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CAPE OF GOOD HOPE

PARLIAMENT

HOUSE

SELECT COMMITTEE ON THE
EMPLOYMENT OF CONVICTS

FIRST REPORT





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CAPE OF GOOD HOPE.

FIRST REPORT

OF THE

SELECT COMMITTEE

APPOINTED TO CONSIDER AND REPORT ON THE

EMPLOYMENT OF CONVICTS.

Ordered by the House of Assembly to be printed.

3RD OCTOBER, 1866.

CAPE TOWN:

SAUL SOLOMON & CO., STEAM PRINTING OFFICE.

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OF THE

SELECT COMMITTEE appointed by the HONOURABLE the HOUSE OF ASSEMBLY on the 17th September, 1866, to consider and report, first, upon the arrangements proposed in the MESSAGE of the GOVERNOR respecting the EMPLOYMENT of CONVICTS, and, secondly, to inquire into and report upon the whole CONVICT SYSTEM; and that it be an instruction to the Committee first to consider and report upon the former branch of the subject.

MEMBERS :

The Treasurer-General,		Mr. Rutherford,
Mr. Molteno,		„ Munnik,
„ G. Wood,		„ White.
„ Darnell,		

Your Committee having considered the subject referred to it, and taken evidence thereon, have agreed to the following resolutions, which, together with the evidence as yet taken, it begs to bring up as a first report, and in special reference to the message of His Excellency the Governor, No. 5, of 10th September.

The Committee is indisposed to recommend the establishment of any new convict establishments on the present costly footing, being of opinion that by maintaining four principal stations, and adopting other arrangements,—some of a temporary character,—the present pressure will be met until such time as the effects of fresh criminal legislation may, it is reasonable to suppose, cause a diminution in the number of convicts.

The arrangements proposed are as follows, viz. :

1. The Cape Copper Mining Company having agreed to provide the transport and accommodation, and to

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contribute further towards the superintendence required, the Namaqualand road might be commenced by forming a convict station, on a new principle, as an out-station of the Breakwater, by sending a number of selected convicts from that station, to be worked under a less expensive system than the present, and subject to such new regulations as may be recommended by the Committee, or finally resolved upon.

2. That as the Knysna road to the Langekloof will be completed within a few months, the convict station at the Vlugt should, immediately upon the completion of that work, be broken up, and the convicts there be divided between the Ruyterbosch Pass and the road from George towards Knysna, under the supervision of the present staff of officers at the Vlugt, subject to such new general regulations as may be recommended by the Committee or adopted by the House; and subject, also, to the arrangements which have been entered into between the Government and the respective divisional councils of Mossel Bay and George. But the Committee considers that a number of convicts might be at once drafted from the Vlugt station and placed under the supervision of the divisional council of Mossel Bay, for the purpose of erection of barracks and preliminary work.
3. That the information at present before the Committee is insufficient to enable it to offer an opinion as to the best arrangement to be made when the time arrives for removing the convict station at the Katberg. The road from Graham's Town to King William's Town and the road between Cookhuis Bridge and Daggaboer's Nek are no doubt important and necessary works, and the Committee thinks that some such arrangement as is proposed in regard to the Namaqualand road might with advantage be adopted with regard to them.
4. The Committee is of opinion that Act No. 16, 1864, should be amended in so far as to remove the restriction placed upon the judges by Clause 1, imposing a minimum punishment, with hard labour, in case of sheep and cattle-stealing. The Committee also recommends to increase the jurisdiction of the resident magistrates

to such an extent as will enable them to try ordinary cases of sheep and cattle-stealing, and to award punishment, not only by imprisonment, hard labour, or solitary confinement, and spare diet, but likewise to inflict corporal punishment, as well in cases of first as of second conviction.

5. All prisoners convicted during the present circuit, or now in the country gaols awaiting removal to convict stations, may, the Committee considers, be retained in the gaols, or, failing sufficient accommodation, the resident magistrate may be authorized to obtain the same outside the gaols, and their labour placed at the disposal of the local or neighbouring divisional councils or municipalities, or both, as the case may be, under the control of the resident magistrates, until such time as further arrangements can be carried out; and the Committee recommends that the Government should at once address the various divisional councils and municipalities in accordance with this resolution.

R. RUTHERFOORD, Chairman.



PROCEEDINGS OF COMMITTEE.

Wednesday, 19th September, 1866.

PRESENT :

Mr. Rutherford,
Treasurer-General,
Mr. Molteno,

Mr. Darnell,
„ Munnik.

Proposed by the Treasurer-General, and seconded by Mr. Molteno: That Mr. Rutherford be the Chairman of this Committee.

Proposed by Mr. Molteno, and resolved: That the following papers be called for and submitted to the Committee at its next meeting, viz.:

The reports of the several Commissions on the convict question of last year.

The last report of the Superintendent-General of Convicts.

The present Convict Regulations, as well as those that were in force previous to 1854.

Report of the Chief Inspector of Roads.

All reports, estimates, and plans of or connected with the works proposed by the Governor's message, No. 5 of 1866.

A general map of the Colony, with the roads marked upon the same.

Committee adjourned until to-morrow, the 20th instant, at 10:30 a.m.

Thursday, 20th September, 1866.

PRESENT :

Mr. RUTHERFOORD (Chairman),

Mr. Molteno,
„ White,
„ Munnik,

Mr. Darnell,
„ G. Wood.

The papers, documents, and map called for at the last meeting handed in by the clerk of the committee, with the exception of

the reports, estimates, and plans of or connected with the works proposed by the Governor's message, No. 5 of 1866.

Proposed by Mr. G. Wood, seconded by Mr. Molteno, and resolved: That the Chairman ask the House, at its sitting to-morrow, for power for the Committee to call for papers and take evidence.

Proposed by Mr. Molteno, and resolved: That the Colonial Secretary be requested to attend the next meeting of the Committee for the purpose of giving evidence.

Committee adjourned until to-morrow, the 21st instant, at 10:30 a.m.

Friday, 21st September, 1866.

PRESENT :

MR. RUTHERFOORD (Chairman),

Treasurer-General,		Mr. Darnell,
Mr. Molteno,		„ G. Wood,
Dr. White,		„ Munnik.

Colonial Secretary examined.

Resolved, to call for the evidence of Mr. C. Piers.

Committee adjourned until Monday, at half-past 10 o'clock.

Monday, 24th September, 1866.

PRESENT :

MR. RUTHERFOORD (Chairman),

Mr. Darnell,		Dr. White,
„ Munnik,		Mr. Molteno,
„ G. Wood,		Treasurer-General.

Mr. C. Piers, Superintendent-General of Convicts, examined.

Resolved, to call for the evidence of Mr. Robinson, at 10:30 a.m. ; Rev. Fisk, at 11 o'clock ; Mr. J. Short, at 11:30 a.m., to-morrow.

Tuesday, 25th September, 1866.

PRESENT :

TREASURER-GENERAL (Acting Chairman),

Mr. Darnell,		Mr. Molteno.
Dr. White,		,, Munnik.

Mr. M. R. Robinson, Chief Inspector of Roads, examined.

Rev. G. H. R. Fisk examined.

Mr. J. Short, Superintendent of the Breakwater Convict Station, examined.

Certain papers were handed in by the Colonial Secretary.

Certain papers were handed in by Mr. C. Piers.

Committee in deliberation.

Committee adjourned until Thursday next, at 10.30 a.m.

Friday, 28th September, 1866.

PRESENT :

Mr. RUTHERFOORD (Chairman),

Mr. G. Wood,		Treasurer-General.
,, Molteno,		Mr. Munnik,
,, Darnell,		Dr. White.

Committee in deliberation.

The Chairman read a letter from the Rev. G. H. R. Fisk, dated September 26, 1866.

Also, a return furnished by the Superintendent-General of Convicts, showing the desertions from the convict stations during the last five years and part of the current year.

A return of the number of prisoners in the different gaols in the Western Province at the close of the month of August, 1866.

And a memorandum showing the cost of rations furnished to the convicts at the station at East London.

Mr. Molteno moves the following resolutions :

The Committee is indisposed to recommend the establishment of any new convict establishments on the present costly footing, being of opinion that by maintaining four principal stations, and adopting other arrangements,—some of a temporary character,—the present pressure will be met until such time as the effect of

fresh criminal legislation may, it is reasonable to suppose, cause a diminution in the number of convicts.

The arrangements proposed are as follows, viz. :

1. All the prisoners convicted during the present circuit, or now in the country gaols awaiting removal to the convict stations, may be retained in the gaols; or, failing sufficient accommodation, the resident magistrates to be authorized to obtain the same outside the gaols, and their labour placed at the disposal of the local or neighbouring divisional councils or municipalities, or both, as the case may be, under the control of the resident magistrates, until such time as further arrangements can be carried out.

2. That it be intimated without delay to all divisional councils and municipalities that, if suitable arrangements can be entered into, the labour of certain classes of prisoners convicted at the respective circuit courts will be placed at their disposal; accommodation and supervision, to the satisfaction of the Government, to be provided, over and above such as may be, without inconvenience, available at the gaols, which can be ascertained upon consultation with the resident magistrates.

3. The Cape Copper Company having agreed to provide the transport and accommodation, the Namaqualand road might be commenced by forming a convict station on a new principle, as an out-station, by sending a number of convicts from that station to be worked under a less expensive system than the present, and subject to such new regulations as may be recommended by the Committee, or finally resolved upon.

4. That as the Knysna road to the Langekloof will be completed within a few months, the convict station at the Vlugt should be at once removed to the Ruyterbosch Pass; the divisional council of Mossel Bay having agreed to provide accommodation and contribute in other ways towards the expense. The road is already partially completed through the joint action of the Government and divisional council. The finishing work at the Knysna and Langekloof should be done by means of a number of selected convicts—if possible, with only short periods of their sentences unexpired—now at the Vlugt station being left there under overseers, as has been the case with other works when drawing towards completion. The Governor might also think fit, as a matter of grace, to commute the sentences of such convicts upon completion of this great work, for which there are precedents, thus holding out an additional inducement to good conduct under a somewhat relaxed system.

5. That the information at present before the Committee is insufficient to enable it to offer an opinion as to the best arrangements to be made when the time arrives for removing the convict station at the Katberg. The road from Graham's Town to King William's Town and the road between Cookhuis Bridge and

Daggaboer's Nek are no doubt important and necessary works, and the Committee thinks that some such arrangement as is proposed in regard to the Namaqualand road might with advantage be adopted with regard to them.

6. That the road between George Town and Knysna has not yet been sanctioned by Parliament; and the arrangements contemplated by the divisional council being so very incomplete, the Committee hesitates at present to express any opinion on the subject.

7. The Committee is of opinion that Act No. 16, 1864, should be amended in so far as to remove the restriction placed upon the judges by clause 1, imposing a minimum punishment with hard labour in cases of sheep and cattle-stealing. The Committee also recommends to increase the jurisdiction of resident magistrates to such an extent as will enable them to try ordinary cases of sheep and cattle-stealing and to award punishment, not only by imprisonment, hard labour, or solitary confinement and spare diet, but likewise to inflict corporal punishment, as well in cases of first as of second conviction.

The Treasurer-General submits the following resolutions :

This Committee having ascertained—

- (a) That the Breakwater station is at present full, and that the works will be completed in about eighteen months;
- (b) That the Vlugt is full, and that the works will be completed in March or April next;
- (c) That the Katberg station is also full, and that the works will be completed in January next, so far as they can be profitably undertaken with convict labour;
- (d) That the Kowie station is already crowded, and that it is not probable those works can be carried on above another twelve months without further aid from Parliament;
- (e) That the continuance or extension of works at East London is dependent on a vote of supply by Parliament;
- (f) That there were in confinement in the various gaols at the close of last month about 1,500 prisoners, and that out of these about 500 fresh convictions may be expected during the circuit now being held;

1. This Committee concurs in the expediency of the immediate commencement of the Namaqualand road by convict labour on the conditions proposed by the Government to the Cape Copper Mining Company, viz.: That the company shall bear the expense of transport of the convicts to the works, and contribute £800 per annum towards the engineering cost of the work during its progress. This Committee recommends, therefore, that a convict station be at once established in Namaqualand, to consist of from 300 to 350 convicts, to be drafted from the Breakwater, giving room at that establishment for the convicts sentenced at the circuits courts between Cape Town and Riversdale.

2. This Committee further recommends the immediate commencement of the proposed works at Ruyterbosch by convict labour, under the terms arranged with the divisional council of Mossel Bay for contributing towards that work,—and that a convict station be at once established at Ruyterbosch, to dispose of the convicts to be sentenced during the further progress of the circuit court eastward and northward.

3. This Committee is of opinion that on the completion of the works on the Knysna and Langekloof road, but not sooner, the convicts on the Vlugt station should be removed to a station to be formed in the vicinity of George Town, for the execution of the proposed works on the road from George towards the Knysna, upon the terms of the proposed contributions by the divisional council of George towards the cost of that station.

