



# **COUNTERFUTURES**

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Left thought & practice Aotearoa

**THREE**

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# Feculent Hovel: Auckland's first gaol 1841-1865

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**S**ATURDAY NIGHT, WHEN both the inclination and opportunity for drunkenness are at their height, is the worst time of the week in a metropolitan jail. The violent, judgment-impaired and purely unfortunate are admitted in a sullen stream that overloads the regular muster of inmates, and the atmosphere is sour with recrimination and despair.

Sometime after nine on the Saturday night of 16 April 1842, Auckland's newly built jail (or 'gaol', as it was generally spelt at that time) became so intolerable that head gaoler George McElwain took the extreme step of summoning his superior, James Coates, from his home. The cells were bursting, McElwain declared, and two of his prisoners were 'very violent and appeared to him to be deranged'.

The gentlemanly Coates held the ancient title of High Sheriff, yet he had no prior experience of the penal system. In

early 1842 Auckland was barely a year old, the makeshift and largely hypothetical capital of a brand-new colony, and its government posts were shared around among the mainly young and under-qualified men available to take them. Coates was just 27 when his gaoler sent the frantic request for his presence. Sensibly, he asked the older and more experienced Colonial Surgeon John Johnson, whose responsibilities included the health of gaol inmates, to accompany him. The two officials picked their way awkwardly by lamplight through mud and dung to the soggy lower end of Queen Street where the town's wooden gaol stood. MacElwain showed them to the larger of its two cells, where they found a scene from a nightmare.

The No. 1 cell, the size of a modest modern-day bathroom, held 14 prisoners. They were not all able to lie down, so a hammock had been strung beneath the low ceiling, further reducing the minimal ventilation. The second cell, even smaller, contained twelve men, and another drunkard was admitted while the two observers were present. Coates reported that, 'he was so violent that after being handcuffed, the lockup-keeper was compelled to lash his hands up to the window-bars, to keep him from injuring the other prisoners'.<sup>1</sup> Another who arrived later became convulsed with fits so intense that it took the efforts of most of the other prisoners to hold him down. Someone had evidently just vomited and Sheriff Coates found that 'the stench was insufferable'.

Next day he reported these appalling conditions to the Colonial Secretary, the capital's highest official apart from its Governor, William Hobson. Coates did his best to absolve himself and his staff of blame for the scene he had witnessed. He explained that the cells:

1 J. Coates to Colonial Secretary, 18 April 1842, IA 1 1842/622 Archives New Zealand, Wellington.

are cleaned out every day that the weather will permit of so doing and every precaution is used to ventilate them during the day, but the number of prisoners confined in so small a space renders it inoperative .... On Wednesday next I anticipate the introduction of 20-25 debtors, where I am to place them I cannot possibly imagine.<sup>2</sup>

This was the incontinent state of Auckland's only penal facility, 18 months after the colony's capital was relocated from Russell in the Bay of Islands to a thinly populated stretch of scrub and fern beside the Waitemata Harbour.

The story of punishment which follows invokes two competing demands. These stem from the impress upon our modern sensibilities of a market-based approach to relationships (with others, ourselves, and the environment) and an appreciation of the orderly administration of things (of bureaucratic management).<sup>3</sup> The first of these demands is that historically specific forms and practices of punishment be accepted as universally normal. As Marxian penal analysis has long suggested, however, the forms of punishment which came to characterize settler societies have naturalised a very specific set of expectations about how sanctions will operate and the distribution of advantages their administration will produce between classes and status groups. The forms of punishment involved are, in Marxian terms, 'superstructural' effects of the logic of capital. This story describes how a capitalist framing of punishment came to incrementally constitute the nation's formalised responses to offending behaviour, while recognizing the fragmented and contested manner in which that process occurred.

First, the expropriation of labour power, through which value is produced within capitalism, would come to extend be-

2 Ibid.

3 See Slavoj Žižek, 'What is it to Live?', in Timothy Campbell & Adam Sitze, eds., *Biopolitics: A Reader*, Durham 2013, pp. 491-511.

yond the labour market and into the prison, typically through the deployment of inmates on public works projects. Second, Māori would be expected to accept the use of imprisonment as a primary form of punishment, notwithstanding the differences between incarceration and the types of sanction through which shared life had been regulated prior to European settlement. Third, privileged class positions would interact in ways which simultaneously contested and supported the notion of equivalences that both sustained a market economy and regulated proportionality between crimes and severity of sentence. Fourth, the systemic degradation of material conditions within prisons would come to be regarded as a legitimate means by which to deter others from criminal offending.

Notwithstanding the presence of these themes in this story, their confirmation as ‘normal’ dimensions of modern punishment is just one effect of the narrative. The second is that we might appreciate the success of ‘administrative progress’ in enhancing the material wealth and health of the nation, if not advancing the civility of society as a whole. Progress has occurred not only in the fields of education, health, and so on, but also in the responses made to criminal offending. The wretched conditions in which men and women were first interned in Auckland would never now be tolerated. In consequence, elements of the story which follow seem quite ‘out of time’, as belonging to another period altogether. Criticisms we might now have of indifference shown towards the suffering of inmates, if not the brutality visited upon them, arise in part because of the humanising effects upon us of effective public administration, as part of a more generalized civilising impulse.

To the extent, however, that we find ourselves enjoying something of the ‘otherness’ of the narrative, such enjoyment demonstrates itself to be different than simple belief in our progress. Surprise isn’t necessarily pleasurable where the details

involve the visitation of harm, and especially where traces, at least, of the structural (capitalist) dimensions of early incarceration continue to inform the operation of imprisonment. Rather, an experience of enjoyable difference, in relation to a story such as follows, suggests an encounter with the deadlock between the operation of bureaucratic administration and the capitalist imperative to enhance personal material advantage, as can now run deep within the modern psyche. The sense of satisfaction which can come from the consumption of the narrative's rich elements becomes a means by which that deadlock is brought back within—neutralized by—popular culture. We may thereby find ourselves suitably disquieted—propelled to act in some way—while absolved from any responsibility to act beyond the simple gesture of having had an appropriately 'popular' cultural response.

This now becomes a pivot point upon which contemporary critical analysis might interrupt the on-going normalization of imprisonment. Immediately at stake in this task is the act of reading. The pleasure that can come from entering this story may suggest the presence of an inertia common to participants in a situation where imprisonment shows itself to be both stubbornly capitalist in form and administered with admirable efficiency. Enjoyment of this troublingly pleasurable kind constitutes something of a particularly modern gravitational force. It is a force from which escape may prove difficult. Without such escape, however, a politics appropriate to this moment appears elusive.

Meanwhile, in the nineteenth century colony ...

