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**UP THE RIVER:
A HISTORY OF SING SING PRISON IN THE NINETEENTH CENTURY**

by

ROGER PANETTA

A dissertation submitted to the Graduate Faculty in History in partial fulfillment of the requirements for the degree of Doctor of Philosophy, the City University of New York.

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Abstract**UP THE RIVER:
A HISTORY OF SING SING PRISON IN THE NINETEENTH CENTURY****by****Roger Panetta****Adviser: Professor David Rosner**

The dissertation will study the history of Sing Sing prison from 1828-1898 with special emphasis on the major themes appropriate to each period beginning with the European antecedents of the penitentiary and the argument for American penal uniqueness. Newgate prison, New York State's first penitentiary which influenced the shape and form of Sing Sing, and embodied many of the attitudes of the reform ideals of the new republic is examined. Newgate's decline and its slide away from reform ideals which established the context for the second wave of penitentiary building and the construction of Sing Sing in 1825 and its early years, including the penal theories, timing, design, and site selection is outlined. The administration of Robert Wiltse , who in the 1830s

helped fix Sing Sing's tough regime and the place of corporal punishment within the institution is discussed.

Jacksonian reform reached Sing Sing in the early 1840s and brought a new regime to the prison including programs in education and religion and milder treatment and phrenology. The work of the reformers and the rapid collapse of their effort will provides an opportunity to clarify the meaning of penal reform and connect Sing Sing's history to a continuum of reform. Central to the organization of Sing Sing was the system of contract labor which for most of the nineteenth century was under assault from workers and employers on the outside. The role and meaning of disciplined work at Sing Sing and the demise of the contract system is reveiwed.

In the second half of the nineteenth century Sing Sing became overcrowded, custodial, and volatile. The concluding chapter will explore the decline of Sing Sing and the character of the inmate sub-culture and the inmate's efforts to resist.

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Introduction

For most of our lives the penitentiary was a fixed reality—a hermetic and ominous place where criminals were segregated and punished. The pattern of punishment by imprisonment was so fixed in our minds that we assume the penitentiary has always marked the American landscape with its formidable presence. This assumption of fixity and permanence, which powerfully dominates the popular imagination, has shrouded the history of the penitentiary in popular myths and misunderstandings.

Over the past twenty-five years historians have begun to explore the history of American penal institutions as part of the effort to reconstruct the social history of the asylum. The works of Michael Foucault, Gerald Grob, Michael Ignatieff, David Rothman, and Andrew Scull opened the doors of these institutions, shed new light on the historic relationship between asylums and public attitudes toward the deviant and generated a good deal of intellectual debate about the intentions of reformers.

Works published between 1971 and 1978 provided new conceptual frames for the study of the penitentiary, challenging the traditional notion that these nineteenth century innovations were part of the "march of progress" and the inevitable advance of humanitarian reform. The scrutiny of the first wave of

revisionists not only offered fresh insights but also raised a series of new questions about the nature and character of punishment in American history. Why do we punish? What do we hope to accomplish on behalf of society and the prisoner? What is the relationship between architectural design and the goals of punishment? How are the penitentiaries internally organized? What happens to a prisoner once incarcerated? How do we explain the persistence of the penitentiary through the nineteenth century in the face of decades of public criticism?

Many of these questions are the focal point of contemporary debate. Some may be unanswerable. Indeed our historical interest in the penitentiary is partially driven by immediate policy concerns. Where did we go wrong? How can we correct the mistakes of the past? Was the penitentiary deformed from the moment of conception? While this dissertation will not specifically address these policy issues a history of Sing Sing in the nineteenth century has a timeliness and offers the possibility of contributing new historical knowledge to the prison debate which is too often marked by political opportunism and pandering.

A study of Sing Sing will also deepen our understanding of the origins of the penitentiary and its subsequent evolution. Sing Sing was and remains to this day one of the principal agents of punishment in New York State and for most of the nineteenth century it held a special place in the minds of Americans and Europeans. Sing Sing, the representative institution for the Auburn style of imprisonment, along with Eastern State Penitentiary in Pennsylvania offered Americans and Europeans operating models of the two competing forms of

modern punishment. In addition to its representative function Sing Sing was fixed in the popular imagination of the nineteenth century as the "American Bastille," "The House of Fear," and the "shock" prison of the penitentiary movement. What does its reputation and history tell us about the origins and development of the penitentiary?

Sing Sing's reputation as a place of dread and terror was often, in the minds of prison officials, legislators and reformers, a function of the urban character of the inmate population the overwhelming majority of whom were New York City criminals. One can not separate Sing Sing's history from the problem of crime and punishment in New York City and the connection in the popular mind between the moral character of the city and the punishment of its criminal class. The colloquial phrase "to be sent up the river" meant that a convicted New York City criminal would do his time at Sing Sing. It was a phrase which reminded the public of the geographical links between Sing Sing and New York City and between urban crime and its punishment .

Yet little is known about Sing Sing's inner life; no narrative history of the prison exists, and, except for a handful of articles, Sing Sing remains an historically neglected institution. Even the outburst of scholarship in the 1970s and 1980s did not reach "up the river."

When David Rothman published The Discovery of the Asylum: Social Order and Disorder in the New American Republic in 1971, he not only recast the basic interpretation of Jacksonian reform but broadened the emerging fields of social history to include the asylum --the mental hospital, the penitentiary and the

reformatory.¹ His work described the process by which Americans developed the asylum in the nineteenth century and marked the rediscovery by historians in the twentieth century of this long neglected critical social institution.

Rothman argued that Jacksonian America lived in fear of social disintegration and responded by creating institutions which would reconstitute the social order. This argument was taken up by other social historians who located the origins of the asylum in the need to re-establish social control. Rothman's view challenged the prevailing Whig interpretation which emphasized the humanitarian intentions of the founders. According to Rothman the "march of progress" argument gave us a one dimensional view of the founding of the asylums.² The influence of The Discovery spread quickly, and it generated a historiographical debate which is ongoing.³ What were the intentions of the founders of the asylum, and what is the true character of the institutions they established? Rothman was joined by Michael Ignatieff and Andrew Scull who saw a similar pattern of social anxiety and institution building in England in the late eighteenth and early nineteenth century.⁴

Rothman and the social control crowd, supported by allies who saw

1. David Rothman, The Discovery Of The Asylum: Social Order: and Disorder in the New Republic (Boston: Little Brown, 1971)

2. For a full discussion of the issue of see Michael J. Weiner, ed., Humanitarianism Or Control? A Symposium On Aspects of Nineteenth Century Social Reform In Britain and America (Houston: Rice University Studies, 1981) Vol. 67, #1 Winter 1981.