4. That, as the surveys of the road from Graham's Town to King William's Town are not yet completed, this Committee is not in a position to give an opinion on that work, nor as to the future disposal of the convicts at the Katberg station.

5. That, as the cost of the proposed road from Cookhuis Bridge to Daggaboer's Nek is estimated by the Engineer's Department at about £3,000 by free Fingo labour, it appears to this Committee not desirable to incur the expense of a convict station for that work, unless the pressure as to the disposal of convicts shall prove not to be sufficiently relieved by the measures already recommended.

6. That the convict stations to be established in Namaqualand and Ruyterbosch be commenced experimentally upon a less expensive system than hitherto, to be hereafter indicated by the Committee.

Committee in deliberation.

Committee adjourned until Monday next, at 10:30 a.m.

Monday, 1st October, 1866.

PRESENT :

Mr. RUTHERFOORD (Chairman),

Dr. White,
Mr. Molteno,
„ G. Wood,

Mr. Darnell,
Treasurer-General,
Mr. Munnik.

Committee in deliberation.

Resolved to put Mr. Molteno's resolutions *seriatim*.

The Chairman puts the preamble of the resolutions.

The Treasurer-General moves: That the consideration of the preamble be deferred for the present.

For the motion: Messrs. Darnell, Munnik, and Treasurer-General.

Against: Messrs. Molteno, G. Wood, Dr. White, and the Chairman.

The Chairman puts the preamble of the resolution.

For the preamble: Messrs. Molteno, G. Wood, Dr. White, and the Chairman.

Against: The Treasurer-General; Messrs. Darnell and Munnik decline to vote.

The Chairman puts the first resolution.

Resolved: That the consideration of resolutions Nos. 1 and 2 stand over.

The Chairman puts the third resolution.

Mr. Munnik moves, as an amendment: That the following words be added: "And to contribute £800 per annum to the engineering cost of the work during its construction."

Mr. G. Wood moves, as a further amendment: That after the word "accommodation," in the third line, the following be inserted: "And to contribute further towards the supervision."

The Chairman puts the last amendment.

For the amendment: Messrs. G. Wood, Molteno, Darnell, Dr. White, and the Chairman.

Against: Mr. Munnik.

The amended resolution put.

For the resolution: Messrs. G. Wood, Molteno, Darnell, Dr. White, and the Chairman.

Against: Mr. Munnik.

The third resolution accordingly, as amended, carried.

Committee adjourned until Tuesday, at 10:30 a.m.

Tuesday, 2nd October, 1866.

PRESENT:

Mr. RUTHERFOORD (Chairman),

Dr. White,
Mr. Molteno,
,, G. Wood,

Mr. Darnell,
Treasurer-General,
Mr. Munnik.

Committee in deliberation.

The Chairman puts the fourth of Mr. Molteno's resolutions.

Mr. G. Wood moves the following amendment: That in the fourth line, after the word "should," the remainder of the words

be left out, and the following substituted: "Immediately upon the completion of that work, be broken up, and convicts there be divided between the Ruyterbosch Pass and the road from George to Knysna, under the supervision of the present staff of officers; subject to such new general regulations as may be recommended by the Committee or adopted by the House; and subject, also, to the arrangements which have been entered into between the Government and the respective divisional councils of Mossel Bay and George. But the Committee consider that a number of convicts might be at once drafted from the Vlugt station and placed under the supervision of the divisional council of Mossel Bay, for the purposes of erection of barracks and preliminary work."

The fourth resolution, as amended, agreed to.

The Chairman puts the fifth resolution.

Agreed to.

Mr. Molteno withdraws the sixth resolution.

The Chairman puts the first resolution, now the fifth.

Resolved: That the following be added: "And the Committee recommends that the Government should at once address the various divisional councils and municipalities in accordance with this resolution.

Fifth resolution, as amended, agreed to.

Mr. Molteno withdraws the second resolution.

The Chairman puts the following resolutions, as amended by the Committee, viz.:

The Committee is indisposed to recommend the establishment of any new convict establishments on the present costly footing, being of opinion that by maintaining four principal stations, and adopting other arrangements,—some of a temporary character,—the present pressure will be met, until such time as the effects of fresh criminal legislation may, it is reasonable to suppose, cause a diminution in the number of convicts.

The arrangements proposed are as follows, viz.:

1. The Cape Copper Company having agreed to provide the transport and accommodation, and to contribute further towards the superintendence, &c., required, the Namaqualand road might be commenced by forming a convict station on a new principle as an out-station of the Breakwater, by sending a number of selected convicts from that station, to be worked under a less expensive system than the present, and subject to such new regulations as may be recommended by the Committee, or finally resolved upon.

2. That as the Knysna road to the Langekloof will be completed within a few months, the convict station at the Vlugt should, immediately upon the completion of that work, be broken up, and the convicts there be divided between the Ruyterbosch

Pass and the road from George towards Knysna, under the supervision of the present staff of officers at the Vlugt, subject to such new general regulations as may be recommended by the Committee or adopted by the House; and subject, also, to the arrangements which have been entered into between the Government and the respective divisional councils of Mossel Bay and George. But the Committee considers that a number of convicts might be drafted from the Vlugt station, and placed under the supervision of the divisional council of Mossel Bay, for the purposes of erection of barracks and preliminary work.

3. That the information at present before the Committee is insufficient to enable it to offer an opinion as to the best arrangement to be made when the time arrives for removing the convict station at the Katberg. The road from Graham's Town to King William's Town, and the road between Cookhuis Bridge and Daggaboer's Nek are no doubt important and necessary works, and the Committee thinks that some such arrangement as is proposed in regard to the Namaqualand road might with advantage be adopted with regard to them.

4. The Committee is of opinion that Act No. 16, 1864, should be amended in so far as to remove the restriction placed upon the judges by clause 1, imposing a minimum punishment, with hard labour, in cases of sheep and cattle-stealing. The Committee also recommends to increase the jurisdiction of resident magistrates to such an extent as will enable them to try ordinary cases of sheep and cattle-stealing, and to award punishment, not only by imprisonment, hard labour, or solitary confinement and spare diet, but likewise to inflict corporal punishment, as well in cases of first as of second conviction.

5. All prisoners convicted during the present circuit, or now in the country gaols awaiting removal to convict stations, may, the Committee considers, be retained in the gaols, or, failing sufficient accommodation, the resident magistrates may be authorized to obtain the same outside the gaols, and their labour placed at the disposal of the local or neighbouring divisional councils or municipalities, or both, as the case may be, under the control of the resident magistrates, until such time as further arrangements can be carried out; and the Committee recommends that the Government should at once address the various divisional councils and municipalities in accordance with this resolution.

Agreed to.

Resolved: That the Chairman be instructed to report these resolutions, and the evidence taken, to the House as a first report.

Committee adjourned until further notice by the Chairman.

MINUTES OF EVIDENCE.

COMMITTEE ON CONVICTS.

Friday, September 21, 1866.

PRESENT :

Mr. RUTHERFOORD (Chairman),	
Treasurer-General,	Mr. Molteno,
Dr. White,	„ Darnell,
Mr. George Wood,	„ Munnik.

The *Colonial Secretary* examined.

1. *Chairman.*] You are aware of the object of this committee?—Yes. *Col. Secretary.*

2. And that it is called upon first to consider and report upon the Governor's message with reference to the employment of convicts?—Yes. Sept. 21, 1866.

3. The Government proposes to execute certain public works in different parts of the Colony, such as roads?—Yes.

4. Have any of these works already received Parliamentary sanction?—The road in Namaqualand, from Hondeklip Bay in the direction of Springbok, received Parliamentary sanction to a certain extent last session, and there was a select committee appointed to inquire into, and report upon, petitions in favour of the road being constructed. The committee brought up their report, and it was, I think, approved by the House of Assembly, the report being in favour of the construction of a road, taking up some point where the tramway was to terminate from Hondeklip Bay in the direction of Springbok, and then go from the terminus of the tramway in the direction of Springbok, through a mountainous part of the country. The estimated expense of that road was, I think, £20,000. The only difference being that it is now contemplated to make the road by means of convict labour instead of by free labour, which was the intention last session.

Col. Secretary.
Sept. 21, 1866.

5. Is it proposed to make all those works with convict labour entirely?—Yes, that road entirely.

6. And the other roads?—Yes, all the works alluded to in the Governor's message.

7. Mr. *Molteno*.] Was not that road being undertaken dependent to a great extent upon the tramway being constructed by the Copper Company?—That was the original intention. The company was to construct the tramway, and a Bill was passed for that purpose last session. They have since been in correspondencē with the Government upon the subject, and we find that they are not now intending to construct that tramway.

8. Then the Parliamentary sanction you allude to was dependent entirely upon the construction of the tramway by the company?—I do not know that it was entirely dependent upon that, but the construction of the tramway was certainly a contemplated arrangement. I think it was held that the road through the mountainous part of the country was very desirable, not only for the convenience of the Copper Company, but to open up the country, for there is a large extent of Government land in the district of Namaqualand which would become valuable if there was a good road to the port.

9. Still, the tramway would have completed the road to the port?—Yes; but since that time it seems to be considered that the tramway is not so necessary as it was at that time considered to be.

10. Mr. *G. Wood*.] So that if the convicts do the work, they will have a much more extensive line to make?—Not necessarily.

11. What was the distance the tramway was to be laid down?—It was to be laid down over a sandy part of the country, said to be very heavy for wagons; it is a level country, but sandy.

12. *Chairman*.] Then the present direct road is not the same as that considered last year?—It is the same road, except the tramway.

13. The distance of the tramway would then be included in the proposed road?—No, it is not considered necessary to make a road where the tramway was to be.

14. *Treasurer-General*.] In fact, the tramway was intended to be constructed only over a part of the country where there

was nothing but sand?—Yes, it was merely intended to avoid a heavy, sandy part of the country.

Col. Secretary.
Sept. 21, 1866.

15. Mr. *G. Wood*.] Is not that the principal difficulty of that road?—I fancy not.

16. *Chairman*.] I understand you to say that this road has been entirely estimated for convict labour?—Yes.

17. Have any estimates been framed of the number of convicts which it is proposed to employ upon the whole of this road?—The Chief Inspector of Roads estimates that, if the whole line be made from Springbok to Hondeklip Bay, including a hard road, to be made over the sandy part, that 300 convicts would be required for about three years; but the Government does not contemplate making a hard road over the sand.

18. But that estimate includes a hard road over the sand?—Yes; Mr. Robinson states the distance from Hondeklip Bay to be sixty miles, and that it will take from 300 to 350 convicts for three years if the road is to be made throughout.

19. Is there any estimate of the probable expense on that road?—The Chief Inspector's estimate is about £1,000 to £1,200 a year for plant, engineering, superintendence, &c.

20. Would that £1,000 or £1,200 a year include all expenses?—That is the estimate.

21. That does not include transport?—No; the Mining Company have undertaken to transport the convicts to the site, to construct the necessary barracks, and to contribute £800 a year to the expense, subject to the endeavour to induce the Parliament to relieve them from that expense; but they undertake to do all this, and to take their chance of the Parliament relieving them. This £800 the company undertake to pay is for the supervision of the convicts.

22. Is that the same as the amount you estimate for, the £1,000 or £1,200?—No, that is the estimate for the Road department; that amount will be required for tradesmen and plant, and belongs to the road expenditure, not to the Convict department.

23. Dr. *White*.] If I understand you rightly, the £800 will be the extra expense required for the convicts?—Not the extra expense, but the expense.

24. *Chairman*.] Can you give us any information with reference to the Ruitersbosch Pass and the number of

Col. Secretary. convicts to be employed there, the probable expense, and Sept. 21, 1866. the time they will be occupied upon it?—In regard to the Ruitersbosch road, the estimate of the Chief Inspector of Roads is, that the distance still to be completed upon which convicts can be employed, is about twelve miles, and will require 200 convicts for about two years. On this road, also, the divisional council of Mossel Bay undertook to provide the transport of the convicts, from wherever they may come, to the site of the road to be made, and to construct the necessary barracks and pay the extra charge for superintendence and discipline.

25. Mr. *Darnell.*] There has been a grant already made for this work?—Yes, two or three times.

26. So that it is an authorized work to some extent?—Yes.

27. But it has been thrown up for want of the means of going on?—Yes.

28. Mr. *G. Wood.*] What proportion of the expense do the Mossel Bay divisional council offer? Would they offer as much as they have in the case of Namaqualand?—There is no certain fixed sum; it will depend entirely upon the expense to be incurred.

29. *Chairman.*] Do they undertake the whole expense?—No, whatever the extra charge may be.

