling of this kind, than are prepared to avow such sentiments, either to others, or to themselves;—But surely they who speak or think in this manner, have not bestowed much attention on the subject. Do persons in the higher classes of society never reform? Do men of rank and fortune never become good fathers, and good husbands,

and useful members of the community, after having smarted in the earlier part of their lives for follies or vicious indulgences? And why are the lower orders of society alone to be set down as incapable of being taught by experience, and of profiting by the chastisement which their misconduct may have brought upon them? Perhaps we should reason more justly, as well as with more compassion, in regard to those below us, if we were to consider how much less opportunity they have of stopping in the career of vice or folly, than is afforded to those who move in a higher circle, particularly in the season of youth. If the son of a noble or opulent family should drink, game, or give into any other excess, or form bad connexions, he may incur the displeasure of his teachers, his parents, or his guardians, he may be removed from his school or college, and may possibly be obliged to take up with some profession or line of life, less desirable than that, for which he was originally intended, he will, however, seldom change his situation for one more dangerous to his morals, but will probably be placed under a greater degree of restraint, than was imposed upon

him before he transgressed, and among fewer inducements, than he had formerly, to transgression; whereas the apprentice or the servant, who shall have misbehaved in the same manner, will in most cases, find himself disqualified by the loss of character, for any line of life within his reach, and may probably be left without any other resource, than that of joining himself to the idle and the dissolute, and of seeking a subsistence with them, by the perpetration of some of those criminal acts, which will bring him within the censure of the law. It must not be supposed, that every act, which is so injurious to society as to require to have the penalty of a severe punishment attached to it, indicates a depraved mind in the party committing it, or that every person who has once been guilty of a crime, involving in it a considerable degree of moral turpitude, is habitually addicted to courses of the same nature, nor is it to be supposed that even in those, who have been engaged for years in criminal practices, all perception of right and wrong is lost, and every good feeling so hardened and petrified, that there is nothing left for a chaplain

to work upon; we shall generally find some avenue to the human heart remaining unclosed, if we will but take the trouble to search for it; those who are most reckless of consequences to themselves from their evil deeds, often feel most compunction for the misery, which their misconduct has brought upon others; the most hardened have some recollection of kindred\* or friendship, to which they are vulnerable; and there are few, who have not some relation or connection, whom they wish occasionally to see, or with whom they are desirous of being allowed to communicate by letter. A chaplain possesses great means of gaining an influence over prisoners, by granting permission for such indulgences, and by various

\* I have seen a prisoner in the Penitentiary, who had a very bad temper, and who appeared for a long time insensible to argument, advice, or rebuke, and maintained with dogged sullenness, his innocence of a fault he had committed in the prison, and the injustice of the punishment about to be inflicted on him for it, burst into tears, and confess the truth, on being reminded of the trouble and unhappiness which he had occasioned to his parents through life, and of the additional sorrow they would feel, on being informed of the manner in which he was then conducting himself.

other trifling good offices, which it may be in his power to do for them, or even by showing that he takes an interest in their welfare. It is notorious, that many a convict sentenced for a long term of years, when first placed among prisoners of the same description with himself, is much depressed, shrinking with disgust from the prospect of passing a considerable portion of his life in the society of profligate men ; and in proportion as he feels degraded in his own eyes, and expects to be disowned by the rest of the world, he is disposed to be grateful for the notice and compassion of a person, whose station and character command respect. There are few chaplains, who have been in the habit of conversing freely with the criminal prisoners in gaols, to which they are attached, who will not declare that they have rarely met with any insult, but have in general been addressed with reverence, and listened to with some degree of attention. Nor is the notion of its being useless to attempt to reform prisoners, consistent with the regard paid by the law, to those who are to suffer punishment for crimes of a deeper dye ; when a criminal

is condemned to death, it is recommended to him by the judge, to spend the time, which yet remains at his disposal in this world, in endeavouring to make his peace with Heaven, and the awful sentence pronounced upon him is closed with a humane wish, that "the Lord may have mercy on his soul;" why then are those, who are sentenced to be punished for offences of a less grave character, to be considered as doomed to perdition, and treated as beyond the reach of the divine mercy? How can any man think, that we are warranted in thus condemning the souls of men as well as their bodies, and in inflicting, as far as in us lies, the penalty of eternal death, upon those who have not yet made forfeit of their lives in this world?

Whatever sentiments may formerly have been entertained upon this matter, or whatever may still be the opinion of some persons concerning it, I do not apprehend, that the duty of rendering the imprisonment of convicted criminals conducive to their reformation, will be denied by any of the framers or promoters of the act, lately passed

for the regulation of the county prisons, among whom the Secretary of State for the Home department, bore a distinguished part; for this act, (the 4th Geo. IV) declares in its preamble, that it is expedient to adopt measures, and make arrangements in prisons, with a view to the improvement "of the "morals of the prisoners confined therein;" and states "the reformation of offenders," as one of the objects of imprisonment. It is indeed only since the passing of this act, that the obligation on the part of those who have the superintendence of prisons, to take any thought respecting the religious and moral improvement of prisoners, has been generally acknowledged and acted upon, even in the county gaols and houses of correction, although they have long had chaplains for the performance of divine service on Sundays. Whether any provision was made for the Sunday duty, when the hulks were first established in 1776, I do not know, but they had not any regular chaplains attached to them, when they came under the management of Mr. Graham in 1802. When the committee of the House of Commons inquired into these matters in 1812, they saw



much that required amendment, in the arrangements connected with the performance of the clerical duties, and I am afraid it will turn out upon further inquiry, that the hulks are now, as they have always been, far behind those of the county prisons, which are well regulated, in this particular. In truth, the hulk establishment has not received the attention it deserves from government, parliament or the public; I join parliament and the public in this remark, because in this country, in which the management of every department in the State, is more or less under the eye of those who choose to look into it, and may be brought freely into question, by all who think that they can either suggest improvement, or shew any grievance which requires to be redressed, the notice of government is naturally most attracted to those points, from which they are assailed, and it can hardly be expected, that the heads of departments will often find leisure to look minutely into the details of establishments, which, though nominally under their management, lie at too great a distance to be seen with their own eyes, and concerning which no complaint is made.

It must be admitted, that one material improvement has taken place of late years, in the arrangements for lodging the convicts on board the hulks, viz. the appropriation of a separate vessel to the confinement of the convict boys under fourteen, who used formerly to be distributed indifferently with those of maturer age, on board the several ships; but it may be proper to inquire into the manner in which these youths are disposed of, when they are discharged from their imprisonment. If, after being taught to read and write, well instructed in the principles of religion, and made skilful in some useful trade, they are placed out by government in respectable situations, the parents of poor families, (who must not always be expected to be very scrupulous in regard to the means, by which they may at once confer a benefit upon their children, and get them off their own hands,) will be encouraged rather to urge on a troublesome boy in the course which leads to the hulks, than to exert much vigilance in repressing his propensities to evil; and the number of juvenile offenders, (whose misdeeds are owing nine times in ten to the conduct of their pa-

rents,) may be expected rapidly to increase ; while on the other hand, if these youths are sent out of prison at the expiration of their confinement, without further care or thought concerning them on the part of the public, they must in general, for want of better friends and connections, and from ignorance of the world, fall again into the arms of their former acquaintance, and be drawn back to their old pursuits. I am much inclined to think, that an inquiry into this subject would shew the expediency of some arrangement respecting criminal boys, founded upon the principle of sending such as are friendless here, out of the country. Perhaps if all the felon convicts under a certain age, were placed in a hulk until their former connections and habits of life could be ascertained, it would be right, to select those only for continuance at home, who should appear to have respectable friends, willing to become bound \* to receive and employ them at the

\* I have long thought that the practice of taking an engagement from a respectable person to employ a convict on his discharge from prison, with security for his good behaviour for a limited period after his release, might be introduced in many cases with great advantage

end of their imprisonment, and to give security for their good behaviour, for such time as might be thought sufficient, while those who had no other prospect than that of being turned loose upon the public at their discharge from a prison, might be sent into some military corps, or corps of artificers to be formed for that purpose abroad—within what period after their conviction the destination of such convicts should be fixed, as well as what should be the duration of the services abroad, might be settled by legislative provision.

There are, however, other classes of convicts in the hulks, besides the boys, who ought to be separated from the rest. There are now in these vessels, as there were when Sir Henry Mildmay and Mr. Nield framed their Reports of March, 1802, already cited, many individuals, who, without being affected

in the case of adults, as well as in that of younger convicts; and I find a suggestion to this effect, in a Report of a committee of the House of Commons on the hulks, presented in April, 1779. The proposition then was that one-sixth of the term of a well behaved prisoner might be given up on this condition.

by any accidental sickness or disorder, which would render them proper objects for the hospital ship, are nevertheless incapable of hard labour, from age, lameness, debility of body or constitution, weakness of intellect, blindness, or other infirmity, but who, although they cannot be sent on shore to work with the rest, ought not to be allowed to herd together in idleness on board the ship during the day, nor should be locked up with the strong and healthy after the hours of labour—individuals of this description, cannot be permitted to injure the property or persons of their neighbours with impunity, and must therefore be made objects of punishment; but requiring a different course of treatment from others \*, who

\* There are also convicts in the Penitentiary, who cannot be placed in separate cells by night, owing to their being subject to fits, or must be exempted from the ordinary discipline of the prison by day, for some reasons connected with health, and who should therefore be sent to some such receptacles, as is here suggested.—The same observations apply to the expediency of a separate prison for such female convicts as cannot undergo the treatment prescribed for prisoners of their own sex in general on account of some peculiar circumstances; for pregnant women in particular, or those who have very young

have received the same sentence from the judge, they should be sent to a different place of confinement, where such work or employment should be imposed upon each of them, under proper regulations, as should be suitable to the strength or capacity of each\*.