Kororareka (later known as Russell) was a notoriously lawless settlement, and from late 1840 a large proportion of its seafarers, ex-convicts, defaulting soldiers, women in need and gamblers followed the Governor and his officials south to the promising territory of the new capital. Auckland therefore had immediate need to contain its most unruly and dishonest elements. Initially, that facility was a raupo lockup, a flimsy struc-

ture divided into a room for the turnkey and a single 10 x 12 ft cell, capable of holding eight prisoners at most. A total of 82 inmates were held there in the town's first year, most charged with misdemeanors but 17 classed as felons, or serious offenders, and therefore likely to be serving lengthy terms.<sup>4</sup>

This crude lockup was clearly interim and inadequate, and in early 1841 construction began on a larger and more secure gaol. The site selected was at the lower end of a gully opening into a sheltered section of the harbour. The tree-lined Waihorotiu Creek ran down the western side of the gully, and following its course was the town's main thoroughfare, the grandly and optimistically named Queen Street. This was at that time no more than a muddy track ending in a morass of mudflats and swamp through which new arrivals had to stumble ashore. About 200 yards up from the original shoreline Queen Street was intersected by Victoria Street, and this marshy junction, lying well below the buildings beginning to appear on the surrounding higher ground, was the unfavoured piece of real estate chosen for Auckland's first gaol.

On this corner, on the left-hand side of Queen Street as it ran down to the shoreline, a single-story, wooden, shed-like building was constructed. The Waihorotiu Creek ran directly behind the gaol, supplying a source of fresh water and a means of disposing of its waste. It was inevitable, however, in Auckland's moist and fickle climate, that the stream would periodically overflow its banks and flood the gaol. This would prove a recurrent problem throughout the life of the institution.<sup>5</sup>

The gaol still lacked a roof when, in July 1841, the first prisoners were transferred to it from the temporary lockup.<sup>6</sup>

4 *Blue Book* 1841, p. 195, online edition via Archives New Zealand, Wellington.

5 *Daily Southern Cross*, 10 December 1862 p. 3 (supp.).

6 *New Zealand Herald and Auckland Gazette*, 17 July 1841.

Once completed, the rudimentary building consisted of a single cell block that included the two shared cells described earlier and three, even smaller, single cells, grouped around a central kitchen and dayroom, in a yard surrounded by a seven-foot-high wooden fence. Its staff comprised McElwain the gaoler, two turnkeys and an overseer for the male prisoners sentenced to hard labour.

These latter men were put to work outside the prison yard on public works—collecting firewood for government offices, road-making, stone-breaking, and carting sand or lime—reflecting the reproduction within prison life of the general capitalist expropriation of labour-power.

In time, the hard-labour men's tasks would be allocated by one of the town's more influential officials, the Superintendent of Public Works. His entirely unpaid labour force should, in theory, have made a substantial contribution to the never-ending need for new works and maintenance. In practice, the hard labour gangs achieved remarkably little. The Superintendent could never be sure how many men would turn up for each day's duties, since most were sentenced only to short terms. The incidence of sickness among them was so high that at times half the potential labour force was in the gaol's rudimentary hospital. Those who did shuffle out to their appointed tasks were often, and understandably, unenthusiastic about performing them. Māori, in particular, 'can seldom be trusted upon the road', the sheriff of the time, Percival Berry, found, presumably because of the increased opportunities for escaping, and he suggested that instead 'they might be employed in making matting or dressing flax'.<sup>7</sup>

For all these reasons, 'The quantity of work performed by the men convicted of hard labour', the Superintendent would complain in 1843, 'has not been more than equal to half the num-

7 P. Berry to Col. Sec. 8 June 1846, IA1 62 1847/1964 Archives New Zealand, Wellington.



ber of days they have been employed’, and he recommended introducing ‘some coercive measure’ to improve the output.<sup>8</sup> The sheriff had a range of such measures available to him, including the use of irons, a bread-and-water punishment diet, solitary confinement for up to 14 days at a time, or some combination of these.<sup>9</sup> Berry acknowledged that these penalties might not be sufficient to control his worst troublemakers, especially since he could not prevent other prisoners from supplementing the bread-and-water diet of men under discipline. He proposed adding a new refinement to the punishment regime, borrowed from British gaols—a heavy treadmill on which prisoners would be required to trudge for a fixed number of hours each day. Instead, he was provided with two secure solitary cells beneath the courthouse. They were known as dark cells, since their walls were painted black and they had no light source.<sup>10</sup>

The expectation that inmates should work extended beyond those sentenced to hard labour. This can be seen in the case of a court-martialed soldier named Edward Sayers. By 1849 two rooms in the original cellblock had been converted into hospital rooms, one for regular patients and the other for the insane. The quality of care given to those patients was dependent largely on the other inmates selected to provide it. In February 1849 the post of ‘cook and nurse tender’ in the hospital was given to Sayers. Three months later his regiment’s commanding officer, Lt.-Col. Wynyard, complained that Sayers was being indulged with special privileges such as tea and sugar, and was generally treated with ‘such leniency as amounts to an encouragement

8 Supt. of Works to Col. Sec., 19 October 1843, IA1 28 1844/465, 1843/2010, Archives New Zealand, Wellington.

9 Rules and Regulations for Auckland Gaol, *Blue Book* 1844, p. 195, online ed. via Archives New Zealand, Wellington.

10 P. Berry to Colonial Secretary 4 November 1843, IA1 28 1844/465, 1843/2010, Archives New Zealand, Wellington.

for crime'.<sup>11</sup>

Inquiries revealed a very different story. The Colonial Surgeon reported that Sayers was 'the most attentive man to his duties (which are extremely arduous) of any who has had the like to perform'.<sup>12</sup> The doctor explained that he had ordered Sayers to be given the tea and sugar, 'as medical comforts, deeming it necessary for his health whilst engaged in such severe duties'. Gaoler McElwain believed that the job of cook and nurse tender in the hospital was 'the most severe duty to which any prisoner sentenced to hard labour could be put to' and that 'not a man in the gaol would do the duties that Sayers does'.<sup>13</sup>

Some idea of those duties was provided by McElwain's turnkey. Sayers, he said, 'is continually obliged to get out of his bed at night to attend the sick' and 'is very often up all night'.<sup>14</sup> Furthermore, he had to clean the hospital thoroughly every day, a duty made particularly unpleasant by an insane patient 'who is constantly dirtying the floors by relieving himself in the room'. Col. Wynyard apparently declined to pursue the matter further.

Soon after the gaol opened, construction began on the more ostentatious courthouse alongside it. As with the gaol, the courthouse was still unfinished when a landmark case, resulting in execution, compelled its immediate use. This case illustrates the fraught nature of negotiations which were arising between Māori and European authorities over whose penal code would be used for the punishment of serious offences, as the man executed was a 17-year-old Māori from a chiefly Northland family, Maketu Wharetotara. Wharetotara was charged with murdering five settlers at Motuarohia Island in the Bay of Islands, in a fit of rage

11 1A1 79 1849/1214, Archives New Zealand, Wellington.