30. Mr. *Molteno.*] Then this work is entirely a work which has been managed by the divisional council?—Yes, up to the present time; all the Government has done hitherto has been to contribute an equal sum with the divisional council of the estimated cost, which has been found insufficient. I am not prepared to say whether or not the officer of the Road department who was sent there to survey the line received his salary from the Government while he was there, but the divisional council paid his travelling expenses.

31. The Government had no control of the work?—No, none at all.

32. *Chairman.*] What is the estimate with regard to the Knysna road, the probable expense, and the time the convicts will be required?—The estimate I have here is for the construction of the road for the whole distance from George to Knysna by means of convicts; but, as at present advised, the Government think it would not be necessary to employ the convicts on the whole length of the line. The part of the line upon which convicts may be profitably employed is

considered to be that from George Town to the top of the hill on the Knysna side, at what is called "Trek aan de Touw." From that place to Knysna, the road is sufficiently available without convict labour, so that the estimate is considerably over what the expense will be. The estimate of Mr. Bain, the inspector of the road between Knysna and Longkloof, who has made a survey of it, is that it will require 250 convicts for two years on a part of the line between George and a place called Karatera, a distance of twenty-six miles, and from Karatera to the pontoon (twelve miles) will require 115 convicts for one year. The whole distance is about thirty-eight miles; and Mr. Robinson says that the number of convicts required will be 200 convicts for two years and a half, and the cost of superintendence and plant will be £1,000 a year, something at the same rate as the Namaqualand road. This contemplates the construction of a road for the whole distance from George to the Knysna, which the Government think not necessary. With regard to this road, I may say that the divisional council of George undertook to put up barracks, and also to contribute something towards the expenditure, but what that something is I am not in a position to say; they cannot contribute much; about £100 a year, I think. The Government contemplates employing the convicts now on the Langekloof and Knysna road upon this work, but do not intend to commence the work until the Langekloof road is finished, which, the Inspector of Roads says, will be early next year,—in March, I think. So this will not be a new convict gang and staff. We propose to detach a small party to assist in putting up barracks, for which the divisional council will find the materials; but this work cannot be undertaken until next March, when the whole gang and staff can be moved.

33. Then you propose transferring that convict station to this road?—Yes.

34. Mr. *Molteno*.] Then, in fact, you will be transporting the existing convict establishment to a new work?—Yes.

35. Mr. *G. Wood*.] Then it is not a question of any delay at all?—It is only a question whether the Parliament consider that this road should be constructed. If they say that this road should be constructed, then the Government will at once take the necessary measures to bring the

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Col. Secretary. convicts there by building the barracks. You cannot move the whole gang until the barracks have been built.

Sept. 21, 1866. 36. *Mr. Molleno.*] Do you know where it is contemplated to erect the convict barracks?—Very near George Town.

37. *Chairman.*] Can you give us information as to the road between Graham's Town and King William's Town?—There is no estimate at present of the cost or the time it will take to make; a survey of it has been ordered with a view to obtain that information.

38. *Mr. G. Wood.*] Do you know the distance?—About eighty miles.

39. About what distance do you propose to make this road?—From the neighbourhood of Breakfast Vlei almost to King William's Town; the heavy work will be the two banks of the Keiskamma, about twenty miles. There would also be a bridge; but that would not be a work for the convicts. It is a very important work, for it is not only used as a communication between Graham's Town and King William's Town, but also used, in some seasons at any rate, as the main road from Port Elizabeth to the interior; and the Free State wagons come down that way; so that it is one of the main arteries of that part of the Colony.

40. But is it not in very bad order?—I fancy it is, for the military authorities report it to be in a very bad state indeed; and a survey is being made to ascertain whether the existing line is the best line, with reference to the road itself and the proper site for a bridge.

41. *Chairman.*] Will the result of the survey be soon ascertained?—I have no doubt before the session is over, but the Governor is desirous of ascertaining, by his message, whether that is one of the works the Parliament wishes should be undertaken when it can be done.

42. And the road at Daggerboer's Nek?—The road between Daggerboer's Nek and Kookhuis Drift is about thirteen miles in extent, and is estimated to require from 150 to 180 convicts for a period of sixteen months. This is a road which I think the Government is bound to construct in some way or other, either by convict labour or free labour. It is a portion of the main road from Port Elizabeth to the interior by Zuurberg, and Cradock to Colesberg and the Free State.

43. It is a new road?—It is a new piece of road, and connecting the road near Daggaboer's Nek with the road near Kookhuis Drift, the line to Port Elizabeth, *via* Zuurberg. I think the divisional council of Cradock is about the only divisional council which has refused to take over the maintenance of its roads under the provisions of the Act of 1864, because the Government had not, as they hold, constructed these lines of road.

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44. Mr. *G. Wood.*] How far is this line of road from the nearest seat of magistracy?—About twenty miles from Bedford, and twenty miles from Somerset. The line is thirteen miles in length, which will carry it much further from these places.

45. *Chairman.*] You speak of it as going towards Daggaboer's Nek?—Yes, towards Daggaboer's Nek.

46. Mr. *G. Wood.*] As regards the road, there is no proposition on the part of the divisional council to meet the Government with part of the expense?—It is the main road from Port Elizabeth to the interior, which the Government ought to construct. According to the reports of the Road department, and from what I know myself, if we had not so many convicts on hand that we scarcely know what to do with them, I do not think it a road on which they ought to be employed, because they will have to be divided into two parties, and it may be even more economically done by free labour; but as we have so large a number of convicts, whom we do not know where to take to, we might employ them there.

47. There is still some portion of the main road from Port Elizabeth to Graham's Town incomplete?—Yes.

48. It is, in fact, almost the worst part of the road?—Yes; it is of a heavy nature.

49. Mr. *Darnell.*] When will the Vlugt and Knysna roads be completed?—Not later than next March.

50. Mr. *Molteno.*] Could you give us any information with regard to the Katberg?—It is reported that it will be completed early next year.

51. Mr. *G. Wood.*] Is it not intended to widen this road?—No.

52. Mr. *Molteno.*] Have the Government any idea when the Kowie works will be completed?—I suppose that will depend whether the Kowie will have funds to carry on with.

Col. Secretary. We have asked the Kowie Harbour Board when they think they will no longer require the convicts, and they told us not for two years longer. I suppose that will depend upon whether they will get more money or not.

53. *Mr. Darnell.*] Will the Katberg be completed as far as originally contemplated in the time?—In so far as convict labour can be made available for that.

54. Is there nothing required either on the north side of the real Katberg or the south of it, that it would not be advantageous and cheaper to move the convicts, in the first instance, before taking the convicts from that work?—We have moved them twenty miles in the direction of Fort Beaufort. This is the only remaining work contemplated, and the whole gang will be available next year.

55. And the Stormberg; is there any intention to make that road?—None at present.

56. That carries the road to Aliwal North?—Yes.

57. *Mr. Molteno.*] Have the Government any idea when the convict establishment at the Breakwater will be broken up?—In about eighteen months, I think.

58. Has the time for which it was originally supposed they would be required not already expired?—No, I think it will not expire till about the middle of next year. There is a written representation upon the subject that has been laid upon the table of the House.

59. *Chairman.*] How as to East London; are the convicts likely to remain there for some time?—That will depend very much whether Parliament intends to go on with the works there. There is not a sufficient number of convicts on the works there, which have just been taken over by the Colonial Government, if the recommendations of Mr. Bourne are to be carried out.

60. *Mr. Molteno.*] Are the convicts there managed precisely in the same way as the colonial convicts?—Very nearly; some alterations have taken place since the annexation of British Kaffraria, to assimilate the systems; but nothing of any consequence, I fancy.

61. Is there any great difference in the management of them?—Not very great; but they are more expensive in proportion to the number of convicts.

62. But is the system nearly the same?—Somewhat similar.

63. How would the Government propose to relieve the immediate pressure? Where do they intend to remove the convicts from the different circuit courts where they are tried now?—The Government will distribute them and send them to the nearest convict stations at present, as far as that can be done. Those who are sufficiently near will go to Namaqualand, if that work be taken up.

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64. But do we understand the Government to see no possibility to make any temporary arrangements until the beginning of next year, when, at any rate, the three large convict establishments must be closed and removed somewhere else; because if they intended to create new ones now, what would they do with these when those works are completed?—We should probably send from the Breakwater here the number of convicts required for Namaqualand, excepting some of those near Namaqualand, within reach of an overland journey, which would be very economical. By removing 300 convicts from the Breakwater, we should make room for others to come in from places nearer at hand; and by establishing at once the Ruitersbosch Pass station, 200 could be taken there in a short time. I do not see what temporary arrangements could be made for the purpose. If the road between the Kookhuis Bridge and Daggaboer's Nek are undertaken, the convicts tried in the neighbourhood of Somerset, Bedford, and Fort Beaufort could be concentrated upon that work. I think it would be absolutely necessary to remove the prisoners from the districts at once, without any delay. From Beaufort West, for instance, to which the prisoners are brought for trial from the neighbouring districts, we have had representations that it is necessary at once to obtain the employment of a number of special constables to guard the gaol during the sitting of the court. The magistrate contemplates that immediately the circuit is over, the prisoners will be sent away. The accommodation there is very inferior. Besides the number to be tried at this circuit, we have information that there are already a number of other prisoners, who will not be ready for trial this circuit.

65. Have any applications been made from the municipality of Beaufort to employ convicts on the reservoir they are making now?—No application for an additional number; they could not have an additional number unless they could

Col. Secretary. provide accommodation for them if they mean to keep them there.
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66. They employed a number of convicts after the last sitting of the court, for about a month?—Yes.

67. And they were desirous to retain them longer, and made an application to Government to that effect?—I am not aware of it; it might have been made to the magistrate, not to the Colonial Office. I do not recollect it at any rate.

68. Supposing they provide supervision and accommodation for them, would there be any objection to the employment of the convicts now to be sentenced there for a period?—I should not think there will be if they would supply the necessary accommodation, so that the Government may not be put to any extra expense.

69. *Chairman.*] As a general principle, do you think there would be any objection, say to employing convicts now to be sentenced in the respective districts, if such supervision and accommodation were supplied by the divisional council for a time, as a temporary arrangement?—I think if they could be worked in large parties, I would see no objection to it—in large parties, within reach of the town; but I think it would not do to spread them about in small parties.

70. *Mr. Molteno.*] But such a work as that at Beaufort, close to the town, where they will be concentrated in a very small space indeed?—I see no objection, provided the convict regulations can be carried out.

71. Strictly speaking, the convict regulations, as in force at the stations, it would be impossible to carry out at such a work?—If so, I think the convicts should be removed.

72. *Chairman.*] In many districts the number of convicts will be, in any case, very small. Would there be any objection to such numbers being employed locally, if means of accommodation were supplied, and the work near at hand?—As a temporary arrangement, if absolutely necessary, I should not object to it, but I think it is undesirable to depart from the regulations. The judges, in sentencing them, have these regulations in mind, which, in fact, form a part of the sentence they have to undergo.

73. *Mr. Molteno.*] But the sentence always is “to such a place as the Governor may appoint?”—Yes.

74. *Chairman.*] Do you think that the municipalities and municipal councils, generally, would be willing to accept of

the services of the prisoners about to be sentenced, as a temporary arrangement?—I doubt very much if many of them would be if they were required to pay the expense which would have to be incurred over and above the ordinary expenses, such as for accommodation, supervision, and so on; I doubt whether they would do it.

75. Mr. *Molteno*.] But if they provided the accommodation and supervision over and above what the magistrate could provide in gaol, would that not be sufficient, without charging them with the difference in the price of rations in the particular town?—Supposing the expense at the convict station to be something under £30 a head, as at present, everything reckoned, then, if it would cost £50 a head to keep them in a district town, I think the difference should be paid by the local bodies; that is my idea with regard to expense.

76. But the supervision and accommodation being deducted, the probability is that the difference in the price of rations would not be likely to make up any such amount as that?—My impression is that they would not be prepared to provide that supervision and accommodation; not to any extent to relieve the Government.

77. *Chairman*.] Is your opinion founded upon any correspondence upon the subject?—No; but it is founded upon correspondence I have had in former times.

78. But that was before the divisional councils had to keep the roads in order?—I do not think you could employ convicts on the maintenance of roads in the outlying districts.

79. Mr. *Molteno*.] But are you not aware whether the existing local bodies anywhere have desired these convicts?—Not under the system of the convict regulations at all.

80. I notice by the Superintendent-General's report that the number of convicts sentenced in 1865 was very considerable, but still the number at each particular magistracy, with the exception of two or three, was very insignificant. The largest number at any one place in the Western districts, excepting Cape Town and Beaufort, was 18; that was only at one place; the next was 13, and the next 8, and then varying from 3 to 6 and 7 and up to 8. Now these numbers seem so insignificant that, if the Government is under an immediate pressure, there can be no great harm in their being temporarily retained in the towns?—Probably, as soon as the convicts

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Col. Secretary. are removed from time to time, the gaols are immediately filled with others waiting their trial.
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81 I am always supposing accommodation being provided outside the gaol when the magistrate finds that there is not sufficient room within; extra provision only being made for the constables, with a view of the localities availing themselves of the labour?—I fear this would not be done to any extent.