To those in particular, who may appear from age or other cause to be verging to-

children. Several women came into the Penitentiary with child soon after the prison was first opened, and were necessarily allowed to remain during the whole time of their imprisonment, in the infirmary, where their residence with their children was attended with great inconvenience and expense to the establishment, and with very little suffering to the women themselves.

\* Upon this subject, the Report of 1812 speaks as follows, "The hulks are obviously ill calculated for the reception of any offenders, but those whose age and bodily strength will admit of their being employed in laborious occupations; and none other should be sent thither, except perhaps a few elderly men, who might be made useful for the ship's duty, or as attendants upon the sick in the hospital—and some tailors and shoemakers, to make and mend the clothes of the other convicts. The number of old and infirm convicts on board the hulks in February last, (1812) appears by the returns made to your committee, to have amounted to 129."

wards the end of their existence in this world, it would be a merciful dispensation of the law, to make them pass a longer portion of the twenty-four hours in devotional exercises, than can be so spent by men in the ordinary occupations of life,—if this should be felt as an aggravation of their imprisonment, it could not for that reason be considered as objectionable, and if many, to whom such employment might at first be irksome, should by degrees contract a liking for it, and find comfort and satisfaction in such a mode of disposing of their time, there is no one, who would not, on that account, the more approve of it.

It has been usual of late years, for the captain of every hulk to name to the Secretary of State, at the end of every quarter, two convicts out of every hundred confined on board each ship, for pardon, the convicts so nominated being selected from such of those sentenced for seven years, as have undergone one-half of their punishment, viz. a confinement of more than three years and a half,—the advantage, however, of being chosen for this favour, is not, I believe, con-

fined to such as have been originally sentenced for seven years, there being certain days in the year, on which a number of those who have received sentence for fourteen years, or for life, may be selected to have their period of confinement reduced to seven years, in which case the convicts, whose term shall have been thus shortened, become capable of being included, after a certain time, in the list of those recommended for pardon.

The plan of selecting quarterly, a number of convicts for pardon, originated with Mr. Graham, who by the twenty-second article of the instructions issued by him, while the hulks were under his management, directed the captain of each vessel, to deliver in to him at the end of every quarter, the names of six of the convicts, having served more than half their time, whose conduct made them in his (the captain's) opinion, "fit objects of the royal mercy, in order that he (Mr. Graham) might inquire particularly into the ground of such recommendation, and report thereon to the Secretary of State for his Majesty's consideration," and with a view I presume to this selection,



a muster † of the convicts was also directed by Mr. Graham to be held by the captain on board each vessel, upon the first Sunday in every quarter, in the presence of the chaplain and other officers, at which the captain was to place against the name of each convict, in a character-book to be opened for that purpose, “ the character which the  
 “ man may by his conduct during the last  
 “ quarter have deserved, making known to  
 “ him, the character so given him for the  
 “ quarter.” He was to signify,

“ He is very good, religiously inclined,  
 “ and attends the sacrament, by V. G.\*

“ Very good, by V. G.

“ Good, by G.

† This direction for the quarterly muster, was given by a separate order dated October, 1811; which was after the subject of the hulks had been referred to the committee of the House of Commons, the reference having been made in the spring of that year, although the committee did not arrive at that part of their inquiry till the next year,—the Report of 1812 contains the following passage relative to the muster, “ At the muster on board  
 “ the Portland, (hulk) all the convicts appear to be pre-  
 “ sent during this inquiry, and they are at liberty to bring  
 “ charges against any man, when his name is called, but  
 “ they are not supposed by the captain to be likely so to  
 “ do.”

" Indifferent by In.  
 " Suspicious (character not  
     ascertained) by S.  
 " Bad by B.  
 " Very bad by V. B.

The date of Mr. Graham's instructions to the captains of the hulks, containing the article relative to the selection of convicts for pardon, was not stated to the committee of 1812, but their Report states, that it did not appear to have been "generally acted upon, one occasion only having been mentioned in which it had been carried into effect."

In the fourth article of the Instructions, issued by the Secretary of State in 1815, for Mr. Capper, after he became superintendent of the hulks, a direction respecting the selection of convicts for pardon, is given in the following terms, the order given by Mr. Graham, for classing the convicts at a quarterly muster having been previously adopted without variation. "By this mode of classing the convicts, they will be aware of the character given them by their officers,

“ which it is hoped will be a stimulus to them  
 “ so to behave themselves, as to lead to their  
 “ removal into the highest class, from which  
 “ class a selection is to be made every quar-  
 “ ter, in the most impartial manner, of one \*  
 “ convict out of every hundred, who shall have  
 “ served more than half the term of his sen-  
 “ tence, (calculating upon the whole number  
 “ on board each ship) whom the overseer (the  
 “ captain) and chaplains are to certify to you  
 “ as the best behaved convicts, in order that  
 “ you may make further inquiries, previous  
 “ to your reporting thereon to me, that I  
 “ may be enabled to judge of the propriety  
 “ of recommending them to his Majesty, as  
 “ deserving of free pardons.”

Whatever may have been the intention,  
 with which this instruction was framed, the  
 practical effect of it has been to give to the  
 captain of each hulk, the nomination of a  
 certain number of convicts every quarter, to  
 be pardoned; and it is now understood

\* It is stated in a note in the copy of the Instructions,  
 laid before Parliament in 1813, that “ the selection has  
 “ since been extended to two convicts out of every  
 “ hundred.”

to be a privilege given to him, for the purpose of increasing his consequence and influence among the convicts, that he may be the better able to keep order on board the ship. I do not know what further inquiries the superintendent, residing in London, makes, or was intended to make, before he reports the names of the convicts to the Secretary of State. And if the chaplains, some of whom, I am confident, can have very little knowledge of individual convicts, were in the habit of exercising much interference in these selections, we should find frequent allusions to these musters, to the number of the first class, on board their respective vessels, and to the conduct and characters of the persons selected, in their half-yearly Reports, which is not the case, though some of these gentlemen state the number of convicts who attend school, and detail with great minuteness the number of chapters and verses in the Bible, which are repeated on board the ship, as well as the number of those of their scholars, who have committed to memory the Articles of the Church of England, under their direction; and one of them, for lack of matter in his own depart-

ment, seems occasionally to take for his report, a leaf (or a part of one at least) out of the surgeon's journal\*. That this power of nomination for pardons, is founded rather on the principle of its being expedient to strengthen the hands of the officers, than on any supposed reformation in the convicts to be pardoned, is evident from these circumstances, viz. that the number to be selected from any hulk, has reference to the whole

\* As the two last half-yearly Reports from the chaplain at Woolwich, to the superintendent of the hulks, laid before Parliament, are not too long to come within the compass of a note, I will here subjoin them.

“ Woolwich, 1st July, 1823.

“ Since my last Report, nothing has fallen within my observation, requiring special notice. The number of deaths altogether, has not exceeded ordinary computation; indeed the health of the prisoners has been better upon the whole, than might have been expected, considering the unseasonable state of the weather hitherto. The general deportment of the convicts has been orderly, not only during Divine Service, but both on board and at work.”

“ Woolwich, 31st Dec. 1824.

“ In Reporting generally ‘all's well,’ at the end of the year, I must observe, that, under God, the appointment of a more extensive hospital ship, appears to have contributed essentially to the good condition of the people.”

number on board the vessel, and not to the size of the first class, and that the same number per cent. are taken from the *Justitia* at Woolwich, as from the *Discovery* lying at the same place, or the *Ganymede* at Deptford, although the worst men are placed on board the first of these three vessels, out of which, such as appear most likely to behave well, are removed into one of the other vessels, being liable to be sent back to the *Justitia*, in case of misconduct after such removal.

This privilege of naming a certain number of convicted prisoners for pardon, at stated periods, has never been allowed to any keepers of prisons, in this country, (with or without the concurrence of the chaplain) except in this instance of the hulks. By the late act for regulating gaols and houses of correction, the visiting justices of any such prison, may report any extraordinary diligence or merit in any offender confined therein, to the justices of the peace assembled at their general or quarter sessions, who may, if they shall think fit, recommend such offender to the royal mercy; but the terms

for which such convict can be in confinement, must be very short in comparison of those, for which the convicts in the hulks are placed there, and any Report, which visiting justices may see occasion to make, under the act above cited, will probably be founded on much more knowledge of the individual named in it, than would be thought necessary, if a certain number of names were to be selected for recommendation at stated periods.

The power of recommending for pardon, is also given by the act for establishing the Penitentiary at Millbank, to the managing committee of that prison, on the ground of special merit \*, but in making such Reports,

\* The words in the Act of Parliament (taken from the 19 Geo. III. cap. 74.) are "any extraordinary merit or diligence." The practice however, at present contemplated as likely to prevail, whenever the time shall arrive for such Reports, is to abstain from recommending any convict, placed in the Penitentiary for five years, who shall have more than one year to come of his confinement, unless under very peculiar circumstances; but to be liberal of such recommendations during the last year of the term of those prisoners, whose behaviour in prison, shall create a reasonable expectation of their fu-

the committee are not only in possession of records kept by the governor of the Penitentiary, of every Report made against the prisoner, whose case is under consideration, since he came into the prison, by the officers who have been successively in charge of him, together with a detailed account of the offence reported, and of any punishment, with which it was visited, but they have before them a moral history of the

ture good conduct. The number of prisoners sent to the Penitentiary for seven or ten years, will probably not be sufficient to make it necessary to consider, what portion of their time may be given up to them, in ordinary cases.