12 Ibid.

13 Ibid.

14 Ibid.

after being repeatedly abused by one of them, a farmer named Thomas Bull. After certain inducements were offered to them, Ngāpuhi chiefs agreed to deliver the young man over to the Pākehā justice system, and he was held in a condemned cell in Auckland's gaol for several months until his trial. During that time he covered the walls with images of canoes, men and horses, perhaps to remind him of his home.<sup>15</sup>

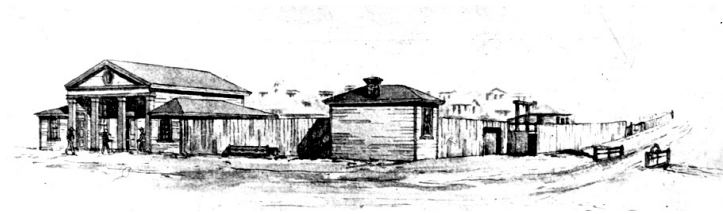


Figure 1. Corner of Queen Street and Victoria Street West, c. 1845, with (from left) courthouse, stocks, and gaol.

The trial in the new courthouse was brief and decisive. Maketu was found guilty and sentenced to hang, and Sheriff Coates was required to organise the colony's first official execution. This was to be a public spectacle, and gallows were erected directly outside the gaol gates. The hanging was scheduled for noon on 7 March 1842, the same time as an important sale of Crown lands. This auction was therefore postponed for an hour 'to enable intending land purchasers to witness the event'.<sup>16</sup>

Maketu, described as 'a fine young man, whose stature was upwards of six feet', was brought from his cell at the appointed time, wearing 'a blue blanket, of native manufacture'.<sup>17</sup>

15 *New Zealand Herald*, 24 December, 1897, p. 1 (supp.).

16 *New Zealand Herald*, 24 December, 1884, p. 2 (supp.).

17 *New Zealand Gazette and Wellington Spectator*, 26 March 1842, p. 3.

With the gaol bell solemnly tolling, he was led to the scaffold under the gaze of a thousand spectators, who were kept at a suitable distance behind a strong guard of armed troops. A reporter noticed that very few Māori were among the crowd, and the same was true of later public executions in Auckland. Although capital punishment was well established in Māori tradition, it was generally delivered summarily, immediately after sentencing. Maketu's fate under the new judicial system was apparently accepted by his people, but they were distressed at the long and, they felt, unnecessarily cruel delay between his arrest and execution. Whether for this or some other reason, Māori were much less inclined than the European population to attend future public hangings.

Prison authorities thereafter made intermittent and tentative efforts to recognise the distinctive customs of Māori prisoners. For two years, between 1844 and 1846, for example, Māori were exempted from imprisonment for debt on the grounds that their ignorance of the law meant they could not 'justly or safely be subjected to the more severe penalties thereof'.<sup>18</sup> When Temenia, a Ngāti Whatua of some rank, was sentenced to three months with hard labour for stealing a cap from a general store, he was allowed to remain in the dock while his friends approached to hongi and cry over him. They took advantage of this opportunity to spirit him out of the courtroom before Sheriff Berry and his constables could do anything to prevent it. Armed troops from the barracks immediately launched a vigorous but ineffective search, and a few days later Temenia voluntarily handed himself in. The incompetence of the military and the probity of the chiefly offender provided proof, said an Auckland paper, 'that the inhabitants of this colony would be much safer under the actual protec-

18 Quoted in P.J. Coleman, 'A Blot on the Statute Book'—Imprisonment for Debt in New Zealand 1840-1990', Wellington: NZHistoryJock 2016, p. 15.

tion of the natives as formerly, than under the present nominal Government of England'.<sup>19</sup>

In 1848 a prisoner named Ruaki was given six months with hard labour for stealing one of a pair of boots, his Pākehā accomplice stealing the other. After four months in gaol Ruaki was gravely ill with dysentery and tuberculosis. 'He appears to pine away under confinement and unless a change takes place I have no hesitation in asserting that his life is in danger', said Dr Johnson.<sup>20</sup> Sheriff Berry petitioned the Governor to discharge this offender so that he could be cared for by his own people and, since his conduct had always been 'unexceptionally good', Governor Grey agreed to the request.<sup>21</sup>

Some years later another Māori prisoner was also discharged early because of illness. Te Waere was gaoled for assault, although he had been declared insane some months earlier by two Auckland surgeons. Berry pointed out that the town's newly opened lunatic asylum was full, but that Te Waere's relatives were anxious to take him back to Rotorua where he could remain in their care. Again the Governor agreed to a pardon, observing that the case had 'caused some excitement among the natives'.<sup>22</sup>

The relationship between imprisonment and social class proved to be as much a field of negotiation as the relation of imprisonment to Māori practices of punishment. That tension emerged powerfully in relation to differing expectations regarding the severity of punishments handed out. On the one hand, and in keeping with common law generally, an expectation persisted that proportionality would exist between crimes and severity of

19 *Daily Southern Cross*, 24 February 1844, p. 2.

20 P. Berry to Col. Sec. 27 June 1848, IA1 69 1848/1362 Archives New Zealand, Wellington.

21 *Ibid.*

22 Native Secretary to Governor, 20 March 1856, IA1 170 1856/2084 Archives New Zealand, Wellington.

sentence. This sense of proportion was held in place by a tacitly accepted system of equivalences (in much the same way as an implicit acceptance of the money form enables trade of dissimilar commodities to occur across marketplaces). On the other hand, a popular expectation emerged that such a system ought not necessarily be visited on members of the ‘distinguished’ classes. These issues are borne out in the case of a unique and intriguing figure among the early gaol inmates, an English-born chancer named William Phelps Pickering.

In October 1841 the 25-year-old Pickering, described as an unmarried merchant, was charged with false pretenses. His jury found him guilty, but with a recommendation for mercy. The interim attorney general, Francis Fisher, was unmoved and sentenced Pickering to the maximum available penalty—transportation ‘beyond the seas’ for seven years.

To the judges who ordered it, and also to most of the offenders thus sentenced (who were then officially termed convicts to distinguish them from felons and petty offenders), transportation was seen as the most severe penalty in law short of a death sentence. Pickering was the first New Zealand resident to receive such a sentence from a local court, and the press and public were outraged at this exceptionally harsh treatment towards a man of some distinction.<sup>23</sup>

Van Diemen’s Land was then the only Australian colony prepared to accept convicts transported from New Zealand. While the sheriff negotiated with ships’ masters for a suitable rate for Pickering’s passage there, the young fraudster spent two months in the Auckland gaol, although he was permitted to walk up and down outside its walls during the day. Eventually, in December 1841 he was led down the short stretch of

23 K. Harman ‘The sensational trial of William Phelps Pickering’, Hobart: Tasmanian Historical Research Association, 2016, p. 5.