82. *Mr. G. Wood.*] From your knowledge of the regulations, do you not think they are very complicated and very expensive, and that they might be very much simplified and cost less money?—I rather doubt that. I do not think them complicated. I think that as we have a large body of convicts in custody for a number of years, we ought to do something to reform them, and to raise them in the scale of civilization as much as we can, and attend to their health, and so on.

83. *Mr. Molleno.*] Are you not of opinion that if we keep up permanent establishments such as we have hitherto done, and make so great an effort, that we are justified in dispensing to some extent with the regulations in the present emergency?—Yes, if we can do so economically.

84. Even to the running of some risk in the convict regulations not being so strictly applied as they are otherwise at the stations?—If we do that for a very limited period, I should not object to it.

85. *Mr. Munnik.*] Would you not find that in many stations there are some desperate characters whom it would not be advisable to keep under a slight discipline, and that you would have some difficulty in supervising them in such localities?—My answer to that is, that the accommodation to be provided for them would be such as the Government should approve of, and not just any kind of place from which they might escape, and in which the discipline could not be exercised.

86. I see by the reports that there are such small numbers as 8, 10, and 12 in the different gaols. Amongst them there must be some tried for very serious offences—desperate characters; these could hardly be kept safely in such districts?—I think it would be very undesirable.

87. *Dr. White.*] Admitting the necessity of the present convict regulations, but considering the present emergency

and pressure, might not a number of convicts be left under the superintendence of the magistrate of each district?

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I may state that I was district surgeon of Swellendam for a number of years previous to the present regulations, and the number then amounted to thirty or forty under the superintendence of the magistrate. Might not something of the same kind be done now, temporarily?—There may be, here and there, an exceptional case; but, in my opinion, it would not do; it would be very expensive, and you could not carry out properly the sentences of the judges to hard labour; you would require a very large additional number of constables to superintend them. In fact, it would not do at all to keep them in the district town for more than short periods.

88. Mr. *Molteno.*] Not as a general principle, but in a case of emergency, rather than go to a very great expense in providing for them elsewhere?—If there were really such an emergency to keep them there, the Government must do so; but I do not think it will be economical. It would be more economical to send them elsewhere.

89. Mr. *G. Wood.*] Do you think that the expense the divisional council would be put to for the seven, eight, or ten convicts would be very heavy. But considering the average number that the Government maintain and clothe would not their labour be actually cheaper?—I find that the average number at the present time is very much in excess of what is stated there. The average number at the circuit towns now must be very much in excess of that.

90. Mr. *Molteno.*] Taking such a place as Cape Town, with 41, Beaufort 37, those two places reduce the average upon the others very much?—The average number of prisoners is very much in excess of that. There are forty for trial at Riversdale, a small place.

91. Mr. *G. Wood.*] Have you ever compared the cost of our convict department with the cost of that in any other part of the world?—I have not done so, but it has been compared; I do not think ours cost more than those of other countries.

92. *Chairman.*] Assuming that those works are to be commenced, is the committee to understand that the usual staff will be appointed at each place?—I imagine so; but, as I have said, it is not intended to appoint a staff at the George

Col. Secretary. and Knysna roads until the Vlugt convicts are brought there. The appointments of the staff are all temporary; the officers are not considered as in the service.
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93. The usual charge will be paid by the Government and not the extra charge?—No; but I think the divisional council of Namaqualand will pay the cost of the staff.

94. Could you give the committee any correspondence which you may have had with the divisional council of Namaqualand upon this subject?—Yes.

95. Can you inform the committee what proportion of convicts belong to the second or probationary class?—No.

96. *Mr. Molteno.*] Do you think there would be any danger or difficulty in drafting a number of the second and third class convicts from the main station, say at the Knysna, to such work as the Ruitersbosch Poort, with a diminished number of overseers, without subjecting them to the full convict discipline?—I think they should be subject to the convict discipline contemplated by the regulations of that class; and they would require at least the same amount of accommodation as any other description of convict barracks; it would require to be as strong as barracks ordinarily are, which is not very strong. They would not be able to do without the same official staff, but, perhaps, the number of constables might be less.

97. But the third class of convicts would not want anything like that?—The good-conduct class is only a very small proportion.

98. At present a number of the second-class convicts are employed at distances from the main stations?—No; the second-class are under the same restrictions as the penal class, and they have the same number of constables and overseers.

99. *Chairman.*] Are you able to tell us what proportion of escaped convicts are from the penal class, and what proportion from the other classes?—I cannot say.

Monday, September 24, 1866.

PRESENT :

Mr. RUTHERFOORD (Chairman),

Mr. Darnell,
,, Munnik,
Treasurer-General,

Dr. White,
Mr. Molteno,
,, G. Wood.

C. Piers, Esq., Supt.-General of Convicts, examined.

100. *Chairman.*] You are aware of the object of this committee?—I presume it is to inquire into convict matters, in connection with the Governor's message. *C. Piers, Esq.*
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101. Have you read the Governor's message?—No, I have not.

102. Are the number of convicts at the different stations mentioned in that message correct?—I am provided with the numbers at all the stations up to the 22nd of the present month. From these returns it appears that on the 15th September there were 758 convicts at the Breakwater, including 15 at Robben Island; at the same date there were 398 at the Vlugt; on the 8th September there were 370 at the Katberg; at the same date 188 at the Kowie and 110 at East London; making a total of 1,824.

103. It appears, then, that this number is slightly less than that contained in the Governor's message?—Yes.

104. From what cause does it arise?—From discharges, owing to the expiration of sentences.

105. Are you in a position to state what the proportions respectively are in all the different classes of convicts recognized by your regulations?—No; I can only give it for the month of August at the Breakwater. I did not bring the papers connected with other stations with me. In that month the good-conduct-ticket class was 46, in the probation class there were 564, and in the penal class 163; the total was 773. I will furnish the committee with a copy of similar returns for all the other stations, if desired.

106. *Mr. Molteno.*] Is there any distinction between any of those in Class No. 2? Are there convicts in that class which the officers of the establishment would consider more

C. Piers, Esq. trustworthy,—who could more safely be entrusted with out-station work than others?—There are men in the probation class who receive no indulgences; they have been put in the probation class because they are under short sentences; and we do not put such men in the penal class unless they are very bad characters. No man in the probation class enjoys the privileges of it in full until one sixth of the original sentence has expired, and it is then only that he receives indulgences, such as being allowed to see his friends, smoking, &c. In the same way, the men who are at once put in the penal class must serve one sixth of their time before they are allowed promotion to the probation class.

107. Then there are distinctions in the probationary class as well?—Yes.

108. *Chairman.*] Is that the only distinction in accordance with the regulations?—Yes, only that one distinction with regard to their indulgences.

109. *Mr. Moltano.*] Are they all on a dead level?—There is that distinction. The committee will understand that when a man is sent to us under a short sentence, and he is not a bad character, he is at once put in the probationary gang. Say that he is sentenced for two years, he is put in the probationary gang; but he is not allowed to receive tobacco, to see his friends, or to have any indulgences until one sixth of the time of his sentence has expired. If there are any marks against him the term at which the indulgences are granted is extended.

110. *Mr. G. Wood.*] How long must a convict be at a station before he receives a good-conduct ticket?—He must pass one sixth of his time before he gets into the probation class, and two-fifths of the period before he can get a good-conduct ticket.

111. *Mr. Moltano.*] Then, although there may be prisoners in the probation class who from their conduct would be entitled to become good-conduct men, they are, from the nature of the regulations, it seems, debarred from that privilege if they have not served their time?—It is only uniform good conduct from the commencement that will entitle them to it.

112. But there may be convicts in the probation class whose conduct would really entitle them to tickets of good conduct, but the nature of the regulations is such that such

tickets cannot be given to them?—Yes; but I may tell you at once that a proportion of these men whose conduct is most exemplary as convicts, no sooner become free than they get into trouble again, and, when convicts again, conduct themselves well.

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113. What proportion are men of that character?—I am not aware; I do not think it would be possible to make anything like a percentage.

114. The Colonial Secretary told us that the average of reconvictions was about five per cent.?—I am not able to say.

115. You stated that no sooner are these men freed than they are convicted again. Can you give us any idea how many of these are good-conduct men?—I cannot say from memory; but I remember several cases of reconviction where the men, as convicts, were excellent characters.

116. Mr. *Moltano*.] Are not such cases very rare?—Very rare.

117. *Chairman*.] Can you give us any idea of the percentage of reconvicted convicts?—At the moment I cannot; it varies every year.

118. Do many escapes take place?—Comparatively speaking, few; but attempts to escape are frequent.

119. From which class?—The records show that the probation class furnishes the greatest number of deserters.

120. The good-conduct men have very considerable privileges?—They have fewer privileges now than the regulations contemplated; but I may mention that was in consequence of finding that the system, as intended, did not work. They were intended to be nominally in custody, to be treated more as gangs of free labourers, to be almost completely unguarded, and to receive pay at the rate of four pence a day. But we found that was open to so many abuses, and the work was so badly done, that part of the system has been done away with.

121. What are those abuses to which you allude?—They were formerly unmarked, and not obliged to sleep in barracks. Now they are guarded, and their intercourse with free people is under much greater restriction, and the money they ought to have received accumulates to their credit and is paid to them on their discharge.

122. Then, probably, there is now not any very great difference between the privileged probation class and the

C. Piers, Esq. good-conduct men?—There must be a great difference, from the eagerness with which the probation men earn the qualification to be admitted to the other class.
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123. *Mr. Darnell.*] How was it that the old system did not work well?—Some of the men at Howison's Poort and some at the Katberg afforded very little satisfaction. The place where they were located became a receptacle for all the idlers about; all kinds of irregularities occurred, and even in one instance a sheep stolen was traced to them at the Katberg. Some desertions have also taken place from the gang, and it was difficult to keep them to their work.

124. *Chairman.*] Are they guarded while at work?—No; but they are in charge of an overseer to direct the work.

125. Are they locked up at night?—Yes.

126. *Mr. Molteno.*] Do you allude to the Breakwater work or to all the stations?—No; every one is locked up at the Breakwater. At the Kowie there has been very great laxity; but, from the distance it is situated from Cape Town, it is difficult to get proper information. There has been much greater laxity there than there ought to have been.

127. *Mr. Molteno.*] In your report for 1865 there is a paragraph in which Mr. Fisk suggests the introduction of a ticket-of-leave system?—I am not responsible for Mr. Fisk's representations. I only inserted his report because I thought it might be considered interesting.

128. *Chairman.*] But, practically, do you endorse his sentiments, or not?—Certainly not.

129. *Mr. Molteno.*] Have you ever made yourself acquainted with the Irish convict system?—So far as taking a great interest in the question, and reading as many books upon the subject as I could lay hands upon.

130. And what conclusion have you come to?—That, for Ireland, it is an admirable system.

131. Why for Ireland, and not for this Colony?—I do not see why if it suits Ireland it should suit the Cape of Good Hope.

132. But could you give us a reason why if it answers in the one case it should not answer in others?—In Ireland they have a large constabulary, and the convicts could soon be traced if they did anything wrong; and they have thus a greater control over them, and this induces them to behave

themselves. But here I do not see what control you can have. As soon as a man is even outside of the town you do not know what becomes of him. In fact, although Mr. Fisk is very careful, and takes a great deal of trouble about discharged convicts, and writes to missionaries and clergymen about them, he seldom if ever gets a report in reply, and does not know what becomes of the men after they are discharged.

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133. Your idea is, that under the Irish system every convict is under a system of surveillance?—Yes.

134. I think if you had studied the system you would find that not to be the case?—But there, directly a man is arrested he is recognized.

135. I am afraid, from what you have already said, that you would be unfavourable to any modification of the convict regulations, such as recommending the employment of a portion of good-conduct men at a distance from the station, under a much less strict system of surveillance?—Yes, I am; but I would distinguish between the convict who is tried by the magistrate, either under the limited jurisdiction or extended jurisdiction Act, and the convict who is tried by a judge and jury. I think it advisable that a distinction should be made in the way of carrying out the sentences. I have always been of opinion, and have expressed it often, that convicts who are tried by the magistrates, whether under the limited or extended jurisdiction, ought to be kept to expend their labour in the district where they are convicted. I would not mix up these prisoners with the Supreme or Circuit Court prisoners.

136. No matter what the sentence of the magistrate is?—Yes; even the two years' prisoners. I do not see any danger in making the experiment on men of this class. I may mention that I happen to know that Captain Rainier actually tried the experiment and succeeded. He manages in this way: One of his constables is employed as a sort of overseer, and he has a small proportion of respectable labouring men, supplied by the divisional council at so much per day, and they get an extra shilling a day, for which they undertake the duties of constables, to act only in case of any attempt at escape; but they labour like the others. In that way he has worked several gangs of convicts, and found it very profitable and very satisfactory.