The notification to prisoners upon this head, contained in a paper given to each, on his first entrance into the Penitentiary, is as follows: "You will have been im-  
 "prisoned your full time, on the                    day of  
 "but the committee may report you to the Secretary of  
 "State, before that time, if they shall think fit, as an  
 "object of his Majesty's most gracious pardon. In  
 "making such Report, no regard will be paid to the soli-  
 "citations of the prisoner's friends, or of any person  
 "whatsoever. Nothing will induce the committee to  
 "recommend you for the royal mercy, except the ut-  
 "most diligence in your work, and obedience to the  
 "officers set over you, and above all, the strictest atten-  
 "tion to the good advice you will receive from the chap-  
 "lains."—*Rule 3: Title, Prisoners.*



prisoner, in the character book kept by the chaplain, in which may be seen the facts and circumstances upon which any presumption in favour of his future good conduct is to be founded\* ; and as the committee are not tied down to any particular season, for making Reports, they may choose that precise time for reporting, at which they may be able to satisfy themselves of the ability of the offender, if then released, to find

\* The chaplain of the Penitentiary is directed to enter in his character book, under the name of every prisoner, " a full and distinct account from time to time, of  
 " all particulars relating to the character and progressive  
 " improvement of such prisoner, for the information of  
 " the committee, commencing with such history, as he  
 " may be able to obtain from the prisoners themselves,  
 " or from others, of their education, connections, and  
 " former habits and course of life, and noting from time  
 " to time, what instruction they have respectively re-  
 " ceived in the prison, what books have been put into  
 " their hands, and at what times such of them as have  
 " been admitted to the sacrament, have received it;  
 " their offence in the prison, (if any) with their punish-  
 " ment, and the effect apparently produced thereby;  
 " the date of their advancement to the second class, and  
 " whether in consequence of recommendation for merit,  
 " or of the expiration of time ; their appointments to be  
 " wards-men, monitors, or readers, if they shall ever  
 " have been employed in any of those situations, &c."

honest means of subsistence, or may themselves have an opportunity of procuring a situation for him, if otherwise friendless and without resource.

My objection, however, against these recommendations for pardons from the hulks, is principally founded upon the hands in which the power of recommending is lodged. The persons in charge of these vessels execute an office of no great respectability, at a low salary, to which they have generally risen from still lower situations, whereas in the case of recommendations by justices of the peace, or by the superintending committee of the Penitentiary, the parties, on whose representation the pardons are granted, are in a rank of life, which brings them much more into the view of the public, than persons of the description here alluded to, and renders them much less assailable by temptation, of some kinds at least, to be unfaithful to the great trust reposed in them. I do not mean to impute, or to insinuate, that any of the individuals, to whom this power has been confided in the hulks, have acted corruptly or unworthily

in the exercise of it, but it is contrary to every maxim of prudence and policy, to invest persons of their rank and condition of life, with a power so extensive, and so liable to be abused; and this appears to me the more objectionable, as I cannot discover what opportunities the captains of hulks possess of knowing much about the convicts they recommend, for they pass the greater part of the day on board the vessels, while the convicts work on shore, and I believe not always in the presence, or within the hearing, of any officer or guard. The Reports made to the Secretary of State, from this quarter, can seldom give him any further information, than that the convicts recommended in them have not of late excited the captain's displeasure, by attempting to escape, or by any act of disrespect towards their officers, or of violence to their fellow prisoners.

I have no means of knowing, what number convicts are annually released from the hulks, in consequence of the power of nomination here mentioned. It appears from the superintendent's Report of January, 1825,

laid before Parliament last session, that five hundred and forty-two convicts were discharged from the hulks in 1824, "by pardon or otherwise," of whom some had probably become entitled to their release by the expiration of their terms of imprisonment, and some may have been pardoned at the intercession of friends, or from causes distinct from the nomination from the hulks. It would be desirable to have returns of the numbers under each head, and to subdivide those pardoned in consequence of the captain's nomination, into such as had been originally sentenced for seven or fourteen years, and such as had been considered by the judges, when their sentence was passed, as fit objects to be sent out of the country for life. And as the arrangements connected with these quarterly grants of pardon have now been in operation for twelve or thirteen years, during which there must have been ample opportunity to bring them to maturity, and to see how they work, it is high time to inquire into the result of them, and to ascertain the principle upon which they are founded. I am strongly inclined to suspect that this practice was introduced

with one view, and has been continued with another. I know that Mr. Graham entertained an opinion that many convicts were reformed in the hulks, though I never could discover by what process he supposed that reformation to be effected; but I also know that he considered the confinement of prisoners, who had received sentence of transportation on board the hulks to hard labour, for the whole period of such sentence, as a hardship upon the prisoners so confined, and an unwarrantable aggravation of their sentence\*, and wished that they should be released before their time expired. And I therefore suspect that Mr. Graham's scheme of quarterly pardons, was framed quite as much with a view of giving all these convicts a chance of being set at liberty before the regular termination of their imprisonment, as for the purpose of encouraging or rewarding reformation; and this may perhaps account for his directing a certain number to be selected at certain periods in each ship, without any reference to the

\* This opinion of Mr. Graham was justified by the 19 Geo. III. cap. 74. as will appear hereafter.

general behaviour of the convicts in such ships. The reason which would now be given for allowing the nomination of a certain number of convicts quarterly for pardon, is the tendency of such a practice to keep the rest quiet, by holding out to all, the chance of an earlier termination of their punishment than that prescribed by the law. Before the passing of the prison regulation act (4 Geo. IV.) the submission of prisoners to their keepers, was purchased in most of the county prisons by the relaxation of discipline, together with various indulgences, which have been very properly prohibited by that act; the price now paid for it on board the hulks, consists of the indulgence of drinking tea and coffee, to those who can afford to pay for such articles, and of the remission of a considerable portion of their imprisonment, to such as can gain the favour of those in charge of them.

The separation of the convicts, whose sentence of transportation it is intended to carry into effect, from those, who are to undergo the whole of their punishment in this

country, which was recommended in the Report of the committee of 1812, has not been made, though it seems obvious, that a constant succession of the most daring and profligate offenders, passing through the ships, must very much obstruct any attempts to render the imprisonment of the rest in the same vessels, conducive to their reformation, and interfere materially with any system of regulations, which might be devised for their good government. The changes which took place on board the hulks in 1824, in respect to the convicts confined in them, are stated in the Superintendent's Report of January, 1825, as follows, " On the first of  
 " January, 1824, there were 2953 prisoners  
 " on board all the convict hulks in England,  
 " since which period, there have been re-  
 " ceived (including 440 from the Peniten-  
 " tiary) 2801—1885 have been transported—  
 " 542 discharged by pardon or otherwise—  
 " 15 have escaped—82 have died—and 3230  
 " remained in the hulks on the first of Janu-  
 " ary instant."

Of the 1885, who were transported, the

greater part were probably removed from the hulks within a few months after their arrival, having been convicted under circumstances, in consequence of which, it was intended from the time their sentence was passed, to send them out of the country, but it is obvious, that the intermixture of a considerable number of convicts of this description, must unsettle the minds of those, who had been long confined, as well as disturb all arrangements connected with instruction or discipline.

In truth the hulks, as now conducted, are not fit places of confinement for prisoners who are to remain at home, nor were they established for such prisoners, when the first of that series of statutes under which they have been regulated since 1783 was framed, as will appear from a review of the different acts of parliament passed since hulks were used. I shall now proceed to consider those acts, and to shew by what steps the Secretary of State's office, after applying the hulks to a purpose for which they were not intended, has at length arrived at the com-



plete possession of the management of them, the judges of the Court of King's Bench being now altogether excluded from the authority and controul, with which they were formerly invested over this establishment.

## PART II.

*Review of the Acts of Parliament passed at different times, for the regulation of the hulks, first established as Houses of Correction for the punishment of offenders at home, then regulated as temporary places of confinement for convicts about to be transported, and now used indifferently for both these purposes—with observations on the expediency of placing in separate vessels, such of the convicts under sentence of transportation, as it is not intended to transport, and of reverting for the management of that class of convicts, to the principles of the Acts passed for the hulks as Houses of Correction—and other suggestions relative to the future treatment and condition of such convicts.*

---

THE plan of confining offenders on board hulks, was adopted in 1776, when the disturbances, which had broken out in America, had interrupted the transportation of convicts to his Majesty's colonies and plantations in that quarter, as practised since the year 1717 under the 4 Geo. I.

The first statute authorising such confinement, was the 16 Geo. III. cap. 43. passed in 1776 for two years, but afterwards continued by two other Acts of Parliament \* till it was repealed by the 19 Geo. III. cap. 74. which was, however, founded upon the same principles with the 16th, and may be considered, in that part of it which had regard to the hulks, as an improved edition of that Act, containing many directions relative to the management of the convicts, which were wanting in the former. The other parts of it related to transportation, and to the erection and regulations of Penitentiaries, which then engaged for the first time the attention of the Legislature.