3. A precise review of the historiography of the asylum can be found in the new introduction to Rothmans' 1990 edition of The Discovery, (Boston: Little Brown, 1990), xiii-xliv.

4. Andrew Scull, Museum Of Madness: The Social Organization of Insanity in Nineteenth-Century England (New York: St. Martins Press, 1979) and Michael Ignatieff, A Just Measure of Pain: The

this argument as further proof that the asylum was the creature of class interest, were challenged by Michel Foucault, who published Discipline and Punish: The Birth of the Prison in 1975.⁵ Foucault argued that the penitentiary was part of the process of modernization and an attempt by the bourgeois state to apply reason and rationalization to the punishment of criminals. The penitentiary, according to Foucault, provided a place to locate the criminal, observe his behavior and retrain his mind while the state acquired new knowledge which could be translated into a mechanism for power.

Foucault's The Birth of the Prison and Rothman's The Discovery of The Asylum shaped the historiographical debate. In the seventies and eighties they were the intellectual bookends for the study of the asylum. The dominance of these two approaches pushed historians to examine the penitentiary at the macro level and instigated a search for the social and cultural explanation of its origin in the early American republic.

Thomas Dumm followed the post-modernist lead of Foucault and argued that the prison substituted the reformation of character for the punishment of criminal acts through a penal strategy of self-subjugation. The discipline and design of the new prison would push the criminal toward a new reformed identity; the penitentiary for Dumm was the locus of self government. Dumm's preoccupation with what he labels the genealogy of power is an example of the macro approach and the concern for explanations grounded in political theory.⁶

Penitentiary in the Industrial Revolution 1750-1850. (New York: Pantheon, 1978)

⁵ Michel Foucault, Discipline and Punish: The Birth of The Prison (New York: Pantheon, 1977)

Origination is also central to Adam Hirsch's examination of the formative years of the penitentiary in which he directly challenges the Rothman thesis on several key points. Hirsch locates the idea of penal rehabilitation in sixteenth century English thought and Puritan theology, long before the Jacksonian discovery. Hirsch also finds carceral solutions as well as the rehabilitative ideal in colonial America and argues for continuity between eighteenth century American practices and penal developments in the early republic. However Hirsch's focus on Massachusetts and the beginnings of the penitentiary limits the usefulness of the work for nineteenth century developments.⁷

While Dumm and Hirsch centered on the macro questions of the historical origins and the intellectual foundations of the penitentiary they did so at the expense of the inner world of these institutions. One critic of this line of attack suggested that Dumm's work floated at a level of "disembodied abstraction as if the author feared historical detail would divert attention from the system of power that reaches everywhere."⁸ Foucault, Dumm, and Hirsch demonstrate how much of the recent history of the penitentiary has been marked by the broad brush of the theoretical. The micro history of the penitentiary which is the only accurate testing ground for the revisionist interpretations has been neglected in favor of the quest for a theoretical paradigms whose utility as an explanation for the

⁶. Thomas I. Dumm, Democracy and Punishment: Disciplinary Origins of the United States (Madison: University of Wisconsin Press, 1987)

⁷. Adam Hirsch The Rise of the Penitentiary: Prisons and Punishment in Early America. (New Haven: Yale University Press. 1992).

⁸. Michael Rogin, review of Democracy and Punishment, by Thomas Dumm, In Political Theory

objectives and the shape of the penitentiary remains undocumented.

The most recent work to deal with the early history of the penitentiary refers to them as laboratories of virtue. In his monograph Michael Meranze traces the history of penal reform in Pennsylvania from the corporal to the congregate and finally, in the 1820s, to the silent and reformatory. Meranze describes this as a progressive movement from the coercive to a policy of spiritual engagement.⁹ Meranze sees the Jacksonian era as one in which Americans recognized the contradiction between the desire to reform through punishment and the deprivation of liberty which is at the center of penal life. But again in Meranze's work we find a preoccupation with carceral strategies and reformers' ideas. Criminals, their crimes, and their actual imprisonment are not central to his narrative.

This history of Sing Sing examines the second generation of penitentiaries constructed at a time when the reform ideals and utopian hopes of the early republic had waned. Louis Masur points out that the faith in reformation barely survived the eighteenth century. By the second decade of the nineteenth century overcrowding, mounting expenses, excessive pardoning, and the failure of reformation took the luster off the penitentiary.¹⁰ It is exactly at this historical moment that Sing Sing is conceived. We need to think of Sing Sing as the representative institution of this second generation shaped by a new set of

(1989) #17, 141-148

⁹ .Michael Meranze, Laboratories of Virtue: Punishment, Revolution, and Authority In Philadelphia, 1776-1835. (Chapel Hill: University of North Carolina Press, 1996)

¹⁰ . Louis Masur, The Rites of Execution: Capital Punishment and the Transformation of American Culture 1776-1865. (New York: Oxford University Press 1989)

political and social conditions. Republican idealism of the post revolutionary era survived only as part of the rhetoric of penal reform.

New York State's early penal history was the subject of W. David Lewis 1965 overview of the development of the key institutions which dominated the state's penal system for half a century. However given the number of institutions in his study and the abbreviated time period 1796-1848, Lewis' work serves only as an introduction to the first half of the nineteenth century.¹¹ The post civil war period, for so long the desert of penal history, was the subject of Andrew Pisciotta's work on the reformatory movement in New York and the construction of the Elmira Reformatory. Pisciotta provides a sound introduction to late nineteenth century penal reform and glimpses of the inner world of the Elmira Reformatory.¹² But Pisciotta's history of Elmira is cut short by his desire to follow the thread of Elmira's influence on other reformatories in the United States and his single- minded commitment to the social control thesis.¹³ The works of W. David Lewis and Alexander Pisciotta while only partial accounts, are suggestive of the rich possibilities of institutional history.