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137. *Treasurer-General.*] What is the number of the convicts?—I think he told me he had upwards of twenty, and he has only one constable.

138. Mr. *G. Wood.*] You refer now to the convicts sentenced by the magistrates. Are the convict regulations strictly enforced?—We have nothing to do with them unless they are sent to the stations.

139. *Chairman.*] Are they not sent to the convict stations when they receive a two years' sentence?—Yes, with rare exceptions.

140. Can you tell us what these rare exceptions are to the rule?—In Clanwilliam the convicts sentenced there lately are kept in the district.

141. Mr. *Molteno.*] Are there a great many at Clanwilliam?—I cannot say.

142. Mr. *Darnell.*] Are they kept in gaols?—I cannot say. I know only that they have a body of men there. I know they applied to me for arms to guard them.

143. *Chairman.*] Do they in any way figure in your returns?—Not until they are handed over to us.

144. Then you are not, in fact, the Superintendent of these men, although they are convicted for so long a period as two years, if they are not actually sent to a convict station?—No.

145. None of these are sentenced by the judge?—No. They are from the magistracies of Springbok, Calvinia, and Clanwilliam; and those from Piketberg and Tulbagh have also been ordered up there.*

146. Mr. *Molteno.*] Then at present, at the several convict stations, there already exists a class of men who, you think, could safely be kept in the country, and who need not be sent up to the stations at all?—Yes; I stated that in my report last year.

147. Do you think there would be any difficulty in selecting those men at the convict stations, and putting them in the same position?—No difficulty. We could tell you all about them—their characters, why they were convicted, by whom, and where.

* This I found subsequently to be a mistake. Thirty-seven men from the last circuit courts in that neighbourhood were allowed by the Governor to be retained in the district for the present.

148. You must be more or less intimately acquainted with the convicts at the Breakwater. I suppose you visit them frequently?—Yes, very often. C. Piers, Esq.
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149. Do you think a number of these men, say 150 or 200, could be selected from those convicts and sent to Hondeklip Bay to work in the manner you describe them as doing at the magistracies? Their characters would be such that you could apprehend no serious danger from it?—I am not prepared to advise that. I would only employ those convicted in the magistrates' courts.

150. Mr. *G. Wood.*] Why do you draw that distinction?—Because I think it would have a good moral effect upon the population generally. If they felt that to be tried by the magistrates was a less serious thing than being tried by a judge, there would be some fear felt by them. There is a different feeling entertained by these people about such matters. I think people have become so familiar with the convict stations that their fear has been very much lessened, although I can recollect that formerly they thought differently of it. It was then said, "If you do so and so, you will go to Robben Island." Robben Island was a dreadful place to them then, and the effect was salutary.

151. They are too comfortable now, you think?—I do not admit that.

152. Mr. *Molteno.*] Apart from your consideration of the effect it might have generally upon the criminally disposed population, do you think at the present moment, under the exceptional pressure which now exists, relief might be obtained by detaching, say, a band of the best class of convicts, and some who are under short sentences, and so on, and sending them to Hondeklip Bay?—Well, if I was asked to select the convicts under His Excellency's authority, I should take the worst men, those in the first or penal class. It is to throw these men among the population of Cape Town that I fear the most; and sending them to a distance would be the best plan of getting rid of those people. As I said before, I am not disposed to recommend the relaxation of convict discipline, excepting in the case of prisoners tried by the magistrate.

153. Can you tell us what proportion of convicts you have at the Breakwater who have been tried by magistrates?—Not at the moment.

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154. Have you reason to believe that those convicts would be really different from the bulk of other convicts sentenced by the judges?—Yes, very different.

155. Those who plead guilty receive two years from the magistrate?—Yes.

156. What leads you to suppose that there is such a difference between them?—From my seeing them constantly; and, having seen a great number of those who have come back to the Breakwater, from my own experience generally.

157. *Chairman.*] You have said that you would recommend the employment of those convicts in the divisions in which they are convicted, in case they are sentenced by the magistrates?—Yes.

158. If it be the fact that men may be sentenced by the magistrate for only two years for crimes which, had they been tried by a judge and jury, they would have been sentenced to a longer imprisonment, does not that affect your view?—There may be exceptional cases; and, now you point that out, I would make an exceptional case of that. But I speak as a rule.

159. *Mr. Molteno.*] But at the convict stations, are there not found in the probation class men of different characters and conduct, known to the superintendents and others, that the superintendent could, if asked to select a number, say, “These men I consider may be safely taken?”—The superintendent could hardly be trusted with that.

160. Any other officer, then?—I think the only men you can really depend upon will be some of those whose sentences are nearly expired,—say within four months or so,—a portion of whose sentences has been remitted, which would remove the temptation to desert.

161. Can you tell us what number of men there are at the Breakwater station whose sentences will expire within six months?—I could furnish the committee with that information.

162. What is the average number discharged from the Breakwater monthly?—I cannot say; but I find from the returns before me that in July there were 30 and in August 12.

163. *Mr. G. Wood.*] Could you afford the committee any information whether convicts who have been sentenced to imprisonment and the lash are reconvicted for any crime?—

I will look over the reconvictions and former sentences inflicted.

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164. *Chairman.*] Have you formed any opinion as to the effect of corporal punishment, whether it has a deterring effect from reconviction, or not?—I have had some experience during the sixteen or seventeen years that, as magistrate or Superintendent-General of Convicts, I have had dealings with these men, and I have found that there are many men who really do not understand what punishment is, except through the lash. I am quite sure that there are many white men who would die rather than be flogged. Perhaps the Hottentots and Bushmen take their flogging the best; they think very little about the disgrace of it, or of the disgrace of being in the convict station.

165. Can you tell us with regard to flogging the Kafirs?—They fear the lash very much.

166. Then your idea is, that the system of short punishments and the lash would have a greater deterring effect from crime than long imprisonments?—I think so.

167. *Mr. Molteno.*] What do you think of spare diet and solitary confinement?—If you put them on spare diet and solitary confinement you do not get any work out of them; but I think most men consider it a severe punishment.

168. *Chairman.*] It is an unprofitable one to the public, you think?—Yes.

169. *Treasurer-General.*] Would not your proposal to leave the prisoners sentenced by the magistrates at the gaols, instead of sending them to the stations, have the effect of merely relieving the stations at the expense of the gaols?—Yes, of course; but I think it would be less expensive altogether.

170. *Chairman.*] That is assuming that the necessary arrangements are made for accommodation and superintendence?—Yes.

171. *Mr. Munnik.*] Have you had any experience of this?—I am only speaking from information I have received from others. I have had no opportunity of testing it myself; but I think that if Capt. Rainier's plan is carried out, having only one ordinary constable and a number of free labourers working with the gang, and sworn in as special constables, there would be a considerable saving of superintendence.

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172. *Treasurer-General.*] Do you know how the prisoners under Capt. Rainier's system are housed?—I think in the gaol at Worcester.

173. What makes you think that it would be less expensive at the gaols? Is the cost of rations less at the gaols than at the convict stations?—I do not think it is more expensive, but rather less.

174. Why do you think it is less expensive at the gaols?—I think the machinery of one constable, and 1s. a day to the free labourers, much cheaper than the machinery at the Breakwater, where you have a full staff; and then, there is the expense of transport, which is also a considerable item.

175. Have you not shown by your report that there has been a great reduction of the expense by concentrating the convicts in large masses, such as is the case at the Breakwater?—Yes; very considerable.

176. Would not the reversal of the system, by distributing them in the country gaols, as you suggest, increase the expense?—But you must make a distinction between convict matters and the prison arrangements at the magistracies. No doubt the distribution of convicts is always a source of great expense under the present convict system.

177. Does it not follow that, if massing them reduces the expense, having them distributed will have a contrary effect?—I do not quite see it in the same light, for the prisoners in the gaol are to be worked; they are kept on the spot and they are under less restraint than our convicts. If they cannot be housed in the gaol, perhaps some temporary building may be hired by the boards; so that the system must be less expensive than sending them to the convict stations, where you would have the necessary staff of constables to pay for.

178. Mr. *Munnik.*] Is your convict system carried out in respect to those criminals kept in the different districts?—I know nothing about them. Of course it would be a relaxed system altogether.

179. Your relaxed system, so strongly recommended, could it not be tried there?—I should say, try it as a rule and as an experiment upon all the prisoners of the magistracies; but send those that are convicted by a jury to the station.

180. Mr. *Molteno.*] What is your particular objection to the third-class men being placed in the same position?—Those men are liable at any moment to be sent to the penal

gang, and to forfeit all their indulgences, which is the only means we have to keep them on their good behaviour. It would be madness to lose such control, and thus lose all chance of keeping them in check.

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181. Mr. *Munnik.*] Do you not think some check could be kept up without the machinery which is at present employed at the convict stations?—I think not.

182. What objection would there be to sending back such men to the stations?—Take, for instance, such men as you propose to send to Namaqualand; you could not send them back if they misbehaved. Now it should always be in our power to punish them severely and send them back to the penal class.

183. Your probation class seems to consist of four fifths of the convicts at the station; and it seems that no man, however good his conduct may be, can be admitted to the third class until he has served nearly one half of his sentence?—Yes.

184. If a party of 200 men were made up out of the probation class, and your third class were employed upon a work such as the Namaqualand road, could not a sufficient control be kept up by the dread of their being sent back to a penal gang which is kept up at Namaqualand?—Then it would be, in fact, a convict station.

185. But under a relaxed system?—I do not recommend a relaxed system, so far as the station is concerned.

186. Mr. *Moltano.*] Would you have any great difficulty, supposing you had second-class and third-class men there, and supposing that a man knowing that for any misconduct he would be sent back to the Breakwater, with probably the cancellation of all previous indulgences,—would there be any great difficulty in sending them there under the express understanding that they would be liable to be sent back? Would it not be running the risk of a small expense, and nothing more?—Oh, yes.

187. *Chairman.*] Are cases numerous of people being reduced to the penal gang?—No.

188. They are only more numerous if under relaxed discipline?—Oh, yes. And the more secure the barracks are, the fewer attempts there are at escapes; and when the buildings are not very secure there is soon a combination and plans formed to escape.

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189. Mr. *Molteno.*] Would not this plan of sending them to Namaqualand, under the full understanding that for the slightest misconduct they will have to return to the Breakwater,—would it not be practically putting them in another probation class, and fit them the better for mixing with the population again?—I think that many of those men would say, “For God’s sake, do not send us there;” and they would misconduct themselves to be sent back again.

190. *Chairman.*] Then^s the sending them to Namaqualand would seem to be of all other systems of punishment the most irksome to them?—Yes; that is why I say that I wish I could send all the worst characters that distance; and when their time was expired they would become absorbed amongst the population of the country, and find honest labour, which they could not in Cape Town.

191. Then you would propose to send the worst class of men there for your own sake?—For my own sake, and for the sake of the country and of the convicts themselves.

192. It would certainly seem from your evidence that the relaxed state of discipline in the country would be more intolerable to the convicts than the regular system at the convict station?—No. But I think the men in Namaqualand, at the magistracies, and in their own country, are much more likely to conduct themselves well than men in such a gang as proposed for Namaqualand, who have perhaps wives and families in Cape Town; and it would be irksome to them to go there, and I think they would misconduct themselves to get back.

193. Mr. *Darnell.*] But many of them have not wives and families here?—A great many of them have.

194. Of those at the Breakwater?—Yes; a great many of them are married; at all events they have relations and friends.

195. Mr. *G. Wood.*] Is there not a large number at the Breakwater from the Eastern Province, Kafirs and others?—Not so many now; for the last eighteen months none have come down.

196. But there are long-sentenced men among them?—Yes.

197. Mr. *Molteno.*] Are the convicts benefited by being at the Breakwater station, where their wives and children are

far removed from them?—They have an opportunity of seeing them weekly if they are good-conduct men.

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198. That must apply to a very few instances ; some wives and families must be living at the Paarl, Stellenbosch, and those districts, who could not therefore come up so easily?—Yes ; but their brothers and sisters, and fathers and mothers come to see them from long distances. You always find that when these men are discharged from the convict station they invariably work their way down the country, and turn up at some missionary institution where their friends are.

199. Your idea is that it is an evil to discharge them in Cape Town?—I decidedly think so.

200. *Treasurer-General.*] As far as I can gather, your idea is that we should send the worst convicts to Namaqualand, as a sort of transportation?—Yes ; and at the same time it would be an advantage to them if they desired to have an opportunity of becoming honest.