Confinement in the hulks, under the 19 Geo. III. was a distinct punishment inflicted by a sentence of the court, before which the criminal had been tried, except in the case of offenders convicted of any crime for which they were liable to suffer death, who might be pardoned by the crown, on condition of being imprisoned in the hulks for such time

\* 18 Geo. III. cap. 62. and 19 Geo. III. cap. 54.

as should be specified in the pardon. The offenders, who might be sent to the hulks by the sentence of a court, were male persons convicted of grand larceny, or of any other crime (except petty larceny,) for which they were liable to be transported, and who should appear to be of fit age, and free from any bodily infirmity; and they were to be sent thither, (if liable to be transported for seven years,) for a term, not less than one year, nor exceeding five years; if liable to transportation for fourteen years, they might be sent for a term not exceeding seven years.

The rivers, ports, &c. at which these convicts were to be employed, were to be previously approved and appointed by the crown, but the officers in charge of them, called superintendents, were to be appointed for the vessels in the Thames, by the justices of the peace for the county of Middlesex, and for those in any other river, &c. by the justices of the peace for the county in which such river, &c. should be situate, or by the justices of such adjoining county as

the King in council should direct, at their General or Quarter Sessions.

The appointment of chaplains, surgeons, and apothecaries, (and I presume, of other officers) was in the superintendents, who were to have the same powers over their prisoners as are \* incident to the office of a sheriff or gaoler, and might order such † whipping, or other moderate correction to be inflicted on them for misconduct “ as might be inflicted by law on persons committed to a house of correction, to hard labour.”

The superintendents were ‡ to conform to, and observe, in the custody, treatment, and employment of these convicts, the directions given in another part of the same Act, for regulating the conduct of the governors of the intended Penitentiaries, so far as the nature of the service, in which their prisoners should be employed, and their different places and modes of confinement would permit, and so

\* Sect. 31.

† Sect. 54.

‡ Sect. 60.

far as was consistent with the other regulations in the act concerning them, and were to make similar returns to those made by the governors of the Penitentiaries, to the Court of King's Bench on the first day in every term, of the names of the offenders in their custody, of their offences, the court before which they were respectively convicted, their sentences, ages, bodily estate, and behaviour in confinement, and also of deaths, escapes, or discharges. By the 63d section of this act, the crown might appoint a fit person to be inspector of the two Penitentiaries, of the several vessels to be employed under the act, and of all other gaols and places of confinement within the city of London and county of Middlesex, who was to visit every such place of confinement at least once in every quarter, to examine into the several particulars directed above to be returned to the Court of King's Bench, "and also into the  
" state of the buildings, the behaviour and  
" conduct of the respective officers, the  
" treatment and condition of the prisoners,  
" the amount of the several earnings, and  
" the expenses attending every such place of  
" confinement," and to report to both

Houses of Parliament at the beginning of every session. He was also directed, "in matters of extreme or pressing necessity, to make a special report to the justices of the Court of King's Bench, who were immediately to take order therein, and regulate or redress the same \*."

The expenses of carrying this act into execution, were to be laid before Parliament at the commencement of every sessions, and provided for out of the next supplies, to be granted to his Majesty.

Under this act the hulks were mere prisons, in the nature of houses of correction, for the punishment of offenders by hard labour. They were placed like other prisons of that description, in the charge of an officer appointed by justices of the peace, and I am not aware, that the Secretary of State had any more power or authority in the regulation of them, than he had concerning

\* I believe no inspector was ever appointed under this act, probably because the Penitentiaries were never built under it. Mr. Graham was appointed inspector of the hulks under the 42 Geo. III. as will appear hereafter.

the manner, in which any other house of correction in this kingdom should be regulated.

It does not appear, that the notice of Parliament was called to the hulks, between the passing of the 19 Geo. III. cap. 74, and the year 1783, but in that year an act was passed which entirely changed the character of this establishment, converting the hulks from prisons, in which criminals were to be punished by hard labour, into places of temporary confinement, for convicts under sentence of transportation, between the time of their receiving such sentence and the completion of the necessary arrangements for carrying it into effect, by sending them out of the country.

By this act (the 24 Geo. III. sess. 1. cap. 12) the crown was authorised to direct the removal from any gaol or prison, of any male offender, under sentence of death, but reprieved during pleasure, or under sentence or order of transportation, to such place of confinement within England or Wales, either on land, or on board any ship or vessel, in any river or



port, as his Majesty should appoint; and the convict was to remain in such place of confinement, until he should be transported according to law, or entitled to his liberty by the expiration of the term of such transportation, or until his Majesty should direct his return to the gaol or prison, from which he should have been so removed. The management of the convicts to be confined under this act was given to officers called overseers, appointed by his Majesty, or by three or more justices of the Peace, authorised by sign manual to make such appointment. The powers of the overseer in respect to the custody and punishment of the convicts committed to their charge, were similar to those which had been given in the 19 Geo. III. to the superintendent. They were to feed and clothe the offender, and keep him in such manner, and to permit him, *where the same could be safely done, to labour at such place, and under such directions limitations, and restrictions* "as his Majesty, or such justices, by an order directed to such overseer "for his instructions, should appoint." In case, however, the convict should be employed, he was to be allowed "half the

“profit arising from such labour, for his own use,” but it was specially provided, that no convict should be set to work under this act, without his own consent. The time of the offender’s confinement was to be reckoned in discharge or satisfaction of the term of his transportation, “as far as it would extend;” and there was a similar clause in the act, for returns to the Court of King’s Bench, at the commencement of every term, of the names of the convicts, their sentences, &c. &c. by the overseers, to that which called for such returns from the superintendents, in the 19 Geo. III.

The 24 Geo. III. sess. 1, cap. 12, was only passed for one year, and was repealed by the 24 Geo. III. sess. 2, cap. 56, intituled, “an act for the effectual transportation of felons and other offenders, and to authorise the removal of prisoners in certain cases, and for other purposes therein mentioned;” but its provisions were incorporated in this act, with the exception of those concerning the labour of the convicts, instead of which, it was provided in this latter act, that the overseers should keep the of-

fenders to labour "in such places, and under such directions, as his Majesty should appoint," without any reference in the statute to the consent of the convict to be employed, or to the allowance of any part of his earnings for his own use.

It is, I think, clear, from the language of these acts, as well as from their provisions, that the framers of them did not conceive themselves to be providing for the imprisonment of offenders sentenced to transportation, in hulks, during the whole term of such sentence. The preamble of the former of these acts, speaks of difficulties, which have occurred to delay the carrying sentences of transportation into execution, and states that "it may be some time before the said difficulties can be obviated," and both the acts contain a power to return convicts to the prisons, from whence they shall have been received, and describe their provisions as relating to "temporary places of confinement." It also appears from two Reports made by a committee of the House of Commons, appointed to inquire into the proceedings which had taken place under the 24

Geo. III, in 1785, (the one dated on the 9th, and the other on the 28th of July) that the opinions entertained by that committee were very much in favour of transportation. The unfavourable sentiments stated in the latter of these Reports, concerning the effects of imprisonment in the hulks\*, in gaols, or other prisons at home, have been † already alluded to, and it is observed in the same Report, that “it lessens the respect due to the administration of criminal justice, that judicial sentences should be inflicted, which

\* In a paper laid before the Secretary of State for the Home Department, by Mr. Graham in 1813, containing remarks on certain suggestions offered by Mr. Morton Pitt and me, as to the measures to be adopted after the Report of 1812, there is the following passage. “Every body scheming for the hulks, treats them as a permanent house of correction, whereas they *are only to be considered as a temporary place of confinement* for persons sentenced, and on their way to transportation:” instead of “are only to be considered,” Mr. Graham should have said “ought only to be used.” Mr. Graham’s observation, however, shews that he felt the inconvenience of confounding two ideas, so distinct as those of a house of correction, in which prisoners were to be permanently kept for punishment, and a temporary place of safe custody for convicts on their way out of the country.

See pages 4 and 5.

“ it has hitherto been impossible to carry  
 “ into effect, that therefore it is incumbent  
 “ on the public, to provide such place of  
 “ transportation without delay, or to resort  
 “ to some more practicable system of pu-  
 “ nishment.”

The 24 Geo. III, sess. 2, cap. 74, was con-  
 tinued by various other acts till the year  
 1815, but there were only two of these acts  
 which contained any other provisions than  
 that for its further continuance, viz. the 28  
 Geo. III. cap. 24, and the 42 Geo. III.

By the former of these acts it was pro-  
 vided, that the convicts should “ be treated  
 “ and visited in such and the like manner to  
 “ all intents and purposes,” as offenders sen-  
 tenced to hard labour under the 19 Geo.  
 III, and that “ the expenses occasioned by  
 “ their maintenance or death, should be  
 “ defrayed by the overseer or overseers ap-  
 “ pointed by his Majesty, in such and the  
 “ like manner, as the expenses occasioned  
 “ by the maintenance or death of offenders,  
 “ sentenced to hard labour under that act.”

It appears strange, that under the 24

Geo. III, so amended, contracts should have been entered into, with persons who undertook to find the vessels in which the convicts should be confined, to feed and clothe them, and supply all their wants spiritual and temporal, and this without any check or controul on the part of government, the commission of overseer being given to the contractors themselves, and every officer and attendant on board the ship being their servant, and nominated by them\*.

This however was the case, and the result was as might have been expected, that the convicts were very ill-treated.