Queen Street to the waterside with irons on his legs. Pickering had become known and liked in the town during his confinement there, and Aucklanders who witnessed this humiliating spectacle decried it as a 'judicial display of cruelty'.<sup>24</sup> Certainly, leg-irons were a severe punishment in themselves. They could weigh 30 pounds (14 kilos) and according to another prisoner, as they were fixed in place, 'each stroke of the riveting hammer causing a sensation of pain something like toothdrawing'.<sup>25</sup>

Pickering's fate, however, was not yet sealed. En route to Australia his ship called at the Bay of Islands, where he managed to escape and spent several weeks at large before being captured and returned to Auckland gaol. He then faced a second and much more tedious wait behind bars while a new passage was found for him. As an escaper, he was kept inside the gaol at all times and not permitted beyond its walls either for exercise or to work with the hard labour men. He appears to have made use of this enforced idleness with his customary imagination and energy.

The town's Anglican clergyman, Rev. John Churton, made regular pastoral visits to the gaol and conducted a Sunday service in one of the cells. Although he was 'frequently gratified by finding a desire for spiritual knowledge and improvement' among the prisoners, he was alarmed to discover that few of them, even the most devout, could read and write. In an early attempt at prison reform, Rev. Churton urged the acting Governor, Willoughby Shortland, to introduce literacy classes in the gaol, and offered to personally provide 'all books that may be required for the above purpose'.<sup>26</sup>

24 *New Zealand Herald and Auckland Gazette*, 25 December 1841.

25 'A Convict's Story: Transportation to Norfolk Island', *Lyttelton Times* 25 April 1853, p. 4.

26 Rev. JF Churton, Auckland to Col. Sec., 4 October 1842, IA1 16 1842/1980, Archives New Zealand, Wellington

Shortland was cautiously encouraging and invited the sheriff to respond to Churton's offer. Coates suggested that all prisoners serving more than nine days should in future be required to attend classes in the gaol between six and seven in the evening. The schoolmaster, who, it was presumed, would be one of the inmates themselves, would also conduct compulsory morning and evening prayers, and a Sunday Bible reading if the chaplain was unavailable. Sheriff Coates advised Shortland that:

at the present moment there is one person in the Gaol fully capable of undertaking the charge of the School, but his sentence is seven years transportation. The individual I allude to is 'William Phelps Pickering'. He has now been confined for thirteen months in the Gaol at the expense of the Government, during that period I have found him obedient and orderly, and with the exception of his escape from the vessel in which he was forwarded to Van Diemen's Land I have had no cause of complaint against him. I would therefore humbly suggest that His Excellency might be induced to take the case into his consideration and to commute his sentence to imprisonment in this Colony with hard labor for such period as His Excellency may deem proper.<sup>27</sup>

At that time an intervention by the Governor was the only provision, short of a royal pardon, that could give a convict early release from a sentence of transportation.<sup>28</sup> Shortland advised the sheriff, 'Whilst the convict Pickering shall remain in the Gaol at Auckland his services will be temporarily made use of at School .... But I cannot provide him a pardon—his offence being greatly aggravated by his attempted escape'.<sup>29</sup> This decision deprived the

27 J. Coates to Col. Sec. 14 November 1842.

28 Greg Newbold, *The Problem of Prisons*, Palmerston North 2007 p. 30.

29 Marginalia to J. Coates to Colonial Secretary, 14 November 1842, IA1 16 1842/1980, Archives New Zealand, Wellington



inmates of any further chance of education and ended Rev. Churton's hopes for their school. In May 1843 Pickering was placed on board a Hobart-bound vessel for the second time, along with twelve other men, most of them sentenced for relatively petty dishonesty offences. This time the voyage was without incident, and Van Diemen's Land received its first New Zealand convicts.<sup>30</sup>

During his two terms in the Auckland gaol, William Pickering was popularly regarded as an ill-treated victim of the justice system, who deserved more lenient treatment on the grounds both of his crime and his class. A similar dispensation was often extended to another category of offenders, the debtors, who made up a significant element of the gaol population from its earliest years. They could be imprisoned for up to three months, the term generally being scaled to the amount they owed, and in that time could expect to receive better treatment than the common criminals.<sup>31</sup>

Reflecting the popular sensibilities shown towards Pickering, Sheriff Coates had requested separate accommodation in the gaol for debtors since at least March 1842. Several months later two debtors' cells and a new dayroom were added to the southern end of the prison.<sup>32</sup> The debtors were still obliged to share cooking and dining facilities with the other prisoners, and the sheriff regarded this situation as quite inappropriate for offenders of this status. In 1843 he reported that they 'will not, nor can it be expected that they should, associate with Felons to

30 Happily for Pickering, after four years in Van Diemen's Land he was pardoned, married and returned to New Zealand. There he found work as a government clerk and eventually owned numerous properties in the Wellington region, including a hotel in Tinakori Road. For this information I am grateful to the research of Dr Kristyn Harman, University of Tasmania.

31 Coleman, 'A Blot on the Statute Book', p. 13.

32 S. Best, 'The Queen St Gaol—Auckland's first courthouse, common gaol and house of correction' (Site R11/1559), Auckland Conservancy Historic Resource Series no. 2, Dept. of Conservation, 1992, p. 25.

cook at their fire'.<sup>33</sup> The following year a self-contained debtors' prison was built just behind the main cellblock, along the bank of the Waihorotiu Creek. The perimeter fence at that point was low and insecure, so that 'a very trifling hindrance is presented to the obstruction of the fugitive'.<sup>34</sup> However, the debtors do not appear to have taken advantage of this opportunity for easy escape, and confinement was apparently not dreaded by the town's defaulters. One early report describes 'several flashy young men there, chatting, smoking, in a most enviable state of insouciance'.<sup>35</sup>

Social class influenced official and public sensibilities alike in another manner, concerning that group within the working classes deemed especially dangerous—the young, male and feckless. Prior to the early 1940s, New Zealand penal facilities made no separate provision for young offenders. The numbers of these offenders in Auckland's gaol increased sharply after the sudden and unexpected arrival during 1842-43 of several shiploads of 'Parkhurst boys'. In an especially heartless display of British bureaucratic ineptitude, about 120 of these hapless boys, aged from 11 to 20, were transferred directly from Parkhurst juvenile prison on the Isle of Wight to the other side of the world. The Colonial Office did not see fit to consult New Zealand's fledgling administration over its decision to send the boys to their distant new home, and citizens of Auckland were astonished and dismayed at the sight of so many under-sized and unaccompanied new migrants trooping down the gangplank. A newspaper editor predicted that:

The chances are ten to one against them in such a country as

33 P. Berry to Col. Sec. 4 November 1843, IA1 28 1844/465, 1843/2010 Archives New Zealand, Wellington.

34 P. Berry to Col. Sec. 18 May 1846, IA1 50 1846/1026, Archives New Zealand, Wellington.

35 Ashworth quoted in Una Platts, *The Lively Capital*, Auckland 1840-1865, Christchurch 1971, p. 76.

this, where temptation and opportunity are so frequent, and so inviting ... and being from early youth trained to vice, they naturally betake themselves to it with an appetite sharpened by the temporary restraint ... when they are detected in their bad practices among the Europeans, they will immediately find their way into the native settlements .... We are now being put in the position of receiving everything that is offensive in the convict system, without any advantage whatever.<sup>36</sup>

Without support or funds, the boys were left to fend for themselves, and some were reported to be ‘living with the Natives at the native pahs in almost a state of nudity, or at best but covered with a rag of an old blanket’.<sup>37</sup>

Britain’s Colonial Office had earlier promised that no convicts would ever be transported to New Zealand, and this distinction over Australia was highly prized by Auckland’s respectable citizens. Since the Parkhurst boys had been released from prison in England under a conditional pardon they were, strictly speaking, not transported convicts but this distinction meant little to outraged Aucklanders. However, the colonial government was then critically short of funds, and Shortland could do little beyond requesting the British government to send no further shiploads of crime-prone youths. He reminded the House of Lords that New Zealand was colonised ‘on the faith that it should never be inundated with a convict population’, and yet ‘the inhabitants of Auckland are now in constant dread of thefts and robberies from the “reformed convicts”’.<sup>38</sup>

Indeed, and unsurprisingly, many of the boys quickly resorted to vagrancy and petty thievery. For the first time since

36 *Daily Southern Cross* 25 November 1843, p. 2.

37 *Daily Southern Cross* 14 September 1844, p. 2.

38 *New Zealand Journal* 30 September 1844.

the town was established, bolts and bars were in demand to secure its shops and houses, and the term 'Parkhurst boy' became 'a proverb for lawlessness and vice'.<sup>39</sup> The gaol received so many of them that by 1843, more than half its inmates were aged under 18. Dr Johnson found that they arrived there 'in a most filthy state and generally out of health'.<sup>40</sup>

It was in the month after the execution of young Whare-totara that Sheriff Coates had first witnessed the intolerable state of the cells, and had urged the Colonial Secretary to make funds available to relieve the cramped, damp and rat-infested conditions.<sup>41</sup> This appeal stirred the administration to action, and a basic lockup, where offenders could be held overnight before being dealt with in court, was added next to the courthouse. Notwithstanding the improvement provided by that additional space, this small cell was later described by McElwain as 'not fit for any civilised community', a 'mere hole where men and women are thrown in drunk and wet on a floor, without light or anything else, until the morning'.<sup>42</sup> The continued maintenance of the prison facilities in this state, despite popular criticism from reform-minded individuals, suggests a prevailing view that the conditions in which inmates were held should remain below those associated with abject poverty.

Adding to the impoverishment of prison conditions, the Auckland gaol was put to work housing the mentally ill. It would be five years after the founding of Auckland before a hospital of any kind would be built. In April 1842 a Māori described as a 'lunatic' was housed in a damp and rat-infested un-

39 *New Zealander*, 16 August 1849, p. 2.

40 Dr. J. Johnson to Col. Sec. 19 June 1844, IA1 34 1844/1437 Archives New Zealand, Wellington.

41 IA 1 42/623, Archives New Zealand, Wellington.

42 Auckland Provincial Council Votes and Proceedings 1862 quoted in S. Best, 'The Queen St Gaol', p. 28.

derground room. Similarly, the following month Doctor Johnson advised that a man named Joseph Hal was held in the gaol:

having been found wandering about in a state of mental derangement ... it is highly necessary that he should be removed from the Gaol for at present he occupies one of the two cells allowed for the prisoners, who are thereby crowded most incommo-  
diously into one cell, to the probable detriment of their health.<sup>43</sup>

As the thrusting little capital expanded in size and sophistication, its gaol sluggishly followed suit to eventually incorporate facilities including: a surgery; a room for measuring, searching and recording new arrivals; bedrooms for the turnkey and hard-labour overseer, and a house for the head gaoler. The prison yard also came to be overseen by a new watch-house in which was housed the town's police force, which also provided armed guards when required.

Sheriff Berry frequently urged the Colonial Secretary for further funds to improve his facilities, but there was little anyone could do to ameliorate the unhealthy conditions resulting from the gaol's location in a damp valley floor, beside a stream whose waters had deteriorated to become an open sewer named the Ligar Canal. Diarrhea and dysentery featured constantly among the ailments of prisoners too ill to go out to work.<sup>44</sup> When, in 1844, Governor FitzRoy asked his Colonial Surgeon to account for the constant sickness among the prison population, Dr Johnson ascribed the fault equally to the nature of the prison population, and to its site, compounded by 'crowded and ill-ventilated cells and irregular food'. Some prisoners were 'men of dissolute habits

43 J. Johnson, Col. Surgeon, to Gov. Hobson, 9 May 1842, IA1 50 1846/1026 Archives New Zealand, Wellington.

44 See, for example, *Blue Book* 1843, p. 194; 1854, p. 355, online ed. via Archives New Zealand, Wellington.

and enfeebled constitutions, most of them convicts from the other colonies whose sentence had expired'.<sup>45</sup> These already debilitated men were further weakened, he acknowledged, by heavy labour in the cold, wet Auckland winter, and by their confinement:

on a swamp which although drained must certainly create damp in the buildings—also that the water at one time was unwholesome being impregnated with decayed vegetable matter, but it has been improved by sinking the well deeper .... without doubt the various diseases have been prolonged from want of a proper hospital room and nurse.<sup>46</sup>

The gaol's unhealthy surroundings were not noticeably improved after the walls of the polluted and foul Ligar Canal collapsed, and it became a stone-lined and enclosed drain. This watercourse still ran through the gaolyard, however, directly behind its main cellblocks, reeking in warm weather and dank in winter, and periodically overflowing after heavy rain. Indeed, in July 1845 a heavy flood carried away part of the fencing around the gaol. The Superintendent of Public Works directed the hard-labour men to replace the fences, but a few weeks later another winter flood caused more damage.<sup>47</sup>

As the penal structure struggled to accommodate unforeseen pressures such as the influx of Parkhurst boys, attempts to reform the gaol's regulations and physical structure moved in a piecemeal and haphazard fashion. Since management of the country's gaols had not yet been placed under the control of any central authority, it was left to individual and local initiative to determine how each institution should be

45 John Johnson MD, to Col. Sec., 19 June 1844, IA 1 44/1437 Archives New Zealand, Wellington.

46 Ibid.

47 F. Thatcher, Supt. of Public Works to Col. Sec. 5 July 1845 IA 1 1845/1072 Archives New Zealand, Wellington.

run.<sup>48</sup> The Auckland Gaol was fortunate to come under the direction of a dedicated and, by the standards of the day, humane sheriff, who developed regulations which were emulated at other prisons throughout the country.