201. *Mr. G. Wood.*] Supposing you have a number of bad men in Namaqualand, when their sentences expire would they not work their way back from Namaqualand, and rob the farmers on the road?—I think the very reverse. In returning to their homes and families they avoid misconduct. With the Kafir it is different. He is a different man altogether. The farther he goes from the station, and the nearer he gets to his home, the fewer constables he comes across ; but the nearer the man who has his family in this neighbourhood comes to the town, the greater the number of gaols and constables he meets, which decreases the chances of doing wrong without detection.

202. *Chairman.*] You have a return which shows the cost of the establishment and discipline for a large number of years?—Yes, for the last twenty years. I will furnish the committee with a copy.

203. *Treasurer-General.*] Is the expense of discipline and guarding convicts less now than it was under the old regulations?—I do not know of any difference.

204. Are there fewer constables and officers guarding prisoners than there used to be?—The average proportion has been one constable to every ten convicts.

205. Under both regulations?—Yes, under both.

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206. Mr. *G. Wood.*] Are more officers required now under the new convict regulations than under the convict system of Mr. Montagu of 1844?—Not that I am aware of.

207. Did you under the old system have chaplains and doctors at every station?—Always.

208. *Chairman.*] With reference to the escapes, what proportion is recaptured? Are they not, in point of fact, nearly all recaptured?—No; sometimes they are all recaptured, but many of them get away, and are never heard of again. A good deal depends upon the nature of the country they are working in.

209. But, taking the average for a number of years, what is about the proportion of the escapes to the recaptures?—That I cannot say. I may state that the greatest number of escapes take place where the number of constables is largest; it all depends upon the facilities afforded by the country where the stations are placed. A good many of them escaped in the forests about the Katberg, and also in the Knysna forests; they creep away, and there is no catching them in the thick cover.

210. Your proportion of the penal class is small as compared with the probationary class; yet you tell us that the escapes are nearly all from the penal class?—No, the most are from the probationary class.

211. Can you give us a return of these escapes for the last few years, specifying the classes from which they escaped?—Yes.

212. Mr. *Molteno.*] Have you the same objections to removing convicts from the good-conduct class and the probation class at the Knysna station, say to such a work as the Ruiterbosch station, on a relaxed system, as you have to the removal of convicts from the Breakwater works to Namaqualand?—It would not do to send them from the Vlugt. I think they will desert. They cannot do that at Namaqualand, for they would have a desert to go through to get there.

213. *Chairman.*] With reference to the different stations, can you give us any information? Have you visited them within the last few years?—I have not visited the stations in the East for the last three years.

214. Have you reliable information as to the amount of accommodation at all of them?—Not sufficiently reliable, but I can give it you pretty nearly at all the stations. At the

Katberg station it was said to be full last month; they were too full to receive any more convicts from Queen's Town. C. Piers, Esq.
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215. What is the number they can accommodate?—They had 350 last month; but they are increasing the accommodation for 60 or 70 more, so that they will be able to accommodate 400 or 420 altogether.

216. Mr. *Munnik*.] How long would they be required at the Katberg before the work is finished?—I do not know; that is an engineering question.

217. *Chairman*.] With regard to the Breakwater, has that at present as many upon it as it can bear?—They have 43 more than they can properly provide for; the accommodation provided is for 700, and they have now 743.

218. Are there any buildings there which might be made available, and would be sufficiently secure to provide for an additional number of convicts for a short time?—There are none,—not within the walls of the convict establishment.

219. Are there any within your knowledge which could be made available, and made sufficiently safe for a time?—No doubt there are. There are wine stores in the Somerset Road which could be made secure.

220. Mr. *Molteno*.] Is it not a fact that the Harbour Board Commissioners were willing to take an additional 200 convicts, and to provide temporary accommodation in a yard with tents if that would have been considered satisfactory? I have no knowledge of it.

221. What do you think of such a proposal?—We have had them in tents in an enclosed yard, in consequence of not having sufficient accommodation. It was at the commencement of the winter, and the medical man told us that it was impossible to guarantee the health of the station if this was continued, so the Government authorized the removal of 100 men to the Knysna, to make room.

222. Would the same objection apply in summer weather?—Yes.

223. Mr. *Darnell*.] Would it have been worse in summer?—Yes; all the drainage of the houses affected the yard, and a fever broke out among the men.

224. *Chairman*.] How many men does the hospital provide for?—For 17 or 18 men; there is very little illness among the men. I have never found all the beds occupied, excepting on one or two occasions, when there was influenza

C. Piers, Esq. about, and about 200 to 300 of the men kept to their own rooms.
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225. With regard to the Vlugt station, is that fully occupied?—Yes. They cannot take any more there; but in a week they could take 100 more, for they have plenty of materials at hand for erecting efficient buildings there; it is done very rapidly.

226. *Mr. Munnik.*] When will that work be finished?—I do not know, but I think very soon.

227. *Chairman.*] What information can you give us of the Kowie?—They are too full; they have not more than two hundred cubic feet of air per man.

228. Have you any information of anything new being erected there?—No.

229. Do you believe there is?—I think not; but a new building was erected there last year.

230. Have you any instructions with regard to the number of cubic feet of air to be allowed to each man?—There is no rule in the Colony; but this is a question generally settled by the Governor. Unless they have at least four hundred cubic feet, no more men are sent to that station.

231. *Treasurer-General.*] That is the rule?—It was left unsettled; but it would depend upon the kind of building erected. I cannot give an opinion upon it without a plan of the building.

232. In what state is the station at East London?—I believe that also contains as many as it can properly hold.

233. *Mr. Munnik.*] What time do you think would it take to erect the necessary accommodation at the Ruiterbosch Pass for employing about 200 or 300 men there?—I cannot say. I do not know where the materials are to come from.

234. *Mr. Molteno.*] Those materials you have stated to be available at the Vlugt, are they such as could be removed to Ruiterbosch?—It would not be worth that; they are only weather boards, slabs they get from the saw-pits, which would not be worth moving.

235. Is there any other officer at the Breakwater you think could give us any idea of the general character of the probation class?—Yes, the superintendent; and assistant superintendent, also Mr. Fisk.

236. I see by the Governor's message that there are now four new stations proposed?—Yes; at Breakfast Vlei, the

Kookhuis Drift, the Ruiterbosch Pass, and Namaqualand road.

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237. Do you know whether it is contemplated to have a chaplain, schoolmaster, and doctor at all those stations?—I do not know; but I presume that if we put up convict stations anywhere, the usual staff will have to be provided for.

Tuesday, September 25, 1866.

PRESENT:

HON. TREASURER-GENERAL (Acting Chairman),

Mr. Darnell,

Dr. White,

,, Molteno,

Mr. Munnik.

Mr. *M. R. Robinson*, Chief Inspector of Public Works, examined.

238. *Chairman.*] Has your attention been called to the Governor's message with regard to the works proposed for the convicts?—I have seen the Governor's message.

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239. The works there referred to are the Namaqualand road, the Ruiterbosch road, the road to the Knysna, the road from Graham's Town to King William's Town, to which has to be added the road between the Kookhuis Bridge and Daggaboer's Nek. The committee will be obliged by any information you can give as to the expense and probable duration of those several works. Now, with regard to the Namaqualand road?—The information can be obtained in the correspondence I have already addressed to the Government; but I can speak generally of these works as to their duration and probable cost. I think that the road from Hondeklip Bay to Springbok will occupy, if the whole of the line be constructed by convict labour, 350 convicts for about four years. If only the heaviest portions of the work are undertaken by convicts, then it will occupy 300 convicts about three years, and the cost of the engineering department, for tools, superintendence, and surveys, would be about £1,000 or £1,200 a year.

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240. You mean only engineering superintendence, not convict superintendence?—No, I am only speaking of the road department.

241. Is it contemplated to execute that portion of the road where it was intended to make the tramway; is that included in your estimate?—Yes, because of the information recently received arising from the survey by Mr. Hall of the country, who reported to the directors that a tramway was not necessary.

242. Is a hard road necessary over that part of the line?—Yes; a good deal of it is sand.

243. Why was it not considered necessary to make a tramway there?—I believe that after Mr. Hall examined the country, he did not think it necessary to go to such a heavy expense as a tramway, and that an ordinary road would do very well.

244. Dr. *White*.] It was about twelve miles long?—About fifteen or sixteen miles, I think.

245. Mr. *Darnell*.] Would it not cost a good deal to make a hard road over the soft sand?—It is not so soft throughout as it was at first thought to be.

246. Dr. *White*.] Then, in either case, the sandy part was to be made a hard road?—Yes, if a tramway was not made.

247. *Chairman*.] The tools referred to include, of course, carts and mules, and everything that may be considered necessary?—Yes; the whole would cost about £1,000 or £1,200 a year.

248. Now as to the Ruiterbosch Pass?—There are about twelve miles of road to be constructed. I think it will occupy 180 convicts nearly two years. The divisional council proposes to bear all the engineering expenses.

249. Whatever that may be?—Yes.

250. Dr. *White*.] Are those twelve miles at Ruiterbosch extraordinarily heavy to require so many men?—Towards the summit there is some heavy work. There is about three miles on the summit which is very bad.

251. *Chairman*.] Do you think it is a feasible work; can they make a road there?—Yes, it will make an admirable road.

252. Mr. *Molteno*.] When the summit is attained is there much difficulty in descending to Oudtshoorn?—It

will require about two miles scarping ; but from (that it is open ground.

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253. *Dr. White.*] You say that the divisional council will undertake the expense of the plant and everything else ?
—Yes.

254. *Chairman.*] How far is the road from George to Knysna proposed to be carried at present ?—The first proposal was to carry the road from the present pontoon to Mr. Barrington's, crossing the Houtini and the Karatera towards George, avoiding those terrible dips of Kaaiman's Gat and the Trek aan de Touw.

255. That was the original intention ?—No, that is the recent plan.

256. Did any modification of that take place ?—A survey was made by Mr. de Smidt, I think four years ago. That takes the road below by the lakes, but it was abandoned, owing to its being very sandy, and there being no materials to make it. But yesterday morning, I received a letter from the Government, intimating that they still considered that that road could be made.

257. Then the engineering question seems not to be settled yet ?—So far as I am concerned, it is ; but the Government would seem to think that the lower road could be adopted.

258. *Mr. Darnell.*] That is the present intention of Government,—only to make the road as far as the east bank of the Trek aan de Touw ; you are not aware of that limitation ?—No.

259. *Chairman.*] From George to Trek aan de Touw, the road would be left an open question as to which two further lines should be taken ?—The other portion of the line is much further on.

260. *Mr. Darnell.*] I could not understand the nature of the message, because both the divisional council of the Knysna and the divisional council of George have agreed upon this road ; that the road surveyed by Mr. Bain should be the road. Now what has induced the Government to change its mind upon the subject, I cannot understand ?—I am not aware.

261. The Government propose to move the convict station from the Vlugt to near George ?—Yes. It was intended to move them to the neighbourhood of George, about four miles from that place.

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262. And that Ruiterbosch should be a sort of out-station to the main station at George?—No, that was not the intention; they would be too far apart for that.

263. *Chairman.*] The road from George to Trek aan de Touw there is no difference of opinion about; that can be commenced at once?—Yes.

264. Then we are to understand that from George to Trek aan de Touw the work can be at once commenced, while the other question as to the prolongation of the road remains in abeyance?—From the recent instructions it would appear so.

265. What time would that occupy the convicts?—I must refer you to Mr. Bain's report upon the subject.

266. Can you give us any information as to the road from Graham's Town to King William's Town?—The road commences at Breakfast Vlei; the main road from Graham's Town to Breakfast Vlei has already been made. From that point to King William's Town no main road has been surveyed or constructed; they have used the old roads, and very bad they are now. The Government proposed it long ago, and a great deal of correspondence, extending over some years, as to the best line of road, occurred. It is a difficult question to decide, and the whole of the correspondence has been sent to Mr. Trill, the late Engineer of British Kaffraria, with a request that he would make a trial survey and estimate of two or three lines. He has written to say that there are two lines which appear to be practicable; he is now going on with the survey of the sections and estimates.

267. There is no estimate made yet?—No estimate of it, nor any knowledge of what the line will be. Then there is the work from Kookhuis Drift to Daggaboer's Nek, a distance of thirteen miles; it is a very necessary work, and should be commenced, otherwise the bridge will be finished, and there will be no main road to travel over. It will occupy 150 convicts about fifteen or eighteen months; but I would add that, had it not been for the extreme pressure placed upon Government at the time to provide employment for the convicts, I should have preferred doing that road by free labour. Free labour is cheap up there. You can get men for 2s. per day, who are no expense to the Government, and for whom you do not require barracks and discipline, or any cost of that kind. It was only on account of the Government being so pressed at the time to provide stations for these men that I

suggested the work might be done by convict labour. The distance is thirteen miles through an open country, excepting for a mile and a half through Esterhuizen's Poort.