\* This system of management, was certainly not conformable to the 19 Geo. III., although it appears, that the contract system was in operation under the 16 Geo. III. the price paid per head, was at one time, £38. per annum.—Of the management of the hulks, while they were regulated by the 19 Geo. III., I know nothing, no particular inquiry having taken place during that period; nor do I know the precise time at which they were transferred to the overseers, created under the 24 Geo. III.—For the state of the hulks under the 16 Geo. III. see Sir Charles Bunbury's two Reports dated April, 1778, and April, 1779, to be found in the Commons' Journals.

Towards the end of 1801, as has been already mentioned, Mr. Graham was employed to look into the state of the hulks, and owing to his Reports, and those of Sir H. Mildmay and Mr. Nield, which have been also alluded to in the preceding pages, a provision was inserted in the 42 Geo. III. (by which the former acts were renewed,) for the appointment of an inspector. The clause respecting the duties of the inspector, was drawn in the same terms with those used in the 19 Geo. III. nor was there a single expression in it, which went to create any apparent connection between that officer and the Secretary of State's office; but in the instrument by which Mr. Graham, the first inspector, was appointed, he was directed to transmit to the Secretary of State for the Home Department, copies of all such Reports as he should make to the two Houses of Parliament or the Court of King's Bench under the 42 Geo. III. and Mr. Graham being a man of great activity and intelligence, and having offered many useful suggestions for the alteration and improvement of the vessels, and of the system

then pursued, the Secretary of State converted him from an inspector into a manager, and the committee of 1812, found him in full possession of the management of the hulks, acting under the authority of the Secretary of State, and occasionally receiving special directions from him, but without any regular appointment or formal instrument, except that, by which he was created inspector, authorising him to visit and Report, and without any increase of his original salary of £ 350 per annum for himself, a clerk, and all other expenses connected with his office.

The concern of the contractors, was now limited to that of supplying the provisions, clothing, and other necessaries for the use of the ship; but although their authority as overseers was thus virtually superseded, their appointments to act in that character were not revoked, and they continued to be the persons by whom the returns to the Court of King's Bench, directed by the 24 Geo. III. was made at the commencement of every term, and to whom all pardons granted to the convicts, were officially transmitted from the Secretary of State.



Mr. Graham resigned his office, by whatever name it should be designated, in the beginning of 1815, about two years after the Report of the committee, and was replaced by Mr. Capper, who is now the superintendent of the hulks under the 5 Geo. IV. and who was then, and still continues to be, a confidential clerk in the Secretary of State's office.

If the duties, which Mr. Capper was to perform, had been those of an inspector, viz. to visit and report, they would have been of the same description and character with those belonging to the Secretary of State's office in regard to prisons in general ; but I am not able to persuade myself, that it can be a convenient, or a constitutional arrangement, to place the management of the large class of convicts, who are to undergo the whole of one of the severest sentences of the law in the hulks, considered as prisons, in the hands of the Secretary of State, acting through a clerk in his own office.

It has been usual of late years, when a cause of complaint has arisen in any county

gaol, or house of correction, to appeal to the Secretary of State upon the subject, who, having himself no power of direct interference in these prisons, has been accustomed to put matters in such train as he thought necessary for the investigation or correction of the evil complained of, either by advising his Majesty to appoint a commission of inquiry into the alleged grievance in the first instance, or by directing the law officers of the crown to institute such proceedings in a court of law without delay, as the occasion appeared to require; and this character of a general inspector and superintendent of prisons, not involving in it any authority to manage or regulate, nor any responsibility for management or regulation, appears to be fully recognized and sanctioned by the late gaol act, which directs a great variety of returns to be annually made to the Secretary of State's office, from the prisons in every part of the kingdom, while it does not confer upon him any power of interference in any of them. I apprehend also, that in all matters of complaint connected with the treatment of prisoners, it was formerly competent to the complainant, to apply to the

Court of King's Bench, as the inspector, contemplated by the 19 Geo. III., and created by the 42d of the same reign, was directed in these acts to do in cases of urgent and pressing necessity.

It must, however, be evident, that if complaints were now made to the Secretary of State, of the treatment and condition of prisoners in the hulks, any proceedings which might emanate from his office, would be much less satisfactory, than they would be in the case of any county prison. And the other court of appeal, which may be resorted to on behalf of persons confined in the county prisons, is now shut against complainants from the hulks, the late acts upon the subject of this establishment having been so framed as to emancipate altogether the management of the hulks, from any controul or authority on the part of the Court of King's Bench.

I do not know, by what form of instrument, or with what title, Mr. Capper was appointed to succeed Mr. Graham, but the first statute passed for the regulation of the

hulks, after his appointment, was the 55 Geo. III. cap. 156, repealed and re-enacted by the 56 Geo. III. cap. 27. These statutes enabled the crown to appoint a superintendent, with all the powers which had been exercised, irregularly, if not illegally, for so many years by Mr. Graham under the name of inspector, and the latter of them contained the power to appoint assistant or deputy superintendents at each station, in case it should be deemed expedient, of which I have already spoken, as not having been acted on \*; they also authorised the appointment of an overseer to reside on board each vessel, but they gave this officer no further powers, than those which he had formerly exercised, as captain of the hulks, under the appointment of the Secretary of State, nor did they in fact even change his title, for he continues still to be called the captain of the hulks, as he was before.

The latter of these acts, which, as originally passed, would have expired in 1821, was continued (by the 1 and 2 Geo. IV.) for

\* See page 20.

two years, and its provisions were then re-enacted (with some variation) in the 5 Geo. IV, cap. 34, by which act the hulks are now regulated.

The first inroad upon the authority of the Court of King's Bench over the hulks, was made in the 56 Geo. III. cap. 156, for whereas, while Mr. Graham had the management of the hulks as inspector, he was to make a special Report in matters of pressing necessity to the "justices of the Court of King's Bench, who were to take order therein, and regulate or redress the same." The superintendent of the hulks, to be appointed under this act, was directed to make his Report in such cases to the Secretary of State, and the Secretary of State might, "if he should see fit, submit such special Report to the justices of the Court of King's Bench," who were authorised by the act to "afford such redress, or provide such regulations, as they should deem proper;" and this first step towards getting rid of any interference on the part of the Court of King's Bench, was followed in the act now in force, by the com-

plete dissolution of all connection between that court and the hulk establishment, for the 5 Geo. IV. cap. 4, omits that part of the clause in the former act, which spoke of the Secretary of State's submitting the special Report of the superintendent, to the Court of King's Bench, and inserts in its stead, an authority to the Secretary of State himself, to "afford such redress, or provide such regulation, as he shall deem proper." The returns, which were, under the 24 Geo. III. to be delivered by the overseers, at the commencement of every term, to the Court of King's Bench, were directed by the 56 Geo. III. to be made *to that court*, by the superintendent, on the oath of the overseer, but the 5 Geo. IV. has now directed them to be made by the superintendent, on the first day of January, April, May, and October in every year, on the oath of the overseer, *to the Secretary of State*, although most of the particulars contained in those returns, must be better known in the Secretary of State's office, and by the superintendent himself, than they can be by the overseer, who originally received each

of his prisoners by the Secretary of State's order\*.

The present act varies also from all those which preceded it, in regard to the punishment of such of the convicts as may misconduct themselves during their confinement. The officer in charge of a hulk, had been empowered, up to the passing of this act, to inflict, or cause to be inflicted, "such mo-

\* I cannot see what object there could have been in directing such returns to be made to the Secretary of State, except that of breaking off all communication between those in charge of the convicts, and the Court of King's Bench, for the Secretary of State does not want a provision in an act of Parliament, to order such returns to be regularly made to his office, if he wished to have them, or to call for any other returns, from the captains of the hulks, or from the superintendents, with whom he is in daily communication. In fact, if he wanted to know on which hulk any convict is confined, for what crime, and before whom he had been tried, his original sentence, and from what prison he was sent to the hulks, &c. the superintendent is probably able to give him more full information upon those heads, from records made before the convict went to the hulks, than he can derive from any [returns made from the hulks.

“ derate punishment or correction, as may  
 “ be inflicted by law, on persons committed  
 “ to hard labour in a house of correction.”  
 The punishment under the 5 Geo. IV. cap.  
 84. § 15. is to be “ such as shall be allowed  
 “ by the Secretary of State.”

It is not mentioned in the 5 Geo. IV. by whom the officers, other than the superintendent, and the overseers, and guards, shall be appointed, all that is said upon that point being, that the overseer of the convicts in each ship, “ with a sufficient number of  
 “ officers and guards, shall constantly reside  
 “ therein,” and it is certainly very remarkable, that after all the consideration which has of late years been bestowed upon the treatment and condition of prisoners in other prisons, there should not be in the act now in force for regulating the hulks, passed so lately as in the year 1824, and standing in the statute book next to the act for amending the general prison regulation act, any provision concerning the appointment of chaplains or surgeons, or any mention whatever of Divine service, and spiritual advice,



or of medical attendance. The appointment of all officers of every description, are I believe made by the Secretary of State personally, though the inferior officers and guards are, I make no doubt, always taken on the recommendation of Mr. Capper, the superintendent.

The convicts are by this act, to be fed and clothed according to a scale of diet and clothing "fixed on, and notified in writing to the superintendent, by the Secretary of State," and to be kept "to labour at such places, and under such regulations, directions, restrictions, and limitations, as by such Secretary of State, should from time to time be prescribed," and whatever rules and regulations are in force in the hulks, must be made under this power, but there is no direction in the act, that any such rules and regulations shall be laid before any judges, to have it certified, that such judges see nothing in them contrary to law, as is the case respecting the rules and regulations under which the Penitentiary, and all county prisons are conducted, nor are

they like those of the Penitentiary to be laid before Parliament\*; in fact, the rules, practices, and arrangements relative to the hulks, are not much more known out of the hulks themselves, than those of any prisons or places of confinement, in the most distant part of the globe.