These histories of penal reform in New York State do not recognize the way the connection to New York City shaped the public perception of Sing Sing and influenced the treatment of its inmates. New York City's response to the

¹¹. W. David Lewis, From Newgate to Dannemora: The Rise of the Penitentiary in New York 1796-1848. (Ithaca: Cornell University Press, 1965)

¹². Alexander Pisciotta Benevolent Repression: Social Control and the American Reformatory-Prison Movement. (New York: New York University Press, 1994)

¹³. Roger Panetta, review of Benevolent Repression by Alexander Pisciotta In New York History Fall 1996

marginal class and the dangers of social disruption are detailed in Paul Boyer's history of the efforts of political officials, social thinkers, reformers, philanthropists and others to manage a burgeoning urban population.¹⁴ A close look at criminal behavior in New York City is provided by William Kuntz's study of sentencing patterns in three major nineteenth century cities.¹⁵ Kuntz's work offers the possibility of connecting the Sing Sing inmate population to the patterns of New York City crime from 1830-1880.

Pennsylvania, New York's arch rival in the quest for the imprimatur of penologists everywhere, took pride in Eastern State Penitentiary, nee Cheery Hill. Negley Teeters and John D. Shearer provided one of the best monographs on institutional history in their study of Cheery Hill a penitentiary contemporaneous with Sing Sing.¹⁶ While much new history and bold theorizing has intervened since the publication of Teeters and Shearer's work their disciplined focus and primary research is exemplary. This older work should be supplemented by Norman Johnston's catalog for the Philadelphia Museum of Art's 1994 exhibition on Eastern State Penitentiary which is informed by a rich visual and architectural documentation.¹⁷

The context for the study of Sing Sing can found in Blake McKelvey's

¹⁴. Paul Boyer, Urban Masses and Moral Order In America 1820-1920. (Cambridge: Harvard University Press, 1978)

¹⁵. William Francis Kuntz, II, Criminal Sentencing In Three Nineteenth Century Cities: Social History of Punishment in New York, Boston, Philadelphia. 1830-1880. (New York: Garland, 1988)

¹⁶. Negley K. Teeters and John D. Shearer, The Prison at Philadelphia Cherry Hill: The Separate System of Penal Discipline 1829-1913. (New York: Columbia University Press, 1957)

¹⁷. Norman Johnston, Eastern State Penitentiary: Crucible of Good Intentions (Philadelphia: Philadelphia Museum of Art, 1994)

standard general history of the penitentiary, completed by in 1936 and revised by the author in 1977. It provides a historical frame and a good deal of specific information about Sing Sing.¹⁸ Also helpful with the social theory of punishment is David Garland's work which clarifies the multiple theories about the penitentiary.¹⁹ The connection between the broader historical themes and criminal punishment is the subject of Lawrence Friedman's work.²⁰

Two recently published reference works deal with the penitentiary ; The Oxford History of Prisons consisting of a series of chronologically arranged essays which survey the current state of penal scholarship in Europe and America; The Encyclopedia of American Prisons provides succinct entries prepared by specialists on key aspects of the penitentiary; many of the entries have a historical character.²¹

This abbreviated survey of the literature reflects the popularity of the macro approach and the preoccupation with theoretical questions. Recent histories of the penitentiary have frequently abstracted the institution from its inner life and its historical context in an effort to discover new explanations for the goals and character of American punishment. This approach has over-

¹⁸ Blake McKelvey, American Prison: A History of Good Intentions. (Montclair: Patterson Smith, 1977)

¹⁹ David Garland, Punishment and Modern Society: A Study in Social Theory. (Chicago: University of Chicago Press, 1990)

²⁰ Lawrence Friedman, Crime and Punishment In American History. (New York: Basic Books, 1993)

²¹ Norval Morris and David Rothman, Oxford History of The Prison: The Practice of Punishment in Western Society. (New York: Oxford University Press, 1996)
Marilyn D. Mc Shane and Frank P. Williams III, The Encyclopedia of American Prisons. (New York: Garland, 1996)

generalized the institution, conflated theory with practice, and robbed the inmates and their keepers of any agency. The revisionist history of the penitentiary has become the prisoner of these theoretical constructions.

I hope to address the historiographical questions about the character and form of imprisonment in the nineteenth century through the study of a single penal institution – Sing Sing Penitentiary. Sing Sing's critical importance and international reputation, often alluded to in the revisionist histories, merits an institutional history which will permit the testing of the new theories.

This work, the first full history Sing Sing penitentiary albeit limited to the nineteenth century, is a response to the call of some historians for more institutional studies which, "examine the institution from within...over an extended period of time...paying strict attention to the inner history of the asylum ...and substituting close analysis for aggregate data."²²

But "Up the River: The History of Sing Sing in the Nineteenth Century," while providing a first narrative account, will not exclude the related policy questions. I will attempt to assess the ways policy affected institutional life and how in turn Sing Sing's history influenced legislative decisions. Policy can not be separated from practice nor penal theories from their practical application; to do otherwise risks the danger of the "disembodied abstraction" that Michael Rogin warned about.²³

It is no accident that Sing Sing is without a written history. The

²². Peter Tyor and Jamill S. Zainaldin, "Asylum and Society: An Approach to Institutional Change," Journal of Social History, (1979), #13: 23-48

historical record is buried in the pages of the New York State's legislative documents and the Annual Reports of the Prison Inspectors. These Annual Reports were prepared Sing Sing's Inspectors, Agent/Warden, Principal Keeper, Physician and Chaplain and included a roster of annual admissions which listed the new inmates age, crime, length of sentence, county of conviction, residence, race and nativity and the names of those discharged or pardoned. The Agent also prepared an income and expense statement which included a breakdown of the institutional revenues from prison industries and private contracts as well as a tabulation of the allocation of the prison workforce to each of the industries and contractors who supervised their work. From time to time the State Committee on Prisons conducted investigation published a series of comparative statistical studies which reviewed operating at all state prisons. These reports provided the time frame and the basic elements in the narrative.

Organized in the year 1844 The New York Prison Association (NYPA) gained official state approval in 1846 to conduct on site annual inspection of all the state penitentiaries. Their annual reports discussed inmate population, educational programs, religious services, allocation of inmate labor, health, escapes, suicides, and other issues related New York's penitentiaries.

Inmate admission registers, located in the New York State Archives in Albany, which cover the period after 1865, record in narrative form, basic information about new inmates. They supplement the statistical profile provided in the Inspector's Report. The Registers contain information on the inmates' family background, criminal history, arrest and sentencing, physical

²³. Rogin, 141-144

characteristics, education, religion and work history. The period 1865-1896 constitutes thirty five volumes out of the total one hundred and forty eight volumes which cover the period through 1971.