This man was Percival Berry, already mentioned, who replaced James Coates as sheriff in September 1843. Berry evidently had some legal training since he had earlier been considered for the post of Auckland's Crown Prosecutor. He swiftly drew up and began implementing a comprehensive set of regulations designed to improve standards of order and hygiene. These listed the bedding and clothing allowance for each prisoner, including a 'smock-frock' or long over-shirt.<sup>49</sup> The protocols for admission and discharge of prisoners, their routine tasks and obligations, and general rules of discipline and behaviour were laid down. Singing, conversation and 'angry expressions' were forbidden, as were 'games and amusements of any kind' and tobacco. The regulations changed very little over the next ten years, although they were slightly relaxed from 1848, when the ban on conversation was restricted to 'loud conversation'.<sup>50</sup>

The specified daily food ration consisted of four ounces of meat, twenty-four ounces of bread, twelve ounces of maize meal, eight ounces of vegetables and small quantities of salt and soap. Especially well-behaved prisoners, and those recovering from illness, might be permitted a larger ration of meat. Those in solitary confinement or facing some other punishment, however, were limited to the daily bread ration, and water.

This Spartan and monotonous diet remained largely unaltered until the 1860s. The invariable midday meal was a soup or stew made from the cheapest cuts of meat and cooked

48 Newbold, *The Problem of Prisons*, p. 220.

49 *Blue Book* 1844, p. 193, online ed. via Archives New Zealand, Wellington.

50 Auckland Gaol, General Rules, IA1 74 1848/2964 Archives New Zealand, Wellington.

by inmates chosen for this task. Breakfast and supper consisted simply of bread and water. Not surprisingly, illness was frequent among the inmates, and medical authorities expressed repeated concerns at their diet's nutritional inadequacies.

The daily routine, like the diet, was unchanging year-round. It began at 6am when the turnkey made his rounds with a heavy bunch of keys, unlocking each of the cells. Inmates then had fifteen minutes to dress and another fifteen to sweep and wash their cells, 'during which time the bedding is to be suspended in the airing yard and then folded in the smallest possible compass'.<sup>51</sup> From 6.30 they washed themselves thoroughly under the observation of the officer on duty. At 7 they were assembled for rollcall and a short prayer service by the gaoler, followed by the bread-and-water breakfast.

At 7.50 the hard-labour men were mustered and issued their tools before setting out for the day's work 'in couples and in orderly fashion', either in the prison's own stone-breaking yard or on public works beyond its walls.<sup>52</sup> They were under the command of overseers who permitted no talking, especially to the public. Meanwhile other able-bodied prisoners, including all women, carried out regular gaol duties such as cutting firewood for the cookhouse and cooking the midday meal.

The hard labour men worked from eight until noon, and then returned to the gaol for their midday meal, when they were required to have 'clean hands and face'.<sup>53</sup> They worked a further four hours in the afternoon, then washed up, and unrolled their neatly stacked bedding. A roll call at 5.45 was followed by more prayers and Bible readings and a search for contraband, followed by a final meal of bread and water before the prisoners were

51 'Auckland Gaol—rules and regulations for Crown prison', Auckland Provincial Council records, 49/432 Auckland Central Library.

52 Ibid.

53 Ibid.



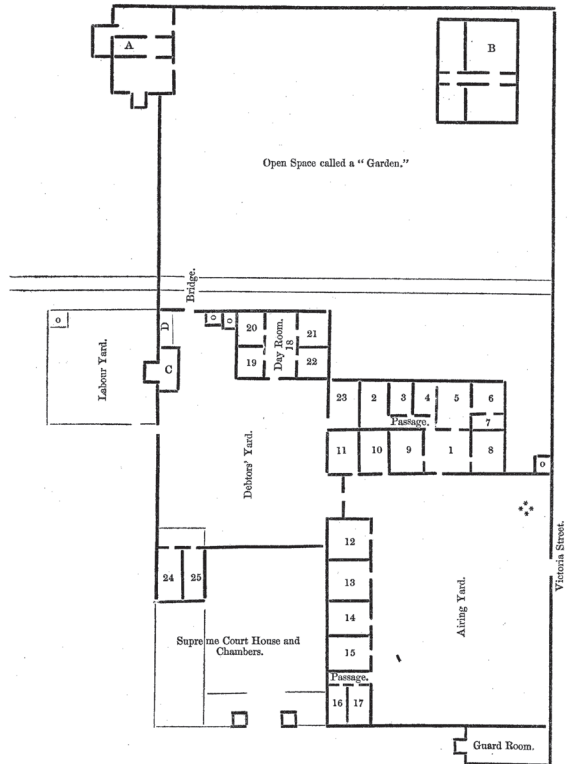
again locked up until morning.

The only variation in the weekly routine was on Thursday, when the chaplain led a prayer service from four till five pm, and Saturday, when the work day ended at noon, leaving the men the afternoon to wash and mend their clothes and generally prepare the prison for the following day. Sunday was a rest day, although divine service at 10am was compulsory. This was held in a cell, there being no designated chapel, with the prisoners seated on forms and grouped into women, remand prisoners awaiting trial, petty criminals and felons. The Anglican chaplain led the service, although a Catholic priest visited every Saturday and 'dissenting' ministers occasionally.

Conditions for female prisoners in the gaol improved very slightly through this period with the addition of two women's cells, excavated from a cellar space on the south side of the courthouse. These were tiny, very dark and poorly ventilated, with a ceiling height of just six feet, yet by 1851 they were each required to hold as many as three female prisoners at a time. These might include women breastfeeding their children, or 'in daily expectation of confinement' ('confinement' in this case meaning giving birth).<sup>54</sup> Those using the courthouse complained strongly of the noxious odours rising through the floor from the bodily wastes of the inmates confined beneath it. Chief Justice Arney found that after Supreme Court sittings there, he experienced 'lassitude, vertigo, and a total prostration of bodily and mental vigour', so the effect on those held in the cells themselves must have been far worse.<sup>55</sup> The gaol employed no matron or female attendant at that time, and provided no separate area for women patients in its hospital cells.

54 P. Berry to Col. Sec. 7 March 1851, IA1 1851/421 Archives New Zealand, Wellington.

55 'Presentment on the state of the Auckland gaol and Stockade', G. Arney to Gov. Gore Browne, 21 June 1861, J1 15 1861/447 Archives New Zealand, Wellington.