All these peculiarities and defects, (as I presume to call them,) in the management of the hulks, arise from the circumstance of their being regulated by acts of Parliament, as temporary places of confinement, after they have been converted by practice, into

\* There is a clause in this act enabling the Secretary of State to remove any convict under sentence of transportation from the common gaol in any county, to the house of correction, § 18, which I confess, as a county magistrate, I see with great jealousy. With what view this clause was inserted, I do not know, but if government should choose at any time to discontinue imprisonment in the hulks, and to burden the counties with the custody and maintenance of their convicts, it has taken to itself by this clause, the power of so doing; bad encouragement this to the counties to build spacious houses of correction. It should be remembered that there is no provision as the law now stands, for separating convicts under sentence of transportation, from other convicts in houses of correction.

prisons, in which offenders suffer a long imprisonment.

Nor is it a slight aggravation of this imprisonment, that the offender remains liable, during the whole time of its continuance, to be sent abroad under his original sentence of transportation, at the pleasure of the Secretary of State.

I shall probably be told, that no complaint has ever been made of any abuse of this power, and that it is not usual to send from home, the convicts sentenced to transportation, during the latter part of their term; it will not, however, be denied, that convicts have been transported within two or three years \* of the end of their term; a

\* The following questions and answers are printed in the statement of Mr. Capper's evidence, as given before the committee of the House of Commons, on transportation in 1812. Quest. "Are convicts ever sent" (viz. to New South Wales) "whose sentence is within two or three years of its expiration?" Ans. "Cases have occurred in which that has taken place." Quest. "Upon what principle are they sent?" Ans. "There were about three or four years ago, two cases, in consequence of their attempting to cut through the ship, and one for

practice, which appears to me to be indefensible, under any circumstances, and though it may be true, that the power alluded to, is not now abused, yet we are not to rest assured of this, because the voice of complaint does not reach us from New South Wales. I must be allowed here to remark, that the non-existence of abuse, even in the treatment of those convicts, who remain at home in the hulks, is not a necessary inference from the absence of complaint, for every inquiry, which has hitherto been made into the state of this establishment, has disclosed evils to be corrected, and I believe there has not been one among them, in which inquiry was preceded by complaint on the part of the convicts. If I were to be asked, from what prisons I should least expect to hear any murmur,

“wounding one of the guards. These are cases which frequently occur; and there is one at present, of a man applying to go out in consequence of his wife having been transported; we cannot resist it of course, but, generally speaking, the rule I have pointed out is adopted.” See Appendix to Report of committee of the House of Commons, on transportation, July, 1812, page 77.

which should imply censure, or charge upon those who managed or superintended them, I should certainly name those, in which the keeper possessed the power of inflicting corporal punishment, without reference to any other authority, and could either select a prisoner for pardon, or include his name in the list of those, who are to be sent out of the country, at his pleasure.

There is one point on which the convicts of the hulks would undoubtedly complain, if they were as conversant with Acts of Parliament, as those who confine them there, viz. their confinement to hard labour during the whole time for which they have been sentenced to be transported, such confinement having been considered in the 19 Geo. III. as so much severer than transportation, that the offender, who had rendered himself liable to the latter for a certain term, could only be sentenced for a shorter period of time, to the former. In pursuing this course, therefore, the Secretary of State acts in opposition to the recorded opinion of the Legislature; and even if it shall turn out that such is the frequency of pardons, as to pre-

vent any man from staying his full time on board the hulks, still it is no sufficient reason for subjecting a convict to a severer punishment than has been assigned by the law, that it is intended to shorten its duration by a pardon.

In the preceding pages I have endeavoured to shew the expediency of returning so far to the principle of the 19 Geo. III., as—to appropriate certain hulks to the reception of convicted felons, who are to remain at home,—to consider such hulks in the light of houses of correction, and—to find some other person, than the Secretary of State, to manage them, although it must be always left to him to determine the number and size of the prisons of this description, and the ports and places at which they should be stationed, and he should have full power to remove these vessels from any station, at which their continuance might be found inconvenient, or where proper work could no longer be procured for the convicts, and to transfer them from one place to another at his discretion. I shall not presume to give any opinion in respect to the hands, in which the

management of these prisons should be placed, whether in the magistrates of the county in which they shall be locally situate for the time being, or in a certain number of the magistrates of that, or some adjoining county, to be selected for that purpose by the crown; or in one or more commissioners, receiving a proper remuneration for important and arduous duties—but whatever may be the description of those who manage them, it will I hope be thought fit to give to those persons, the same powers which are exercised by the county magistrates under the general prison act, viz. those of making their own rules and regulations with the sanction of the judges, and of \* appointing their own officers; and I think

\* When I brought in the act for the erection of the Penitentiary at Millbank in 1812, an expectation was hinted to me, from the Secretary of State's office, (not by the Secretary of State himself,) that he was to nominate all the officers to be employed in that establishment, to which of course I did not agree, nor did the act so direct, but the first governor of the Penitentiary, who was taken on the recommendation of the Secretary of State, professed to think that the committee of the Penitentiary could not remove him, and complained to the Secretary of State of the terms of a subsequent act, which was

it will be found advisable to revive the office of inspector, according to the real intention of the 19 Geo. III. and in the true meaning of the term, viz. that of an officer appointed to inspect and report, but not invested with any powers of management or controul. It would much facilitate the good management of the hulks intended to be used as houses of correction, if they could all be collected together at one station.

I am however, far from wishing to see that part of the 19 Geo. III. adopted, which made confinement in the hulks the consequence of a sentence or order of the court before which the convict had been tried, nor would it perhaps have been so made in that act, if there had been any opportunity of transporting offenders at that time, or any other way of disposing of them than by imprisonment. It must be obvious, that, if a number of courts are to be passing sentences passed when the prison was about to be opened, and which made that and some other matters more clear than they were before.



either of imprisonment in the hulks, or of transportation, at their discretion, on the numerous offenders tried before them, each acting in total ignorance of the number of sentences of each description passed by all the others, it \* must frequently be difficult, if not impossible for the Secretary of State to find the means of carrying such sentences into effect ; but if it be left to him to determine, which of a large class of convicts, who

\* In the 19 Geo. III. by which act confinement in the Penitentiary, was to take place under a sentence of the court which tried the offenders, the number which the judges might send thither from each circuit, was limited. Ten might be sent from one circuit, twelve from another, sixteen from another, &c. &c. but it would be impossible for the judges on one circuit, to know how many his brethren might have sent from their respective circuits, and either a large portion of the prison must have been kept unoccupied for the chance of offenders being sentenced to be confined there, or there would have been sometimes more so sentenced than could be received ; and this was the more likely to happen, as there was no direction in the act with respect to the proportions to be observed between the males so to be sent, and the females. They might have been all of one sex. This evil was avoided in the act for regulating the Penitentiary at Millbank, by making confinement there take place under the order of the crown, and not under the sentence of a court.

have all received sentence of transportation, shall be confined here, and which shall be sent abroad, having before him returns of all the convicts so sentenced, and of the state of the different prisons, in which such convicts may be kept at home, he may without much difficulty make a convenient apportionment of them between the Penitentiary at Millbank, the hulks used as houses of correction, and those reserved as temporary places of confinement for such offenders as it may be fit to send to New South Wales.

It is expedient on another account, to leave this matter to be determined by the Secretary of State. If the court before which a criminal has been tried for an offence, which renders him liable to transportation, were to pronounce by its sentence, whether he should undergo that specific punishment, or should be imprisoned at home, it would be necessary to decide that point immediately on his conviction, whereas there may be many circumstances connected with the commission of his offence, or with the history of his former life, or with his future pros-

pects, which ought to have an influence on that decision, but which cannot well be known, till some time afterwards; neither the offender nor his friends can be supposed to be very communicative upon such matters before his trial, and many inquiries which the gaoler may be directed to institute concerning him, when under sentence, could not properly be made while he was unconvinced. In many cases, the disposition and temper of the individual himself, will be better understood during a short continuance by him in gaol as a convict, than it was before his trial, the mask, which has been worn in the hope of an acquittal, being often thrown aside after conviction.

It will perhaps be found, that some legislative provisions are wanting, to oblige gaolers to make a return to the Secretary of State's office (within a certain time after any prisoner in their gaols shall have received sentence of transportation,) of such particulars respecting him as it may be useful for the Secretary of State to know, with a view to the manner in which he should be disposed of; and the gaoler should also be re-

quired to make such inquiries as may be necessary for that purpose, under the direction of the visitors of the gaol, laying before them the result of such inquiries, and submitting his intended return, for their approbation or correction, before it shall be sent up. I do not believe, that much information on this head, is now derived by the Secretary of State from the gaols. In 1812, Mr. Capper being examined before a committee of the House of Commons, which sat on the subject of transportation\*, was asked this question, "In what manner is the selection (of the convicts to be sent abroad) made from those, who are sentenced for seven years?" to which he answered as follows, "We have references to books, where magistrates in the different counties inform us of their atrocious conduct in some acts they have committed in their respective counties, or from their conduct on board the hulks, in attempting to escape, striking officers, or such like." There is

See Appendix to the Report on transportation, of July, 1812, page 77.

no mention here of any information derived from gaolers, nor is there any provision by law, at present, for returns from the keepers of prisons upon this subject, to the Secretary of State's office, although they are directed by the acts under which convicts are sent to the Penitentiary, or to the hulks, to deliver with the convict a certificate containing "the offender's age, with an account of his behaviour in prison before and after trial, with their observations on his temper and disposition, and such information concerning his connections and former course of life, as may have come to their knowledge\*."