Charles Lincoln's, three volume Constitutional History included information about the history of penal law and the administration of prisons in New York State. Lincoln reviews is constitutional proposals, provisions, and selected statutes relating to the history of New York's correctional system including the legal questions which surrounded the issue of prison labor in New York State.

Sing Sing was the focus of numerous state investigations whose published accounts, based on the testimony of keepers and reformers as well as Agents and Inspectors, enrich the archival record with inside views of the prison.. Five insider accounts, including four by former inmates, introduce a variety of nineteenth century Sing Sing experiences.²⁴ John Luckey, who served as chaplain in the 1840s and was committed to reform, undertook the first analysis of the inmate's family history. His published account had much to say about the urban character of Sing Sing's prisoners and the sources of their criminal behavior.²⁵

One other insider who achieved a great deal of public attention and near celebrity status was Warden Lewis Lawes. Part historian, part self promoter,

²⁴. James Brice, Secrets of Mount Pleasant State Prison (Albany: Brice, 1839), Levi S. Burr, A Voice From Sing Sing (Albany: n.p., 1833); Horace Lane, Five Years in State Prisons (New York: Luther Pratt & Sons, 1835); William Bodge, Echoes From the Living Grave (New York: 1869) and Number 1500, Life In Sing Sing (New York: Bobbbs Merrill, 1904)

²⁵. John Luckey, Life In Sing Sing, (New York: N. Tibbals & Co., 1860)

Lawes published several works about Sing Sing while he served as Warden from 1920-1941. Warden Lawes used his special vantage point, with access to many primary records, most of which are now lost, to mix historical material from the nineteenth century with personal reflections on the penal system.²⁶ His work remains helpful in providing another perspective.

Sing Sing's reputation drew many European visitors whose writings provide additional primary information about the early years. Beaumont and Tocqueville from France and William Crawford from England are the key observers.²⁷

The New York City's connection with Sing Sing is not only a function of the number of urban criminals in the prison's population but a product of the intense focus of City newspapers and magazines on events at Sing Sing. The *New York Times* covered Sing Sing as if it were part of the local beat, published several hundred stories about the prison from 1858 to 1896 and thereby strengthened the special relationship between the prison and the City.

This dissertation will use the wealth of untapped primary material to prepare a history which will challenge the reformist and humanitarian definitions of the penitentiary. Sing Sing was designed and constructed when the post-

²⁶. Lewis Lawes, *Life and Death in Sing Sing* (New York: Garden City Publishing Co., 1928); *Twenty Thousand Years In Sing Sing* (New York: A. L. Burt, 1932) and *Cell 202 Sing Sing* (New York: Farrar & Rhinehart Inc., 1935)

²⁷. Beaumont, Gustave De and Tocqueville, Alexis De, *On the Penitentiary in the United States* (Carbondale: Southern Illinois University, 1964) and William Crawford, *Report on the Penitentiaries in The United States* (Montclair: New Jersey, 1969) In addition to these key accounts there is some information to be gleaned from Basil Hall, *Travels In North America, In The Years 1827 and 1828* 3 vols., (Edinburgh: Cadell & Co. 1829), Frederick Marryat, *A Diary In America, the Remarks On Its Institutions* (Bloomington: Indiana University Press, 1960), Harriet Martineau, *Society In America* 2 vols., (Paris: Baudry's European Library, 1837)

revolutionary reform impulse was replaced by the practical and tough approach to penitentiary building of the 1820s and 1830s. The definition of reform had undergone a transformation to stress order and discipline. While David Rothman sees the invention of the penitentiary as an effort to join practicality to humanitarianism the latter impulse counted for little in the founding of Sing Sing.

The history of Sing Sing was shaped by local circumstances and the inner life of the institution. The character of the agents, political spoils, the mood of the legislature and the action of the inmates contributed to the prison's history. Many of the routines, rituals, and practices at Sing Sing, which on close examination reveal the inner history of the penitentiary and the lives of keeper and inmate, served both reform and retributive agendas. The history of the penitentiary may not swing between the humane and the cruel but may contain both tendencies within its walls.

The chapters of the dissertation will be arranged in chronological order covering Sing Sing's history from 1828-1898. Each will emphasize one major theme which is appropriate and central to that period. The first chapter will examine the European antecedents of the penitentiary and challenge the argument for American penal uniqueness. What does Sing Sing owe to its European progenitors? Newgate prison, New York State's first penitentiary which influenced the shape and form of Sing Sing, its replacement, and embodied many of the attitudes of the reform ideals of the new republic, will be the subject of the second chapter. Newgate's decline and its slide away from reform ideals will establish the context for the second wave of penitentiary building. The

construction of Sing Sing and its early years, including the penal theories, timing, design, and site selection will be covered in the third chapter. The 1830s and the administration of Robert Wiltse, who helped fix Sing Sing's tough regime and the place of corporal punishment both within the institution and the culture will be discussed in chapter four.

Jacksonian reform reached Sing Sing in the early 1840s and brought a new regime to the prison including programs in education and religion and milder treatment and phrenology. The work of the reformers and the rapid collapse of their effort will provide an opportunity in chapter five to clarify the meaning of penal reform and connect Sing Sing's history to a continuum of reform. Central to the organization of Sing Sing was the system of contract labor which for most of the nineteenth century was under assault from workers and employers on the outside. The role and meaning of disciplined work at Sing Sing and the demise of the contract system will be the concerns of chapter six.

In the second half of the nineteenth century Sing Sing became overcrowded, custodial, and volatile. The seventh chapter will evaluate conditions at Sing Sing at century's end, describe the nature, size and character of the institution using inmate accounts, examine the inmate's sub culture and asses the impact of penal reform on the life of Sing Sing's convicts. I will also explore a major riot, one which provides a glimpse of the power of the inmate sub-culture and the administrative difficulties in managing an overcrowded prison. This chapter will attempt to present the inmate's voice and their efforts to

survive the horrors of imprisonment.²⁸

The conclusion will summarize the findings and apply them to our understanding of Sing Sing and the history of the penitentiary in nineteenth century America. I will evaluate the impact of the European and revolutionary ideas as well as the social and political context on the building of Sing Sing, the efforts of reformers to reshape the institution, the organization and control of inmates lives, prison labor and the struggle of the state and the institution over issues of identity.