REFERENCE.

- CRIMINAL.**
- No. 1.—Day Room.
  - 2 and 3.—Stores, provisions, &c.
  - 4.—Overseer's Room.
  - 5.—Cooking-room.
  - 6.—Surgery.
  - 7.—Turnkey's Bed-room.
  - 8.—Cell for prisoners committed.
  - 9.—Ditto.
  - 10.—Ditto.
  - 11.—General Cell, originally intended as a Lock-up Room for women.
  - 12.—Mess-room for Men.
  - 13.—Ditto for Women.

- Nos. 14 and 15.—Cells for prisoners convicted of petty offences.
- 16 and 17.—Punishment Cells.

**DEBTORS.**

- 18.—Debtors' Day-room.
- 19.—Warder's Room.
- 20.—Debtor's Cell.
- 21.—Stores.
- 22.—Debtor's Cell.

**WOMEN.**

- 23.—General Cell for all classes, day and night.
- 24 and 25.—Female Debtors Cells.

- A.—Original Head Gaoler's House.
- B.—Present ditto.
- C.—Kitchen.
- D.—Shed used for Washing.
- E.—Privies.
- ♦ The Well.
- The Ditch.

Figure 2. Queen Street runs left-right along the lower boundary of the gaol (on the side marked 'Guard room'.) The double parallel lines running left-right through the middle of the gaol compound represent the Ligar Canal.

Sheriff Berry struggled vainly to defend such facilities, and his administration of them. The subterranean women's cells had been built, he said, to hold 'a particular class of prisoners, namely drunken women with short sentences',<sup>56</sup> yet through lack of space, he was forced to occupy them with women serving up to two years with hard labour for crimes such as theft or debt. The sheriff's greatest concern was that 'contact with male prisoners cannot be prevented', since the fence surrounding the female cells was no longer adequate for its purpose.<sup>57</sup>

These conditions had come to be seen as a disgrace in a town now making self-conscious claims to respectability. In an 1853 editorial on 'that inhuman kennel the Queen-street Gaol', the *Daily Southern Cross* spared its readers no unpleasant detail of 'the barbarous and perilous manner in which criminals and lunatics still continue to be packed within its narrow and fetid cells', including the appalling odours released when the turnkey opened those cells up each morning. 'In its very best condition, [the gaol] was but a confined and ill-contrived wooden structure. In its present, it is a rotten and ruinous hovel, overrun with rats, and only fit to be used as a place of torture'.<sup>58</sup>

This thunderous article was a bitter corrective for those pious colonists who liked to think that their young country had learned from the evils of England's workhouses and prisons. Conditions in Auckland's gaol compared dismally, claimed the *Daily Southern Cross*, with those in England or even with the notoriously brutal Port Arthur penal settlement in Van Diemen's Land.

We have received communications describing the state of the Auckland Gaol as absolutely revolting to humanity .... One im-

56 P. Berry to Col. Sec. 7 March 1851, IA1 1851/421 Archives New Zealand, Wellington.

57 Ibid.

58 *Daily Southern Cross* 21 January 1853, p. 2.

portant measure of relief may, we believe, be easily and immediately afforded, and that is by removal of the insane to the Asylum provided by public benevolence for their reception.<sup>59</sup>

The piecemeal manner in which imprisonment was emerging as the mainstay of New Zealand's punishment system, was conditioned further by the vexed politics surrounding the use of exile as the penalty of penultimate resort. Ever since William Pickering stumbled down Queen Street in irons in 1843, the practice of transportation had enabled the colony to decant its most troublesome and longest-serving convicts offshore. In 1845, and periodically thereafter, the British government asked New Zealand as well as Australia to accept shipments of convicts under a 'ticket-of-leave' scheme. This scheme managed prisoners who, after long periods of hard labour in Britain, were released to the colonies under strict conditions specifying where they could live and work. New Zealanders reacted to this request with outraged objections. The paroled convicts could not be controlled, let alone reformed, in New Zealand, they cried, but instead would escape into the trackless New Zealand bush. Governor Grey was especially opposed to receiving Irish political prisoners who, he thought, would have 'an irresistible temptation' to make their way to remote Māori communities and cohabit with their women.<sup>60</sup>

The idiosyncratic Grey noted the hypocrisy involved in New Zealand's position: of 'sending our convicts from our own shores to those of another colony, at the expense of Great Britain, protesting at the same time against the felons of other countries being sent here'.<sup>61</sup> He suggested that if New Zealand retained

59 Ibid.

60 Quoted in AGL Shaw, *Convicts and the Colonies: A Study of Penal Transportation from Great Britain and Ireland to Australia and Other Parts of the Empire*, London 1966, 33.

61 Ibid.

its most serious offenders within its own penal institutions, the colony would have much stronger grounds for refusing to accept hardened criminals from Britain and Ireland.<sup>62</sup> However, transportation to Van Diemen's Land was a politically popular option, and the courts continued to impose this sentence for some years in the face of the Colonial Office's rising indignation.

In 1850 the British government informed its South Pacific colony that transportations to Van Diemen's Land must cease from 1853. The colony's Attorney General responded by drafting the Secondary Punishment Act, which replaced transportation with a new sentence of penal servitude, meaning imprisonment within New Zealand while 'employed on the roads or public works, or otherwise ... kept to hard labour'.<sup>63</sup> The recommended terms for this new sentence were longer than the conventional hard-labour sentences already handed out for regular felons, although somewhat shorter than the terms they replaced. Transportation for up to ten years, for example, was replaced by penal servitude for four to six years. In both cases, however, a life sentence meant nothing less than that.

The Secondary Punishment Act would ensure that New Zealand's penal policy for its serious offenders finally conformed to Britain's stipulations. However, the Act would also require a significant expansion of both the size and security of the existing prison facilities, to enable them to manage these long-serving, escape-prone prisoners. The country's prisons, including the Auckland gaol, were at that time under the control of their various provincial governments, which balked at the expense this work would impose on them. The Act was therefore deferred until 1855 to give the provinces time to carry out the necessary upgrading.

In the interim, New Zealand judges handed out the

62 *New Zealander*, 16 August 1849, p. 2.

63 1854 Secondary Punishment Act, s. 9.

dreaded sentence of transportation more freely than ever. The convicts thus sentenced were not subsequently transported, but held in gaol awaiting transfer to the newer facilities where they would later serve out their replacement sentences of penal servitude.<sup>64</sup> In June 1854 a Māori named Taraiwaru was given seven years' transportation for theft, one of the last convicts to receive this sentence from a New Zealand civil court.<sup>65</sup> Three months later the practice of transportation 'beyond the seas' was formally ended by the implementation of the Secondary Punishments Act.

