hence as proved it to be so—we shall have made our punishment exemplary to others by penal labour—we shall have obtained the co-operation of the prisoner in his industrial work, and thereby given him a liking for it on his release; and we shall have improved the financial results of the gaol. We have some encouragement already in this direction, for the gaols reported as having the highest earnings use, I observe, the treadwheel and crank as "penal labour," as a motive power to industrial employments.

There were in the discussions in the Congress some errors with regard to these special forms of labour. The Government has not insisted upon their use, for the statute admits the use in addition, of shot drill, the capstan, stone breaking, or such other like description of hard bodily labour as may be appointed by the justices in sessions assembled, with the approval of the Secretary of State, as hard labour, 1st class, *i. e.*, "penal labour." It is true that in most of the gaols the justices have appointed the treadwheel and crank, for these machines were in many cases already in use; but it is quite wrong to assume, as many at the Congress assumed, that the labour need be necessarily unproductive; for in many cases the power is employed in sawing wood, breaking stones, grinding flour, and pumping water. The fact is, all the Committees which have examined into this subject had pointed out that mere "industrial work" was not the "hard labour" contemplated by Act 4 George IV. The late Sir Joshua Jebb stated very clearly to the Committees of 1850 and 1863 the intentions of this statute, citing authorities in support of his opinion. I cannot allow the re-committals just published in Mr. Kennaway's return to have any value, or I would call your attention to the fact that the lowest re-committals are, with one exception, found in gaols which use the treadwheel and crank as "penal labour," and make industrial employments a privilege.

I think I have said enough to show that although there may be exceptions, *aimless* penal labour (as supposed by some of the members of the Congress), is not the prison system of England, and never was the intention of the Government, which I maintain is clearly shown by its circulars to the magistracy with reference to the Prisons Act, 1865.

Very many years since an eminent man in conjunction with others drew up a plan of criminal treatment, which resulted in a statute. This plan was almost identical in principle with what I have termed the prison system of England. It was laid down by this statute that "hard labour" should be of a servile character, amounting to drudgery, either treading on a wheel, driving a capstan, &c., and that misconduct should be punished by whipping, &c.

The author of this proposal was John Howard, the Philanthropist, in conjunction with Blackstone and Eden, and the statute was 19 George III. 6, 74, the working of which Howard agreed to supervise. Concurrently with this penal provision, a minute classification was instituted; the earliest part of the sentence was made very penal, and the subsequent stages modified in severity—thus making ordinary industry a privilege. Gratuities were introduced, and much care taken with criminals after their liberation.

So much for some of the misapprehensions of the Congress.

It is, however, I think, a question for ourselves, and an important one, whether the want of uniformity in the hours of "penal labour," now permitted under the 34th clause, sch. 1, Prisons Act, 1865, is not a very serious evil. On reference to Mr. Kennaway's return, before alluded to, it will be noted that in some gaols prisoners are placed at hard labour, 1st class, or penal labour, for ten hours daily, and in others for six hours (the minimum period allowed by statute during the first three months), irrespective of conduct. It is possible under this clause for prisoners, however well conducted they may be, to be kept at "penal labour" for ten hours daily during a sentence of two years. Nothing could be worse than the exercise of such a power, so contrary to the principles of the statute, and to the expressed intentions of the Government; and such a possibility should no longer be allowed. The fact is, the permissive power in the statute in this respect is so great as to defeat its object, which was to promote uniformity. Judging from the practice in the majority of gaols, and taking that as indicative of the opinion of the majority of the justices, it would, I think, be better that the Secretary of State should fix six hours daily for "pe-