I cannot indeed say, that much advantage has been derived hitherto from these communications, in the Penitentiary, whatever may have been the case in the hulks, for the certificate sent up with the convict has generally contained nothing more concerning his history before his conviction, than "connec-

\* See 56 Geo. III. cap. 63. sect. 15. and 5 Geo. IV. cap. 84. sect. 15.

“ tions and former course of life unknown,” or some entry to that effect, and yet I have hardly ever gone round a county prison, of which the keeper did not appear to be pregnant with anecdotes concerning his criminal prisoners, and very well disposed to relate them.

I have been told by the officers of prisons bringing up convicts to the Penitentiary, when I have expressed my surprise at the scantiness of the information given in the certificate, that, if more particular questions were put, and an intimation were given from authority of a wish to have such inquiries made by gaolers, as would enable them to answer such questions in a satisfactory manner, more intelligence might be obtained, and under that impression, I took the liberty some time ago of submitting, for the consideration of the Secretary of State, the draft of a paper of inquiry, which it would be convenient to have filled up by the keepers of gaols, from which convicts should be ordered to the Penitentiary, but perhaps I was premature in my suggestions, and it would

be proper in the first instance to enforce attention to such a call from the Secretary of State, by the authority of Parliament \*.

\* The following is a copy of the paper here alluded to.

Questions to be answered by the gaoler of for the information of the governor of the General Penitentiary, to whom this paper, when properly filled up, is to be delivered, with the caption of the convict ordered to be confined there.

1. Where was the convict tried, at what time, and before whom?
2. What was the criminal act for which the convict received his or her sentence, when and how was it committed, and what circumstances (if any) of aggravation or extenuation attended it?
3. Was it committed alone or with accomplices; if with accomplices or by the persuasion of others, does the prisoner appear to have been the most guilty party, or does the larger share of the guilt belong to some other person?
4. Were there any other indictments or charges against the convict, besides that on which the conviction took place?
5. Was the convict ever before in your prison; is there reason to believe that he or she has been the subject of any former conviction, or has been in any other prison, or before a magistrate on any former charge?

It is unnecessary for me to dwell on the importance of the information required, as

6. Did the convict call any witnesses to character on his or her trial, and if so, what evidence was given upon that head?
7. Has the convict any respectable friends or connections; and if so, have they taken any notice of him or her, since he or she came into prison?
8. Is the convict believed to have any connections or associates of a different description?
9. What has been the convict's course and condition of life of late years; and how is he or she supposed to have gained his or her livelihood?
10. Is the convict married or single?
11. What is the age of the convict?
12. How long has the convict been under your charge?
13. In what manner has the convict conducted himself or herself during his or her confinement; and has the conduct of the party since conviction, been different from his or her demeanour before trial?
14. Has the party ever been punished or censured in prison, for any misbehaviour either before or after trial; or been employed by you in any office about your prison?
15. What is your opinion of the temper and disposition of the convict?
16. Have you reason to believe, that the convict would have preferred being sent to New South Wales, or on board the hulks, if he had been allowed an option between these punishments and that of being confined in the Penitentiary?



well to the Secretary of State, who is to select each of the convicts of whom I am now speaking, for that place of confinement which shall be most suitable for him, as to those who are to have charge of the offender when he comes there.

Although it may be proper, for the reasons given above, that the convict should be sent to such hulks as might be used as houses of correction, under a Secretary of State's order, rather than by the sentence of a

17. Can the convict read or write?
18. What religion does the convict profess?
19. Has the convict appeared to pay any attention to any instruction given in your prison, or to the advice of your chaplain?
20. Have you any statements or observations to make relative to the prisoner, on points not particularly specified in the foregoing questions?

N. B. This paper is to be communicated to the chaplain attending your prison, who is requested either to add thereto, any information which he may be able to supply, relative to the foregoing inquiry, with such remarks as may occur to him upon the subject of it, or to communicate the same by letter to the governor of the Penitentiary, as he may think fit.

court; I conceive that the convict once confined under such an order, should be as little liable to have his destination again changed, as if he had been originally sentenced to such confinement. I suspect, however, that some difference of opinion will be found to exist upon this point; it will be argued, in support of a power in the Secretary of State to transport the criminal at any time before the expiration of his term of punishment, that it is expedient, for the preservation of good order and discipline among the convicts imprisoned here, to send abroad such as shall become troublesome at home, and that offenders, who shall add to the crimes, of which they have been found guilty in a court of justice, other offences in prison, cannot reasonably complain of having their original sentence carried into effect; but I am by no means prepared to admit, that convicts imprisoned at home, will be rendered tractable by having transportation held out to them as the consequence of disobedience or misconduct; on some of them transportation might certainly operate as a severe increase of suffering, but there would probably be others, to whom the prospect of it would not appear

very formidable, and some might even consider it as a boon. A prison, unless it be very ill-regulated, must at all times be an irksome abode, and men, who are not endowed with much patience or judgment, whenever they feel uncomfortable where they are, will often, from mere restlessness of spirit, become desirous of any change, which may appear to be within their reach, without stopping to consider, very nicely, the advantages or disadvantages which will attend it; and even if they should enter into that consideration, every day's experience shows us, how prone we all are to exaggerate to ourselves, the evils and inconveniences of our present condition, and to think too lightly, in the comparison, of those which we only see at a distance.

One of the first ideas which it is desirable to impress upon a prisoner, whose reformation we mean to attempt, is that he has no other alternative before him, than that of either remaining where he is, until the end of his term of imprisonment, or of shortening his confinement by good behaviour, and it cannot but be injurious to turn his thoughts

from this view of his condition, to the possibility of his being transferred elsewhere, either by way of punishment,\* or as a favour, especially when the country to which such transfer is to be made, is one in which some of his own class have risen to stations and fortunes, to which they never could have attained by honest industry at home. It should not be forgotten, that it has been the fashion of late to extol, (probably much beyond the truth) the advantages of New South Wales, and a letter from a transported convict to his friends or relations at home, written in the inflated and vaunting language, in which such letters are often conceived, might unsettle the minds of half the inmates of a prison, if the advantages of which it spoke, were supposed by them to lie within their reach †.

\* I say "as a favour," because, if transportation be held out as a punishment for misconduct, I do not see on what principle it could be refused, if it were the choice of a well-behaved prisoner, and he should apply to be transported, on the ground of good conduct.

† It was suggested in some of our discussions, in the committee of the House of Commons, which inquired

I am much inclined to think that the most effectual punishment which can be inflicted

into the state of the Penitentiary, in 1824, that it might be convenient to give a power to the crown, to remove prisoners for misbehaviors, from thence to the hulks, (on an application made for that purpose, by the committee who manage that prison,) or even in cases of very gross misconduct, to transport them. I stated at that time the opinion, which I entertained, of the impolicy of creating such a power, and subsequent reflection, and communication with others, have confirmed me in that opinion. It would undoubtedly be a great convenience, to those who manage the Penitentiary, to be relieved occasionally from a few profligate individuals, who give more trouble than all the rest of the prisoners, but their removal would be dearly purchased, by letting it be generally understood in the prison, that all who wish to change their place of confinement, might attain that object by misbehaviour. It must often happen in a prison, where all actions are closely observed, that a prisoner who has been rebuked or reported for some irregularity or offence, by the officer who has the care of his ward, conceives a violent resentment against him for the strict discharge of his duty, and would, in the first impulse of passion, avail himself of any means within his power to get away from him; and nothing could be more injurious to the discipline of the prison, or more unfair towards its officers, than to let a convict feel, under such circumstances, that by an act of gross insult or personal outrage on the individual, who was the object of his dislike, he might withdraw himself in future from his controul, and

for a serious offence, committed by a prisoner, is an extension of the term of his con-

at the same time gratify his own revenge: many cases might be put, in which prisoners in the Penitentiary would be desirous of going to New South Wales. Some have friends or connections there, and others have quarrelled with their friends and connections at home; they are not unfrequently violently irritated by the letters they receive from their correspondents, even from those who wish them well, and are disposed to serve them, when their term of imprisonment shall have expired, but who are not prepared to put quite so much confidence in their professions of amendment as they expect, or to promise all they require, and in moments of such irritation, they might sometimes be disposed to do any act, by which they should renounce their connections here, and leave the country, never to return. I remember being told by a female prisoner, soon after the Penitentiary was first opened, that she was determined to be sent to Botany Bay, and that if we would not procure her removal thither, she would do something, which should make us willing enough to have her sent there. My answer was a plain one, viz. that there was no power in this country to transport her, and that though she might do some act for which she might suffer capitally, she could not, by any conduct she could pursue, effect her transfer from Millbank to New South Wales. I am convinced, that there are many prisoners now in the Penitentiary, who are reconciled to that confinement, which they know cannot be exchanged for any other punishment, but who, if the prospect of a change were opened

finement in the same prison, in which he is already confined ; but this ought to be inflicted under some commission, or by some special authority, given for the purpose, and not by the decision of any persons connected with the management of the prison ;—It is quite impracticable in most cases, to try offences committed in criminal prisons, before the ordinary courts of law, or by legal evidence.