²⁸ . Larry Goldsmith, "Penal Reform, Convict Labor, And Prison Culture In Massachusetts, 1800-1880."(Ph.D. diss., University of Pennsylvania, 1994)



Chapter I

The European Background

Nineteenth-century Americans were impressed by the parade of European visitors who came in search for the keys to the ideal society or in a few instances to marvel at American innocence and innovativeness. It is not surprising then that Americans would lay claim to the invention of the penitentiary an institution that held out the promise of punishment and reformation. This claim seemed to be confirmed by a number of Europeans, including Alexis de Tocqueville and August De Beaumont who came to study the American penitentiaries in the second quarter of the nineteenth century. The basis for the American claim of proprietorship seemed to have some historical foundation. Some modern historians of the asylum have reinforced this nineteenth-century interpretation and the issue of origination reappears in contemporary debates about the penitentiary.¹

1. Rothman, David. The Discovery of the Asylum 1971 edition,xviii. Rothman's work, in spite of the critics, remains the starting point for the history of the asylum. The 1990 edition contains a persuasive historiographical essay which answers the critics, reviews the literature since the 1971 edition.

Critics of this nationalist interpretation argue that the roots of American penal innovations can be traced back to Europe where one can locate the models that eventually shaped the American penitentiary.² This connection was not only historical but remained a dynamic one well into the nineteenth century, strengthened by an Atlantic exchange of ideas and institutional plans. The duration and intensity of these exchanges created a common language and a shared understanding which shaped the penitentiary into an international institution. Thus any discussion of the American penitentiary must begin with its anglo-european antecedents.

European historical precedents established an intellectual foundation for American penal reform. However, the legacy of this earlier work left unresolved the central historical predicament of the penitentiary—the tension between the humane instinct to reform the criminal, the retributive instinct to punish and the social desire to deter. It is this conflict which is central to the American penitentiary and is key to understanding the particular character and special history of Sing Sing.

Penal reform was influenced not only by European precedents of the sixteenth and seventeenth centuries but also by the major historical changes of the eighteenth and nineteenth centuries including the Enlightenment, industrialization, and urbanization, which introduced new philosophical ideas, reshaped economic patterns, and altered social relationships. The revolutionary

impact of these new forces established the socio-economic context for building the penitentiary. One historian has concluded that “the penitentiary cannot be understood as arising out of the architectural forms, problems intrinsic to the judicial process, or the governance of the prisoner even prison sub-culture or reform ideology; it must be placed against a larger fabric.”³

One of the pioneering attempts to connect the development of the penitentiary to European historical changes can be found in the 1939 classic work of George Rusche and Otto Kirchheimer, entitled Punishment and the Social Structure.⁴ While their work utilizes class analysis, it tries to free penal history from the paradigm of the morality play. Rusche and Kirchheimer argued that the character of punishment is not a function of moral forces and humane impulses but rather a reflection of economically based cultural values which were in fact the beliefs of the dominant class expressed through the law.⁵ Punishment was a social phenomenon closely tied to capitalism and industrialization. Their argument, grounded as it is in Marxist theory, illustrates the way in which social forces, albeit economic ones, influenced the character of punishment in European and the United States.

2. The best corrective of this view can be found in Adam Jay Hirsch. The Rise of the Penitentiary: Prisons and Punishment in Early America. New haven: Yale University Press, 1992. chap.2

3. Miller, "Dread & Terror," 4

4. Rusche and Kirchheimer, Punishment and Social Structure (New York, Columbia University Press, 1939)

5. Ibid., vi

Rusche and Kirchheimer's historical analysis began with the sixteenth century's continuation of medieval patterns of punishment which consisted of fines and penance. Emergent capitalism, marked by inequalities of wealth, undermined the medieval pattern of punishment which served, according to Rusche and Kirchheimer, as the guarantor of just treatment. Would not capitalism with its inherent inequalities make it easier for some to pay fines than others? What was to be done with those who were unable to pay? As the social conditions changed, a new system of punishment was needed, one which more accurately reflected the changes in the economic order. Punishment had to be synchronized with the new capitalist socio-economic structure.⁶ Rusche and Kirchheimer described how the emergence of a poor class and the increase in crimes against property were causally linked by the bourgeoisie, who now felt compelled to search for forms of punishment better able to contain the rising threat from the criminally poor. One obvious initial response was to extend the list of capital crimes which, according to Rusche and Kirchheimer, transformed the practice of punishment into a social purging of the dangerous classes.⁷

This first response, which tended to criminalize the poor, gave primacy to deterring and punishing this group. A new scheme of punishment was needed which would punish the criminal-poor and not deprive the emerging mercantile class of access to their labor. Rusche and Kirchheimer concluded that the value of the poor's labor undercut the widespread use of capital punishment as a

6. Ibid., 8-9

deterrent. Thus, historical change in the social and economic order outside the sphere of punishment was, according to this argument, a catalyst for the creation of new forms of punishment.

Rusche and Kirchheimer attempted to link the patterns of punishment to the larger pattern of economic and historical change. The needs of the mercantile class, the condition of the poor, and a new definition of criminality all contributed to the early history of punishment. The history of punishment cannot be separated from the economic and social environment; they helped determine the forms of punishment.

The connection between the political economy and penal reform described by Rusche and Kirchheimer was the driving force, according to Thorstin Sellin, in the establishment of government-sponsored workhouses and houses of correction in sixteenth-century Europe.⁸ In 1552, Edward the Sixth donated Bridewell, a vacant royal estate, to England for the housing of vagabonds, the idle and the dissolute. Edward's actions grew out of a concern so grave that it required the intervention of the head of state. The English Bridewell, which quickly became the model for the sixteenth-century house of correction, dealt differently with the vagrant, the unemployed stranger, and the local poor who had come on hard times. Only vagrancy was punished.

7. Ibid., 15-23

8 Gregory Shank, "J. Thorsten Sellin's Penology" in Tony Platt and Paul Takagi, Punishment and Penal Discipline: Essays on the Prison and the Prisoner's Movement. (Berkeley: Crime and Justice Associates, 1980) 28-45

In an effort to counter the debilitating effects of vagrancy, inmates of the Bridewell were subjected to a strict regime of work and discipline. Daily routines organized around sleep, food, and work—baking, carpentry, milling, spinning, and metal work. Disciplined work would inculcate new attitudes, train the vagrant, and generate the revenue necessary to offset institutional expenses.⁹

The Bridewell's regimen, like so many subsequent penal reforms, met with some early success and was embraced by governmental authorities who optimistically concluded that "people were coming out better."¹⁰ But this confidence did not survive the sixteenth century. The failure of the Bridewell to generate sufficient revenue devalued the work, corrupted the working conditions, and discredited the reform objectives. By 1720 English judges were indiscriminately sending increasing numbers of criminals to the Bridewells, overwhelming the distinction between the poor, the vagrant, and the criminal and reflecting the growing criminalization of marginal groups. Criminals, those who had committed crimes against persons and property, were now lumped with vagrants. The Bridewell and other houses of correction were now filled with a

9. Max Grunhut, Penal Reform: A Comparative Study. (Montclair: Patterson Smith, 1973),16

10. Ibid.

11. Ericksson,11-12

12. Ericksson,13-14; Grunhut, 17-18; Rusche and Kircheimer, 41-42

13 . Grunhut ,18

volatile population, creating disciplinary problems that often were remedied by the increased use of corporal punishment.