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268. *Chairman.*] And that is a pressing work you consider?—It is very necessary, for they are going on rapidly with the bridge, and it will take fifteen or eighteen months to complete the road. So that, unless the road is opened to the bridge, the bridge will be no assistance to the trunk line.

269. *Mr. Molteno.*] Have you formed an estimate of what it will cost by free labour?—Yes; I think under £3,000.

270. Is the present road in such a state that it cannot be travelled over at all?—I do not mean to say that it cannot be travelled over at all, but it is in a very bad condition, and a new road has been sanctioned by Parliament.

271. *Mr. Darnell.*] Will you show us how much of the Katberg is to be completed as far as the convicts are concerned?—I have here a plan of the Katberg road, the whole of it from Ox Kraal, or from Tyalie's Poort, to the summit level will be finished at the close of the year. From the summit level on the southern incline to Deelkraal will, to the best of my belief, be finished at the end of the year. This latter part is done by convict labour.

272. What alteration is it that the Fort Beaufort people are agitating for at that section of the road?—It was the intention to have continued it from Deelkraal to Blinkwater, but the Fort Beaufort people wish it to come through the town. The convict station at the Katberg has been so full that I received instructions to extend the construction of this road by convict labour, and it will probably take them until July or August to complete it to Blinkwater.

273. *Mr. Molteno.*] With the present strength of the convict station?—No, I do not require them, because the heavy work at the Katberg will be completed by the end of the year, and you cannot remove the main station to a comparatively light work, and those men will have to go elsewhere.

274. They will have to be provided for?—Yes.

275. *Mr. Darnell.*] That will be?—In January next, I think.

276. *Dr. White.*] Do I understand that you have no means of putting a station there?—We have just built a station opposite the Gonsala.

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277. *Chairman.*] Is that an out-station?—Yes, for sixty men.

278. Then those sixty men will be sufficient for that work?—Yes, those sixty men, with those at Deelkraal. I think there must be about forty or fifty men at Deelkraal.

279. Is that another out-station?—Yes; the main station is up in the mountains.

280. Mr. *Darnell.*] How many miles is Deelkraal from the main station?—About eleven miles.

281. Is there no part to the north of the Katberg, or any other part of the road, suitable for the employment of convicts?—I do not think so. You are so near the Fingo locations, where you can get very excellent free labour at a cheap rate, that any future works to the north on the main road up to the Orange Free State should be done by free labour. You get so far from timber to be supplied there that the erection of barracks would become very expensive.

282. Can you give us any information about the Stormberg mountain road?—Across the Stormberg, at Penhoek, you have only about two miles; it is a plane, and then a rise or steppe; there is no fall on the northern side.

283. *Chairman.*] When the Katberg station is removed, will it not be better also to move the convicts at the small station at Deelkraal, and leave that work to be done by free cheap labour?—That would depend so much upon circumstances how they are removed. If it is necessary to remove them bodily elsewhere,—in that case, I think you would want extra superintendence, so that it would be cheaper to remove the convicts at the small stations also. I never thought myself that that work should be constructed by convict labour; it was only under the great pressure for room that it was done. The barracks there are not so expensive; it is a woody country, and wattle-and-daub huts are cheaply made.

284. Dr. *White.*] When the main station is removed from the Katberg, of course the out-stations cannot remain?—No, there would be no ordinary convict management to superintend them.

285. Mr. *Darnell.*] Where does the Government intend to move them to from the Katberg?—To the road from Breakfast Vlei to King William's Town.

286. *Chairman.*] But that road is not surveyed?—No, the surveys are now in hand. Mr.
M. R. Robinson

287. Are you aware where it is intended to move the convicts to from the Knysna and Langekloof roads when they are finished?—It was intended to divide the strength on the road at Ruiterbosch and the road between George and the Knysna. Sept. 25, 1866.

288. Mr. *Darnell.*] Is there any work immediately to the north of that on which the convicts might be profitably employed?—I do not know. I have had no official communication from the Government on the matter, but parties there propose that we should construct the line from Sondagh's on to Lyon.

289. Mr. *Molteno.*] Has anything been done at Seven Weeks Poort, on the Seven Weeks Poort road through the Boschluis Poort?—Nothing since the works were abandoned three years since.

290. That is a work that was sanctioned by Parliament?—I believe so.

291. You are aware that the non-completion of the Boschluis Kloof renders the Seven Weeks Poort of no use at all?—Yes, it is useless. But I believe the old road has been made passable.

Rev. G. H. R. Fisk examined.

292. *Chairman.*] You are the chaplain at the Breakwater convict station?—I am. Rev.
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293. You have given your usual annual report for 1865, which is now before the Committee?—Yes. Sept. 25, 1866.

294. Mr. *Molteno.*] On page 12 you say you think a system of ticket of leave might be commenced, which would work satisfactorily in connection with first convictions?—That opinion is qualified. I say that under certain circumstances a ticket-of-leave system could be devised that would work satisfactorily, and I also say that the present circumstances are not those under which the system could be introduced.

295. What do you allude to by "present circumstances"?—The general distress and want of employment.

296. Setting that for the moment aside, how do you propose to carry out that system, and what number of men do you think could be safely trusted with tickets of

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leave?—The suggestion here made with regard to tickets of leave is in connection with other things which I have stated at previous times. It is only part of a system I have been endeavouring to enunciate, which I should like to see superseding the present system. I would not like to see the ticket-of-leave system introduced without regard to other things.

297. You are pretty well acquainted with the convicts,—their character and general conduct?—Yes, as well as one can be.

298. Mr. *Darnell*.] Will you state shortly what those other things are?—My idea with regard to the discipline maintained at the convict stations in this Colony is, that we should carefully separate reconvictions and reiterated convictions from first convictions. Such a permanent station as that at the Breakwater, where the work will last for a considerable time, is just the place where reconvictions and reiterated convictions might be sent, as also men guilty of bad crimes. That would give, according to last year's return of the number at the station, between 400 and 500,—upwards of 400 reconvictions, and, I suppose, another 100 bad crimes. The discipline of these men should be exceedingly severe, as severe as it can be. The first convictions should be separated from these men, and those you might employ anywhere, on railway works, roads, and on almost every kind of public work. So long as you mix up men of first convictions with men who have been reconvicted, you only propagate crime, by so doing, as fast as possible. If we want to bring down the total number of criminals now that the Colony is in such an unfortunate state, then you must separate them in this way. But I have stated all this before in my evidence before the commission that was appointed by the Government last year.

299. *Chairman*.] Does not a practical separation between the two classes exist at present?—No, all reconvictions are put in the penal class, but after a certain time they are brought into the probation class, so that men who have been reconvicted are associated in the probation class with the other men under their first sentence.

300. Would not that depend upon their good conduct?—Yes, station good conduct. There is a great difference between a good convict, or a good man as a convict and a

good man as a free man. I may state that the total number of convicts at the station last year was 2,168; there were second convictions, 335; and reiterated convictions, 99; that gives a little over 20 per cent. It was said in the House on Monday by the member for Cape Town that it was 10 per cent., but here are the figures. With regard to that, I may make another remark,—that is, that of the men who have joined the station during this year up to the middle of the month, the reconversions and reiterated convictions amount to only 16 per cent. That is rather a remarkable fact, bearing in mind the distress, the great distress, which exists at the present time. Then I reckon that last year would have given for the class of which I speak, 434, and about 104 bad crimes; I mean men who are convicted of murder, culpable homicide, assault with intent, rape, and such crimes.

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301. Mr. *Munnik*.] Then would the rest of the men above the 538 be men of good conduct, who could be employed on railways, roads, or in any other way?—I should be sorry to say that those men are all good-conduct men; but they are men who have not been reconvicted, who have short sentences, under five years, and who should therefore be kept from mixing with old offenders. If this were done, we should then have a chance of doing some good with them.

302. Do you consider that the regulations could be relaxed with those men from what they are at present?—I should say that the present discipline would be the proper discipline for those men; the discipline for the penal station should be made more severe.

303. Mr. *Darnell*.] Do you think the discipline could be carried out on small bodies on detached works?—I would not separate them into small parties; if the number is kept up at about 400 it would be far preferable; if you separate them in small parties, you will require more superintendents, overseers, and constables.

304. You would have the penal class in a separate station by themselves?—Yes, I would have two different classes of stations. It would act in this way: supposing the men at the stations where you have only first convictions misbehave themselves, you could send them to the penal station; they would dread this very much, and it would have a great effect in making them behave themselves.

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305. Mr *Munnik*.] Then you do not think that any economy could be observed in the discipline, even with these good-conduct men?—I do not see how that could be,—I have no faith in such a system.

306. *Chairman*] Would it not decrease the expenditure?—I do not think any suggestion I have made calculated to effect an immediate decrease in the expenditure, but I firmly believe an ultimate decrease would be effected.

307. Mr. *Molteno*.] The Superintendent-General of Convicts has stated in his evidence that there are a number of men now sent to the convict stations, such as the Breakwater station, sentenced by the magistrates, which men, in his opinion, should never have been sent there at all, and might safely be employed in the country under the magistrate, under a less rigorous discipline. Do you coincide in that opinion?—I should not like to see the discipline relaxed or made less severe than at present. I do not think the first convictions are too severely treated; reconvictions should be punished more severely. If you punish a fellow you should do it well, otherwise it is of no use at all.

308. *Chairman*.] Are you not now propounding a different system from the ticket-of-leave system? If I understand you, you now contemplate these men being formed into a separate convict station, under the same discipline as at present?—The ticket-of-leave system grows upon it. Suppose convicts are separated in this way, and you have a separate penal station for reconvictions, and separate stations for first convictions, then I would propose on that groundwork a system of ticket of leave, out of which a more perfect system might grow. You would thus be enabled to grant mitigations of sentences in the shape of tickets of leave, which would be conditional pardons.

309. With which they should leave the station?—Yes.

310. And become their own masters?—Yes, so far. This would naturally oblige them to continual good behaviour. The working of the system would be this: supposing a man convicted of crime is brought to the convict station, and say that his sentence is for ten years, if he behaves well, then, according to present regulations, two years are taken off his sentence, and he gets an unconditional pardon. In place of that, I would make it a conditional pardon, so that if in the meantime, before the expiration of the two years, he

commits himself and receives another sentence, then he would have to work off the remaining portion of the first sentence before he could commence the second.

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311. I find this paragraph in your report: "When general distress and want of employment exists." Is it your view, then, that the ticket-of-leave system cannot well be introduced now, on account of the number of unemployed persons?—I think at the present time, mitigations of sentences should be granted very charily. I would certainly not mitigate any sentences or grant tickets of leave until the harvest; and as we now look for returning prosperity, we may be able to carry the system out to some extent. I may mention a case which will show the effect of the system in cases of reconviction. It is a very extreme case, but by an extreme case, the effect can best be seen. There is a convict at the station, No. 9863; he was tried July 8, 1865, and sentenced to two years. This is his fifth conviction. He was first tried in 1833, and sentenced for life; he deserted, and was tried again in September, 1846, and received a sentence of six months; he was then discovered to be a deserter, and therefore had to serve the original sentence for life. But in 1856, he received an unconditional pardon, and was sent off the station. In January, 1860, he was again tried, and received a sentence of one year and three months. In January, 1862, he was again tried, and received another sentence; and, as I have already stated, in July, 1865, he was again tried, and received two years, under which sentence he is now serving. Now, if in place of an unconditional pardon that man had received a ticket of leave, or conditional pardon, when reconvicted he would have had first to serve the remainder of his original sentence; and if this had been understood by him, the deterring effect would have been very great.

312. *Chairman.* Then you recommend tickets of leave, instead of unconditional pardons?—Yes.

313. *Mr. Molteno.*] Can you explain how it was this man, with so severe a sentence as that, could have obtained such a pardon?—I think it was on the occasion of the opening of Bain's Pass. As a convict, his conduct was remarkably good, and on that occasion the very best men were picked out and they received pardons. Observe, again, how the system would work. Until the present Governor came, and once since His Excellency has been here, there

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have been extraordinary mitigations granted at the opening of works. The last was when the new bridge over the river at Mostert's Hoek, Ceres Pass, was finished. A number of men had been left there, who behaved remarkably well, and the present Governor was good enough to grant mitigations of sentences for various terms. Now, I think that instead of these mitigations had tickets of leave been granted, they would have had a very good and deterring effect, for the men would have felt that if they committed themselves again and were brought again to the station, and it was discovered they were ticket-of-leave men, they would have to serve out the remainder of the first as well as the second sentence.

314. But it appears that these men behaved themselves for a considerable time under a less rigorous system of discipline?—They were good-conduct men, who had been picked out by the superintendent and left at the work with a head overseer and a number of constables.

315. Do you know the number of the men in that party?—I think about fifty men; they were picked out of the whole of the stations as the most trustworthy men, and were left behind to finish the work.