The passage of this Act had a further outcome, equally problematic for the overcrowded, under-staffed and poorly equipped Auckland gaol. It suddenly became unavoidably apparent that the long-established practice of sending hard-labour prisoners outside the gaol to carry out useful public works was not legal, since the power to order this activity was held by central government, while the gaols themselves had passed under the authority of provincial governments. For the next two years, until new legislation authorised the outside projects, the hard-labour men remained within the gaol at all times, and spent their working hours crushing rocks in the stone-yard. The Auckland gaol's annual returns record this dramatic transformation to the daily routine. During 1852 a total of 303 men worked at hard labour outside the walls. Two years later none did.<sup>66</sup>

Rather than work, inmates instead milled around inside the yards of the gaol, seeking to avoid the overseer's eye and possibly speculating about what they could expect from the new prison under construction on the southern fringe of the town. Although not much more than ten years old, the gaol was clearly

64 Robert Burnett, *Penal Transportation: An Episode in New Zealand History*, Wellington 1978, 39.

65 *Ibid.*, p. 40.

66 *Blue Book* 1852, p. 170; 1854, p. 348, online ed. via Archives New Zealand, Wellington.

beyond hope of renovation and both its inmates and staff longed for the day when it would be vacated. Until then, its decrepit state made escapes both easy and tempting. Breaking through the perimeter fence was as simple as pulling away the boards, since in places the uprights were ‘too rotten to hold a nail’.<sup>67</sup> Men broke out despite knowing that recapture, followed by solitary and bread-and-water, was almost inevitable. It must have been a considerable relief when, in 1856, the first of the penal servitude and hard labour men were transferred to the new prison.

It strains credibility to note, however, that the huddle of decaying wooden structures in Queen Street remained in constant use for a further ten years, congregating the town’s drunks, prostitutes, petty thieves, vagrants, lunatics, debtors and children together, as many as 14 to a cell.<sup>68</sup> Indicating the continued severity of those conditions, Auckland’s coroner revealed that the gaol inmates ‘are in danger of their lives by night for the buildings being of wood, in the event of a fire breaking out many of them would be roasted alive before the jails and cells could be entered and the inmates rescued’.<sup>69</sup> Another doctor stated firmly that it was ‘disgraceful to put people there, particularly poor debtors ... being built beside a large open sewer, they must suffer from malaria’.<sup>70</sup> Perhaps the most damning account of all came from Chief Justice Sir George Arney, who made a visit of inspection to ‘the revolting place with its foul odour and its promiscuous intermixture of men and women. Every kind of sexual activity from rape to sodomy punctuate the night-time lockup [and] for want of available facilities prisoners had to urinate and

67 Arney, ‘Presentment’.

68 Ibid.

69 Casebook, TM Philson ‘Return of sickness treated in city gaol’ 1858, Auckland University Library special collections.

70 Auckland Provincial Council Votes and Proceedings 1862 Report A, No 11, quoted in Best, ‘The Queen Street Gaol’, p. 26.

defecate on the cell floor'.<sup>71</sup>

The austere and precise Justice Arney went so far as to measure the gaol cells to ensure that his excoriations were soundly based. The two female cells beneath the Supreme Court, he discovered, each measured '11 feet 9 inches by 5 feet 2 inches, and are six feet from floor to ceiling'.<sup>72</sup> Three or four women were sometimes confined in this space, leading Arney to conclude that 'they must be packed almost as merchants pack herrings, lengthwise'.<sup>73</sup> His persistence ultimately saw a matron, 'a highly respectable woman', appointed to take charge of the female inmates, but she could do little to improve the living conditions of those women whose cell overlooked the 'filthy ditch' running through the yard, choked with the refuse of the gaol's privies and 'the accumulated offal and sewage of the surrounding neighbourhood .... As many as six and eight have at times slept therein at night, with a child or two, as it may happen, at the breast'.<sup>74</sup> Many of the cells leaked in rainy weather, yet when one desperate debtor cut a small hole in the floor in the men's facilities to drain off the foul water which had accumulated in his cell, he was severely punished and forced to sleep out in the passage 'where four men are nightly packed like swine'.<sup>75</sup> In a further indication of the abject nature of the prison's conditions, a storm in December 1863 sent a flood of water three feet deep through the cells at 10 o'clock at night:

By 11 o'clock the water rose so high that men of 6 ft stature made their way to the safety of the guardhouse with difficulty, while persons of minor inches had to swim for it. A child of four years of age had a very

71 Arney, 'Presentment'..

72 Ibid.

73 Ibid.

74 *Daily Southern Cross*, 2 September 1864, p. 5.

75 *New Zealander*, 21 December 1864, p. 4; 23 December 1864, p. 5; 2 March 1865, p. 3.



narrow escape, it being extremely difficult to rescue him in the dark.<sup>76</sup>

The incident prompted yet another crusading editor to flex his pen and deploy his choicest adjectives against this ongoing affront to public decency:

Under its pestilential roof the Court undergoes some of the sufferings of the Black Hole of Calcutta. When is this filthy and feculent [i.e. stinking] hovel, a disgrace to the finest street of the finest city of New Zealand, likely to be removed?<sup>77</sup>

The answer, it transpired, was—almost two years later, in November 1865, when the last prisoners were moved to the new prison at Mount Eden.<sup>78</sup>

Intermingling this story of early imprisonment have been two elements of the punishment systems with which we now live. The first concerns the manner in which our practices of incarceration mimic the capitalist relations through which the economy of the new colony formed. Elements of this included: the on-going expropriation of labour-power ‘within the walls’; Māori resistance to the use of imprisonment and the fraught character of negotiations into which colonial authorities had to enter in order for imprisonment to form as ‘normal’ punishment; the ambivalent relationship of privileged classes towards imprisonment, especially of their own; and the maintenance of inmates in states approximating abject poverty. The second element is that responses to imprisonment of this kind have shifted in keeping with the growth of a powerful social administration through the nineteenth and twentieth centuries. Early intimations of those

76 *New Zealand Herald*, 21 December 1863, p. 2.

77 *Ibid.*

78 *Daily Southern Cross* 22 November 1865, p. 4.

responses can be heard, here, in the popular criticisms made of conditions in which the early inmates were held.

To the extent to which traces of capitalism continue to inform penal policy and imprisonment practices, the civilizing impulses that have gained traction though an increasingly centralized administration seemingly provide an effective counterweight. That said, the two don't then find themselves falling into a state of 'balance'. No equilibrium forms because the logics of capitalism and administration, notwithstanding points at which they may seemingly converge (as present-day advocates of privatisation argue of private prisons), are fundamentally different phenomena. This absence of a balance-point between the two impacts, then, upon how a story might be experienced in which both elements appear. Something potentially productive is liable to have been generated as we read; an unruliness which may hopefully not be easily contained.

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