In Europe the Dutch criminal were also exploring alternatives to the old punishments. In 1595 the Amsterdam City Council code introduced prison sentences for some crimes, an early example of punishment measured in time, they needed an institution in which to carry out the sentence. The Dutch constructed the Amsterdam House of Correction which, from the outset, targeted the criminal. Jan Spiege, the Dutch reformer, hoped to reform the criminal by restoring the body and soul through moderate eating, regular work, and the fear of God. Prisoners' names would be kept secret to protect their identity, an important precedent for the penitentiary.¹¹ At the Amsterdam House of Correction the inmates were classified according to gender, age, and criminal activity. Convicted thieves, vagrants, beggars, disorderly women, and neglected children were physically separated and treated differently. The males were employed in the Rasphaus, where, in a single room, they would file or rasp wood with twelve other inmates. The men were paid a small stipend, provided with basic physical care, and given religious and educational instruction.¹² Women, including prostitutes, wayward girls, and female alcoholics, were housed separately and assigned various spinning tasks.

The Amsterdam House of Correction, like the Bridewell, had some early successes, gained widespread acceptance throughout Europe, and

institutionalized the new penal triad of punishment, work, and reformation.¹³ The Dutch had confidence that disciplined work habits would transform the criminal into a socially useful citizen. The Amsterdam House, an early example of state sponsored penal reform directed and coordinated by the legislature, was soon replicated throughout Europe.¹⁴ In Hamburg, the founders of the House of Correction, abiding by the religious admonition that “Idleness, the seed of the devil, is to be extinguished by work,” organized the daily routine around the idea that, “it is work which gives men livelihood and it is work which punishes men.”¹⁵

In Belgium Villain XII, a supporter of the House of Correction, directed the construction of an octagon-shaped building at Ghent, which would come to serve as one of the most enduring models for nineteenth-century reformers. New inmates were inducted into the House with a ritual consisting of head shaving, a bath, special uniforms, and instruction in the strict code of behavior. Prisoners were separated into two categories, the lost or long term and the potentially reformable younger men; all were isolated at night in cells measuring 6’10” by 5’ 4” by 7’ 8” furnished with a stove, a table, and a small cupboard.¹⁶ Because Villain believed that, “Idleness was negligence of the law, of nature and of the creator...” all had to work regularly in a manner that provided income, created personal worth, and promised to correct the flaws of the imprisoned.¹⁷

14 . Grunhut ,18; Rusche & Kirchheimer, 42; Shank ,31

15 . Grunhut, 19

16. Erikson, 22

Though economic troubles weakened the House of Correction at Ghent, its early decline would not diminish its later influence on the penitentiary movement's conceptual integration of architectural design, classification of prisoners, and organized work into the rehabilitative ideal.

In Rome the Benedictine monk, Jean Mabillon (1632-1707) founded the Hospital de Saint Michael in which he employed the monastic habits of prayer, work, and silence as a model for the inmates' daily regime. Mabillon's plan aimed at the individualization of punishment through the single cell, within an institutional setting which included a separate workplace, a garden, and an infirmary.¹⁸ Fellippi Franci, with the support of Pope Clement XI, adapted Mabillon's plan for delinquent young boys in Rome. The Hospital under his direction contained sixty single cells, arranged on three tiers with a common center hall that served as the work area. The boys, who were supervised by monks, worked in silence, interrupted only by religious instruction and prayer. They were treated with compassion. The redeemable, younger first-timers, were separated from the incorrigibles and older repeat offenders who were secured in solitary cells day and night.

The inscription in the central hall announced Saint Michael's rehabilitative ideals;

"the correction and instruction of profligate youth who,
when idle were injurious, when instructed might be

17 . Ibid., 21

18 . Ibid., 25-27

useful to the state...it is of little advantage
to restrain the bad by punishment unless you render them
good by discipline." ¹⁹

Saint Michael drew on the monastic tradition of mortification of the body and discipline of the mind. Silence and isolation compelled the inmate to introspection, the prerequisite for self-knowledge and self-control.

From the middle of the seventeenth to the end of the eighteenth century, the houses of correction, in spite of their uncertain record, would provide Europe with a viable alternative to corporal punishment. This alternative satisfied the need of the emerging capitalist order for a disciplined work force and the transformation of the vagrant and the criminal into useful citizens. Work emerged as a central element in the reform scheme not only because it satisfied economic needs but because it required a visible punitive discipline with the promise of social reformation. Penal work combined mortification, self-discipline, and hard physical labor and could be justified as both reformatory and retributive. This double objective inherent in the early history of the penitentiary eventually created a dualism in the penal institution which would pull administrators in conflicting directions.

Throughout Europe the houses of correction fell victim to a series of problems which would come to plague so many subsequent penal institutions; mismanagement, overcrowding, and governmental indifference. While problems

undercut the reformist vision, the Houses were also encumbered by the persistence of traditional corporal forms of punishment

The eighteenth century Enlightenment offered new ideas about crime, punishment, and human nature, ideas which challenged the failure of corporal punishment to deter criminal behavior or to provide justice. During the preceding century Europeans had attempted to deal with crime through a combination of institutional remedies like the house of correction and an expansion of the definition of capital crimes to include forgery and housebreaking. Additions to the list of capital offenses reflected the growing concerns of an emerging bourgeois class seeking to protect its newly acquired wealth.²⁰ However, as the number of capital crimes increased, judges, faced with the prospect of ordering the death penalty for a crime like housebreaking, hesitated and frequently resorted to alternatives like flexible sentencing and liberal pardoning. The economic value of the criminal as a part of the labor force also played a role here. The intention of an expanded capital list was of course to deter the criminal; the resultant practice of inconsistent sentencing was to further weaken the deterrent force of the death penalty. Harsh punishments were not invoked because they seemed to judges, juries and the public disproportionate to the nature of the crimes.