316. Do you think, taking the convicts at the Breakwater, that 150 or 200 men, or any number you may fix upon, all men of that class, could be drafted away to Namaqualand to work upon the road there under a less rigorous system of discipline, with a much smaller amount of superintendence and guarding than is ordinarily the case at convict stations?—I do not think so; it would not be fair to the men to have a relaxed system of discipline. You cannot send them away for three or four years without a superintendent, a doctor, and a chaplain. I do not think it would do unless they had the proper superintendence.

317. But the men selected should be from that class of convicts, not the more dangerous ones, but men convicted of comparatively slight offences, such as cattle-stealing, and rather with a view to relieving the great present pressure. Would there be any danger in putting a number of such men on a work of that kind, whom it would not be necessary to place under the full convict regulations, giving them to understand that if any offences were committed, they would be sent back to the penal class at the Breakwater?—I do not see how it would do to send a number of men for a great length of time without the officers similar in number to those

now employed at the stations, in the proportion of one overseer to fifty convicts, besides constables.

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318. But if you trusted fifty men, who, as you state, worked well and with whom you were perfectly satisfied, so much so that they received a remission of their sentences, could not such a system be, to a certain extent, initiated?—I think there is a very great difference between leaving a small number of men under an overseer for a few months, and a large number of men, such as you will require in Namaqualand.

319. But their sentences will be constantly expiring; many of them would not have many months to serve?—Then if they have only a few months to serve, their removal would entail an increase of expense.

320. But it is not a question of expense now. I only wish to know whether there would be any great danger in making such an experiment as that?—I do not think it would work under a relaxed system of discipline; if they knew they could run away at any time, they would set their officers at defiance. It would not be fair to the convicts themselves.

321. Have you made yourself at all acquainted with the Irish convict system?—I cannot say I am up in it, but I know that it works better than any other.

322. Under that system, it was found that men entrusted to a certain extent in that way required but little superintendence?—Yes, but then they have a gradation of prisons in Ireland; there is a great classification of the men. I should myself be exceedingly careful in working a new system. For instance, you should be very careful in the treatment of men with first sentences; you might afterwards relax the discipline, but it would not do in the first instance.

323. *Dr. White.*] These fifty men alluded to just now, were they taken from any particular body of convicts?—They were not exclusively from the good-conduct class; they were selected from the ordinary parties of overseers.

324. *Chairman.*] I think you said there was hardly a good-conduct class now?—The good-conduct-ticket class has been almost done away with; it was found that it did not work well. There is a good-conduct class now, which the men call the coffee span. I think they amount to eight per cent. on the whole number; they get some indulgences, such as coffee and tobacco, and so on.

Mr. *J. Short*, Superintendent of Convicts at the Breakwater Station, examined.

Mr. *J. Short*. 325. *Chairman*.] How long have you been connected with the Convict department?—Altogether, twenty-two years.

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327. Are you acquainted with the system before it was changed?—Yes.

328. It is different from the present system?—Yes, to a certain extent.

329. In what respect?—There was then no good-conduct class.

330. Was there any difference in the discipline of the convicts?—No; but at that time there was no resident chaplain or resident surgeon; they were merely visitors.

331. How did this good-conduct system originate?—It was when the old regulations and orders were revised. It was found that a number of orders had been issued from time to time, to meet certain cases, and these were revised and reduced to one code. The one now in force was then introduced by the commission, of which Dr. Innes was one.

332. Was it suggested with any idea of encouraging the men to get into a better class, where the discipline could be relaxed?—Yes, that was the intention, there can be no doubt.

333. Mr. *Darnell*.] Was that more with the intention of reforming them?—Yes.

334. Mr. *Munnik*.] At all events, it was held out as an encouragement, by giving certain indulgences for good behaviour?—Yes.

335. Under that good-behaviour system, the discipline was relaxed?—Yes, after a certain period.

336.—Did that seem to work?—Yes, in some places; in other places it has not. I know at Knysna, when I was there, it did not work well; they used to go out and steal at night. They were under charge of a constable, who would perhaps have thirty men under him in tents; they would creep from underneath, and go and steal and get drunk, and so on.

337. *Chairman*.] The relaxed discipline was not found to work well?—No; they had too much liberty, and abused it very much.

338. Even the good-conduct men?—It is the good-conduct men I am referring to now.

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339. Mr. *Munnik*.] The next class to that is the probation class?—Yes.

340. What proportion do they form to the number at each station?—Generally about two thirds.

341. Have you not occasionally taken certain men out of that class, and employed them in a manner where the supervision was relaxed?—No, never, excepting with their proper officers, according to what has been found indispensable at all the stations.

342. Have you not sometimes taken a portion of men out of the probation class and given them employment at a distance from the main station, under a relaxed discipline?—No, always under a proper escort.

343. How were the men employed at the Mitchell's Pass; I mean those men that were left behind by the New Kloof party?—They were under the charge of an overseer and six constables for night and day duty, and at last under the charge of the head overseer-resident.

344. *Chairman*.] Were those men brought back to the main station at night?—No, they were in what is called a detached or out-station, under the same regulations as the main station. There were numbers of them in the Colony, but always under a proper guard.

345. Mr. *Munnik*.] You say there was a number of these detached stations, upon which these convicts worked in parties?—Yes.

346. Then working them in that way was not a less expensive system?—Oh, no, it was much more expensive; the more stations you have, the more expensive it is.

347. Do you think there would be any difficulty in obtaining out of the probation class at present at the Breakwater a sufficient number, say 200 or 250 convicts, to send to Namaqualand, for the construction of the road there on a principle cheaper than the present?—I should like to know what that principle is before I could give an opinion, for some of those convicts have sentences of five years downwards.

348. But being acquainted with the personal conduct of those men, would you be able to find 200 or 250 men who could be employed in that way?—Not without a proper guard. We have always a constable for every fifteen men

Mr. *J. Short*. for day and night duty, and an overseer for every fifty
Sept. 25, 1866. men.

349. Mr. *Molteno*.] Do you think if we were to give these men to understand that pending good conduct they would be placed something like under the circumstances of free labourers, but liable to be sent back to the station for any misconduct whatever, and employ a number of free labourers with them to act as constables,—do you think such a system as that would be worth trying?—No, I do not think it would do to bring the free people into contact with them. I have seen the bad consequences of that, and if the free men wrought all the day, they could not take care of the convicts at night; and they could then go out and rove about the country during the night wherever they pleased, without any risk.

350. Yes; but they are not employed to work with them, only they are at the same time to act as constables for a special reward?—I have not seen it in use, and would therefore not like to give an opinion; but I very much doubt the efficacy of the proposal, and the safety of the convicts.

351. At Tulbagh Kloof works, were the convicts not a good deal scattered?—They were not scattered, but a party was detached to Mitchell's Pass outstation, under a sub-overseer, and a certain number of constables.

352. What number were detached?—We began with twenty-five, and then increased it to about fifty. When the main gang was moved from Tulbagh Kloof, they were left at Mitchell's Pass under charge of a head overseer, besides the other officers.

353. How did they get on?—Very fairly. I omitted to say that besides the guard, the chaplain, the surgeon, and myself visited them regularly weekly, and the visiting and road magistrate also inspected the party and road at least once a week, and saw to the state of their discipline, &c.

354. Dr. *White*.] How were they guarded at night?—They were regularly locked up in properly-constructed barracks, and a chief constable, with an armed constable, were in charge the whole night.

355. *Chairman*.] Do you consider the good-conduct men at the station any test with regard to reformation amongst them?—Well, most of us do to a certain extent.

356. Mr. *Munnik*] Has it been proved by practical results?—I think so; although, in some cases, we get one or two of them back again, but the great majority go to the country, and we never hear of them again.

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357. Mr. *Moltano*.] As far as reformation goes, is there any change made in them?—Well, they go regularly to morning and evening prayers, to church and school, and they have a library. If they do not take advantage of these blessings, then they are to blame. The great majority are docile, quiet, and obedient, and leave the station with every appearance of reformation.

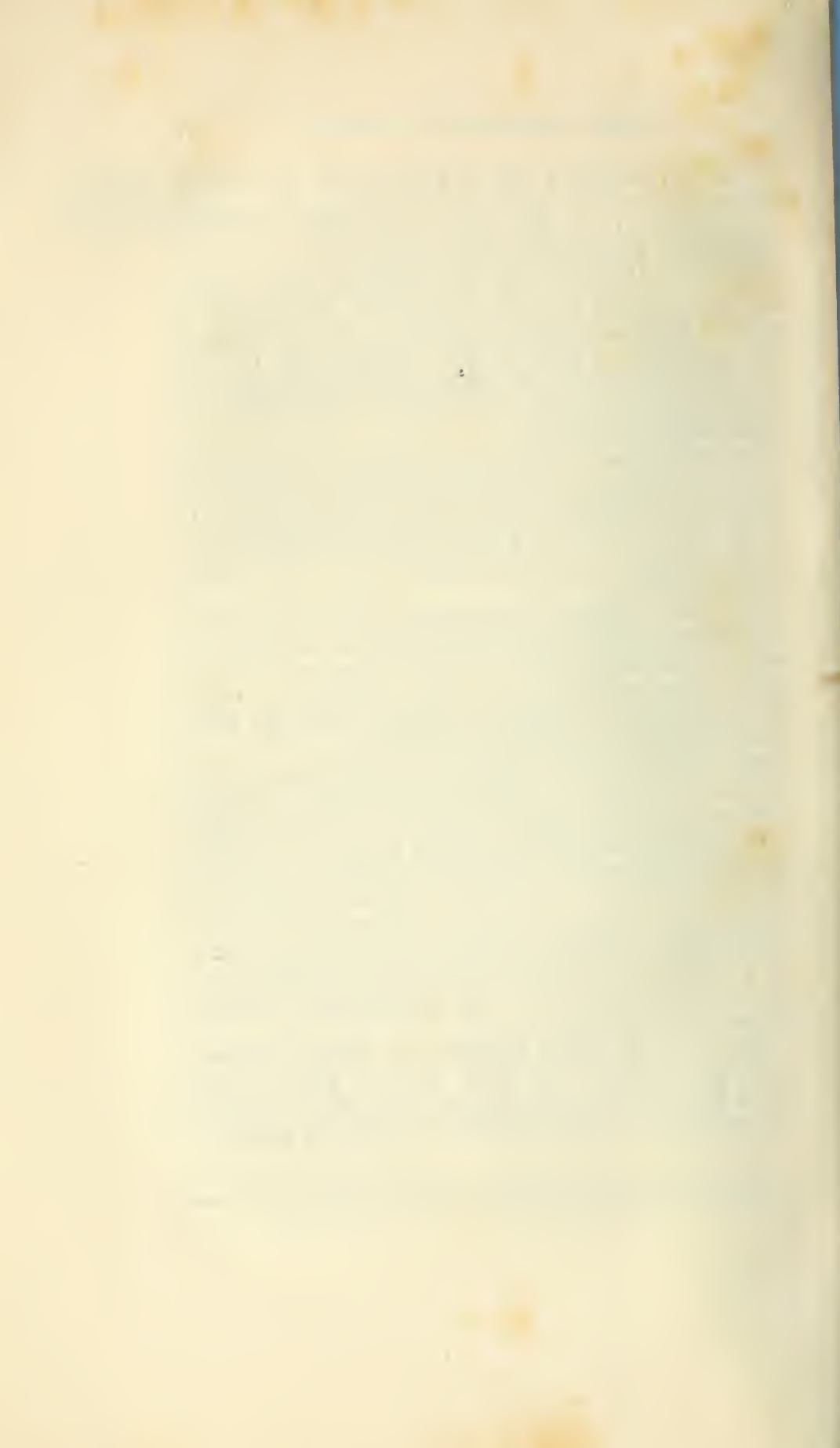
358. *Chairman*.] Your opinion seems to me to be that you do not think it practicable to take a sufficient party from the probation-class convicts at the Breakwater to send them to do any public work under a relaxed system of discipline?—I think not, unless under a proper guard, such as the regulations provide for.

359. Mr. *Moltano*.] Is the party that was sent over to Robben Island under a relaxed system?—No, there are fifteen convicts there under an acting overseer, and one constable. They are locked up at night, and they are visited by Dr. Edmunds as visiting magistrate. They are under complete control, according to regulations.

360. Mr. *Darnell*] That is an exceptional case in some respects; they could not get away from there?—True, but their safety is provided for as if they were on the main land.

361. *Chairman*.] There is a great number of convicts at the Breakwater station; are they all profitably employed?—So far as I am aware, they are all fully and profitably employed. Not being an engineer, I cannot give a positive opinion, but Mr. Andrews, while in charge, always stated to me that the whole of the convicts were fully and properly employed, and are so now. The acting engineer gives me the same information.

362. They are not so crowded as to interfere with each other in working?—No, every party is under its own overseer, and has its particular work, which is taken up every morning, under the direction of the free gangers.



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