The great defect of hulks, considered as prisons for the punishment of offenders, is the want of single cells for the separation of the prisoners, after they leave off work. If a number of criminals are to remain together during the whole of the twenty four hours, it would be idle to suppose that any other consequence can result to their morals, from such confinement, than a great increase of profligacy. Those who continue to them, would be very likely to pursue it through any path, by which it might be attained ; and it would be a less evil in my eyes, to allow the prisoners to remove themselves from the Penitentiary elsewhere, at their own option, as the debtors do from one prison to another, than to enable them to procure their removal by acts of outrage, or continued misconduct.

always with each other, must by degrees assimilate in character. The most opposite cannot constantly associate without a considerable approximation towards each other in sentiments and language. Either the serious and well-disposed will bring over the others to think as they do, or the profane and dissolute will extinguish the right feeling, and destroy the good resolutions, of those, who, if left to themselves, would fain retrace their steps, and regain their lost station in society. It can, however, very rarely happen in this contest, that the cause of reform should prevail, since its advocates engage in the controversy under great disadvantage, and at a time, when they are but half in earnest; for the same persons, who, when alone, will look back with wholesome sorrow on the past, and profit by the contemplation of the future, will often be forward, when mixed with their fellow-prisoners, to join in their inconsiderate or profligate gaiety, by way of relief from their own thoughts, and many, who fear God in separate cells, will appear to be afraid of nothing in company, except the ridicule of their companions. But there can be no need to pursue this argument



further, or to say any thing in support of the general proposition, that it is expedient to separate prisoners from each other during the night, the Legislature having already expressed a decided opinion upon that point, by directing, in the Prison Regulation Act (4 Geo. IV. cap. 60.) that in all gaols and houses of correction, "a separate sleeping cell shall, if possible, be provided for every prisoner," and surely, if night cells be thought necessary in the county prisons, they should be deemed equally indispensable in the hulks, the inmates of which have been convicted of more serious offences, and have a much longer time to remain in confinement, than is the case with those who are placed in any other prison.

The points for consideration upon this head, are the practicability of the measure, and the expense with which it would be attended. The committee of 1812, so often referred to, looked at some designs for fitting up a vessel with a separate night cell for each convict, which designs were not thought practicable, but they were not drawn by a person conversant in ship building, and the minds

of those who had turned their thoughts to the regulation of prisons not being so strongly impressed in those days with the importance of keeping offenders separate after the hours of labour as they are now, we gave up the scheme of having separate night cells in a hulk, without making any further effort to obtain them, and limited our views to the distribution of the convicts in each vessel into a much greater number of companies or classes, than those into which they had been before divided. I have no doubt however, that the complete separation of the convicts by night, would be found practicable, if the officers of the dock-yards were invited to give in plans for that purpose. I have seen a design of a hulk so fitted up, which would be capable of containing two hundred prisoners. It was drawn by a very intelligent man, who was thoroughly acquainted with every part of a ship. The vessel to which it was adapted, was a long seventy-four, and the expense of fitting was calculated at about £20,000, the *Bellerophon*, the only vessel for which I can find any charge in the accounts laid before Par-

liament, cost £12,031\*, but this vessel has always had above two hundred convicts on board. If it should be thought advisable to confine the prisoners sentenced to transportation for seven years only, (say 1800 persons) † in hulks fitted up with separate night cells, according to the estimate of expense given above, it would cost the nation about £180,000, a sum less by some thousands of pounds than the charge incurred by the county of Kent for one of its prisons, intended, I believe, to contain between four or five hundred prisoners of various descriptions. I am aware that a prison erected on land, may be considered in all pecuniary calculations, as built for ever, whereas, these floating prisons are not equally durable. They will however last for many years ‡, and when it should be

\* See Mr. Capper's Reports of January, 1819, page 4.

† I take the average number of convicts in the hulks whom it is not intended to transport at 2,000, from which the boys in the Bellerophon, for whom it never would be thought necessary or proper to fit up a hulk with separate cells (between two and three hundred) must be deducted.

‡ How long a hulk will last, must depend a good deal on the state of the vessel when first taken for that pur-

found necessary to change the hulk, the greater part of its fittings, the iron railings, the partitions between the cells, the cell-gates, locks, &c. would come again into use.

In considering the sum of money to be expended in preparing a prison for the offenders, we ought not to overlook, even in a pecuniary point of view, the effect, which the proper construction of it is likely to have upon the behaviour and morals of those confined there, for I am much mistaken, if the place of confinement, which shall afford the best opportunities for inspection, classification, and other arrangements connected with good discipline, will not turn out to be the most economical in the long run. A convict, who, after his release from confinement, is re-united to the respectable part of his family or connections, and gains an honest livelihood by his industry, is become profitable to the community instead of being

pose. I believe the *Justitia* now at Woolwich, has been a prison hulk since the commencement of the hulk system in 1776; she was an old Indiaman when first converted into a hulk.

a burden to it; but he who returns into society from prison, with worse dispositions, and a greater stock of vicious knowledge, than he had when he entered it, and consequently follows such courses, as will bring him a second, or even a third time, into confinement, as a criminal, will cost the country a sum, in comparison of which the one imprisonment of the former, conducted on the largest scale of expense, which it is possible to contemplate, will be trifling. If any person acquainted with the history of a convict, who has been repeatedly on board the hulks in that character, and who has spent the intervals between his several periods of confinement there, in committing depredations upon the public, will add, to the charges of his several imprisonments, the value of the plunder, which has been the support of his wasteful life, while he was at large, and will further calculate the expenses incurred in detecting, pursuing, apprehending, and prosecuting the criminal, it will be a matter of surprise to see how large a sum of money would have been saved to the community, if his reformation had been effected when he was in confinement under his first sen-

tence. And yet there would be many particulars wanting in an account so made up, which might properly find a place there, such as the expenses occasioned by criminal attempts, which had not proved successful; and the loss arising from the acts of others, who had been seduced into the commission of criminal practices by the example or solicitation of the offender, whose case we are now considering. It would be impossible to estimate even the pecuniary damage to society, occasioned by a criminal of the description here alluded to, and there are many such now to be found in the hulks. But it is not on considerations of this nature, that we should rest the obligation of government to strain every nerve, to render imprisonment conducive to the reformation of offenders, in the first instance, instead of so administering that punishment, as to make it increase rather than diminish the probability of their committing further offences.

The number of convicts discharged from the hulks, by pardon or otherwise, during the year 1824, (the last year to which the returns to Parliament go) was five hundred

and forty-two\*. It is a matter of no trifling interest to every inhabitant of this country, whether so many individuals are to be annually sent forth to live amongst us as good subjects, or to be let loose upon us as wolves to plunder and destroy.

\* It appears by Mr. Capper's Report on the state of the hulks, dated twenty-first January, 1826, and just laid upon the table of the House of Commons, that the number of convicts discharged in 1825, amounted to 633.

THE END.





LATELY PUBLISHED BY THE SAME AUTHOR.

---

I. **THOUGHTS** on the **CRIMINAL PRISONS** of this Country, occasioned by the Bill now in the House of Commons, for consolidating and amending the Laws relating to Prisons; with some Remarks on the Practice of looking to the Task-master of a Prison rather than to the Chaplain for the Reformation of Offenders; and of purchasing the Work of those whom the Law has condemned to hard Labour as a Punishment, by allowing them to spend a Portion of their Earnings during their Imprisonment. 1821. Price 2s.

II. Substance of the **SPEECH** of **GEORGE HOLFORD**, Esq. in the House of Commons, in Support of an Amendment (proposed by him and adopted by the House,) to withhold from the visiting Justices of Prisons, the Power of authorising the Employment, without their own Consent, of Prisoners committed for Trial; on Friday, the 21st of June, 1822, in a Committee of the whole House on the Bill for consolidating the Laws relative to Prisons, &c. 1824. Price 1s.

III. A Short **VINDICATION** of the **GENERAL PENITENTIARY** at **MILLBANK**, from the Censures contained in a "Letter addressed by C. C. Western, Esq. to the Lord Lieutenant and Magistrates of the County of Essex;" with a few Remarks on the Punishment of Juvenile Offenders. Second Edition. Also a **SECOND VINDICATION** of the **GENERAL PENITENTIARY**, containing Statements and Remarks relative to the Sickness which prevailed there in 1823, and to other matters connected with the management of the Prison. To which is added, an Appendix, containing a Plate and Description of a Prison, designed by Mr. Cubitt, and published by Mr. Western, with Observations thereupon. 1825. Price 2s.

IV. The **CONVICT'S COMPLAINT** in 1815, and the **THANKS** of the **CONVICT** in 1825: or Sketches in Verse of a Hulk in the former Year, and of the Millbank Penitentiary in the latter; being an Attempt to describe in Lines, supposed to be written by Prisoners—first, the Condition of Convicts in a Prison, which provides simply for the safe Custody of the Person of the Offender—and secondly, their treatment under an improved System of Management at Millbank. With a few prefatory Statements and Remarks. 1825. Price 1s.

V. A **THIRD VINDICATION** of the **GENERAL PENITENTIARY**, shewing that there is no ground whatever for supposing that the Situation of that Prison had any share in producing the late Disease among the Prisoners confined there. Being an Answer to some Observations contained in a Work published by P. Mere Latham, M. D. entitled "An Account of the Disease lately prevalent at the General Penitentiary." 1825. Price 2s.