Capital punishment not only failed at the practical level but also came under attack from Enlightenment critics who complained not of the inhumanity of

19 . Grunhut,23; Wines,121-123; Eriksson, 26-30

20 . Ignatieff, 16-18; Crimes carrying the death penalty rose in England from 50 in 1688 to 160 in

the death penalty but the capricious pattern of sentencing. Enlightenment thinkers were dismayed by the ineffectiveness of the existing structure of punishment and its sharp divergence from their new views about human nature.

The long search for an effective deterrent had led Europeans to public punishment. In England the notorious march to Tyburn Gallows in which officials attempted to create a spectacle—a theater of guilt with the drama of exhortation, confession and repentance.²¹ The public having witnessed this ritual event would be properly instructed in the cost of crime and thereby effectively deterred from criminal behavior. Public punishment took the harshness of the death penalty and sought to maximize its terror. A few good public hangings would do for any given year. But officials in Tyburn, and elsewhere, lost control of the event and found themselves presiding over a drunken celebration which mocked the intended moral lesson. The public had gained the upper hand and created not a morality play but a bacchanal. Thus the harsh punishment instead of deterring undercut the legitimacy of public executions and capital punishment.

Tyburn raises the issue of public versus private punishment a question not only present in the eighteenth century but persisted throughout the history of the penitentiary. The failures of public punishment will push reformers indoors away from the public spectacle toward the private punishment. In addition to the failure of Tyburn, other sensibilities in the nineteenth century will drive punishment indoors.

1768.

21 . Ibid., 20

The effort to extend the use of capital punishment had failed and was now under attack for not only its ineffectiveness but its harshness as well. Europe found itself with a system of punishment that was inconsistent, failed to deter, and was brutal. By the mid eighteenth century the critics of the system would join forces with reformers seeking a more humane way of punishing.

The English experimented with the alternative of transportation to the colonies and confinement in the Hulks, old ships anchored in the Thames. Transportation dispensed with the issue of reformation and recidivism by removing the offender from society while the Hulks responded to the fear of social contagion by quarantining the criminal. But both of these experiments represented only short-term solutions to a profound and growing crisis.

The increasing reluctance of judges in England and the colonies to apply capital punishment and the failure of the system to deter were widely understood as the central issues. It was clear by the middle of the eighteenth century that reform would have to embrace not only the forms of punishment but the legal codes which supported the traditional practices of fines and corporal and capital punishment. A period of uncertainty and searching for new ideas marked this period.

The Enlightenment focused on three areas that were directly connected to the practice of punishment, the social contract, the legal codes, and the form of punishment. The social contract, so central to Enlightenment thought, redirected the goal of punishment from retribution for crime to the maintenance of social order, which for Montesquieu meant preventing future

wrongdoing.²² The *philosophes* were indifferent to the intent of the criminal or to the guilt which accompanied his actions. The secularization of punishment, which they emphasized, required rather that the form and intensity of the penalty should derive not from the sinful nature of the crime but as Montesquieu suggested from its social cost.²³ Thus crime, an act against the liberty and freedom of all members of the social contract, should be punished with the equivalent loss of freedom and liberty for the criminal. While this theoretical conception offered no blueprint for the new institutional form, it pointed toward social isolation and time as key elements in any new conceptualization of punishment.

Utilitarian ideas were concerned with the ineffectiveness of the old system, its judicial capriciousness and its arbitrary use of pardons, all of which they argued undermined deterrence. Their reforms aimed at prompt and certain penalties. Punishment should follow soon after the crime, and it should be predictable. Overdependence on the severity of punishment was counterproductive. These concepts opened the way to less harsh punishment not on humane grounds but on principles of effectiveness.²⁴

The crises in the system of punishment had eroded the legitimacy of criminal law. For punishment to be accepted and effective, criminal law must be administered in a rational and coherent manner. A restoration of public

22 . Neuman, 153-156

23 . Ibid., 153

24 . Ibid., 153-156

confidence in the administration of the law would legitimate its practices and generate support for the forms of punishment.

The reform movement had many different sides. One group sought to protect the social order; a second pleaded for a more rational and regular approach to crime. A third group was shocked by the pattern of torture and corporal punishment which dehumanized the individual and hardened the criminal, creating a class of social outlaws who would continue to prey on society. The severity and brutality of punishment was, according to these Enlightenment critics, rooted in the desire for revenge and served no socially useful purpose.

Like other reformers Enlightenment thinkers were more certain about the failures of the system than the shape and character of the alternatives.²⁵ What they contributed, however, was a set of criteria—celerity, regularity, proportionality, humanity—against which a system of criminal law should judge itself.

While the new institutional forms were not yet discernible a decisive shift in the focus of punishment was under way by the middle to the eighteenth century. If the scaffold, torture, and corporal punishment, all of which targeted the body, were to be replaced by the deprivation of the criminal's liberty, the new target was the criminal's mind. The search was underway for a form that could deprive man of his liberty and reform his thinking and morals. It was clear that criminals had survived the most brutal punishments without any change in

behavior or beliefs. The Enlightenment *philosophes* agitated for a society in which punishment moved beyond revenge against the body toward the re-education of the criminal's mind and his social behavior. Keepers and wardens would replace the executioner and the torturer; they would manage the criminal mind and end the attacks on the criminal body.²⁶

Michael Foucault saw this shift as one of the central characteristics of modern society, "not to punish the offense but to supervise the individual, neutralize his dangerous state of mind, to alter his criminal tendencies...."²⁷ Punishment, said Mably, the English jurist, "should strike the soul."²⁸

The reform ideas of the eighteenth century established a new measurement for punishment—a body-mind scale. Vengeful attacks and the use of the noose and the lash were regressive. The bloodless disciplining of the mind in order to transform criminals was progressive. The Enlightenment thinkers wanted to reduce pain and cruelty and substitute a punishment characterized by kindness and humanity, the environment necessary for the reformation of the criminal.

The body, the focus of retributive justice, will only be spared by a profound change in the valuation of punishment. Without such change it will be difficult to relinquish society's hold on the body.²⁹ Even so, the residual idea that

25 . Foucault, 73-75

26 . Ibid., 9-11

27 . Ibid., 18

28 . Ibid., 16

revenge was a justified human response in which the criminal ought to suffer pain would persist as part of the public attitude toward punishment. At times this sanguinary attitude would cast a deep shadow over the efforts of reformers to move away from the body.

The Enlightenment thinkers most crucial for the subsequent history of the penitentiary were Cesare Beccaria, Jeremy Bentham, and John Howard. Beccaria's *Dei Delitti e Delli Pene*, published in 1764 was the source for many of the reform ideas of the late eighteenth century. Beccaria, drew on Montesquieu's *The Persian Letters*, a criticism of eighteenth century penal practices warning of the dangers inherent in the loss of respect for the law. Disrespect, which weakened the authority of criminal punishments, was, according to Montesquieu, a by-product of the erratic sentencing patterns and the cruel methods of punishment. For Beccaria, the desire for revenge and retribution, the bases of traditional punishment, were dangerously mistaken notions. While these justified the attack on the body, their effect was not to deter; even the harshest forms could be endured. Beccaria wrote that "the mind of man offers more resistance to violence and to external but brief pain than it does to time and incessant weariness; for whilst it can gather itself together for a moment to repel the former, its vigorous elasticity is insufficient to resist the long and repeated action of the latter."³⁰ Punishment based on retribution and aimed at the body did not last and did not deter.

29 . Ibid., 16

30 . Philipson, 70

Beccaria shared the Enlightenment view that the social contract required the secularization of punishment, the prerequisite for a more rational and efficient approach. While the broad reformist philosophical statements of the Enlightenment attempt to turn us away from revenge and the body they lacked specificity and concrete expression. Beccaria did propose penal servitude for capital crimes, but his critique did not push beyond reform ideas of celerity, certainty, and proportionality.³¹ However, Beccaria's work did shift the loci of punishment from the past to the future; a criminal should be punished not to avenge a crime committed but to prevent its repetition. But Beccaria leaves us with no substitute for bodily pain which will reshape the criminal's mind and secure the future.³² Beccaria's work, widely read in both Europe and the United States, helped eighteenth and nineteenth century reformers appreciate the importance of the criminal codes.³³

Jeremy Bentham, (1748-1832), the English Utilitarian, followed Beccaria's lead and sought ways to ameliorate pain and punish proportionately. He felt that punishment that centered on pain was inherently evil and could only be justified by society's right to self-defense. Punishment, according to Bentham, was as a social counter attack aimed at the prevention of future evil.³⁴ Pain was an indispensable sacrifice to the common safety; not desirable but

31 . Ibid., 71

32 . Miller, 92

33 . Barnes, Punishment 99

34. Philipson 190

necessary. Bentham endorsed Beccaria's recommendation of proportional punishment as essential for the prevention of future crime.³⁵ The concept of proportionality seemed to Bentham consistent with the Utilitarian pleasure-pain concept.

But Bentham moved beyond Beccaria's critique and offered an institutional model that directed punishment at the mind. In 1790 Bentham published a plan for the Panopticon, a polygonic building with a central observation tower ringed with a series of individual cells. From their hidden vantage point inside the central tower, prison officials could constantly observe the activity of each inmate. The constant surveillance would compel inmates to adhere to the regime of life in the Panopticon. The tower became a symbol of observation and a permanent reminder of the objectification of the criminal. The Panopticon's architectural arrangement would, by its very design, force the criminal to turn inward and submit to the domination of the tower; an innovation created not to punish but to discipline; not to inflict pain but to re-educate the criminal.³⁶

The architectural arrangements of the Panopticon generated a mental isolation which intensified the inmate's loss of liberty, a loss reiterated day after day. Resistance was futile; this was not the kind of pain which could be challenged by the inmate's "gathering himself together for a moment.' Its relentlessness exhausted the "elasticity "of the mind. The Panopticon introduced

35 . Ibid.

a new mode of fear and apprehension. The criminal's mind could not withstand the searching and irresistible attack. The tower would become a mechanism of deterrence; its all knowing, all-seeing eye, inculcated in the criminal a new kind of fear; a silent pain compelling good behavior.

Bentham was so taken with the idea of the Panopticon that he generalized the design and offered it for a range of social organizations including the factory and the school. His detailed architectural plans suggested confidence in the capacity of a given design to control and discipline, not only the criminal but schoolchildren and factory workers as well. Bentham's Panopticon answered the call for a new form that would shift punishment from the body to the mind. While his response was innovative, if not masterful, it introduced a kind of architectural determinism in which the design itself is the agent of change. Thus correct institutional arrangements will guarantee reformation; those who remain unaffected are either inadequate or willfully resistant. Bentham's ideas would galvanize reformers' energy around the issue of design which came to preoccupy nineteenth century penal reformers in New York and Pennsylvania.

While Beccaria published the first full critique of the criminal law and its allied system of punishments and Bentham outlined an innovative design for the penitentiary, it is from John Howard that we gain the sense of moral outrage over the old forms of punishment. Howard's expose of the conditions in gaols of Europe and England made prison reform a moral issue.

John Howard was born in 1726, the son of a middle class cabinet maker who spent his young adult years searching for a true vocation. His work as Sheriff of Bedfordshire first drew him to the English jails and ultimately to his life's calling. For over four years Howard toured the jails of Europe and England and published his findings in 1777 in a work entitled The State of The Prisons. Howard's innovative methods and his shocking findings disclosed the deplorable conditions in the eighteenth century English jails which were operated by profiteering gaolers who sold food and clothes and ruled with absolute authority. The prisoners were not classified; the debtor, the insane, and those awaiting trial were all thrown together.

Overcrowding contributed to unsanitary conditions posing a serious health hazard. The dreaded jail fever took the lives of prisoners and threatened the surrounding community as well.³⁷ Contagion served Howard as a metaphor for the fear of the social danger of crime. The medical dangers of the jails mirrored the social threat criminals represented to the body politic. The analogy between crime and disease would become important not only to the construction of the criminal class but to the organization of the penitentiary, where both the structure and the daily routine would have to avoid becoming what Henry Fielding called "seminaries of vice and sewers of nastiness and disease."³⁸

37. Eriksson, 35

38. Ignatieff, 52

Howard not only compiled a list of ills in The State of the Prisons, but offered design remedies which would help transform the goal into the new penitentiary. A vision of the new prison emerged from his prison tours, his personal asceticism, his philanthropic attitude, his Dutch Protestantism, and the lessons of Catholic monasticism. Howard believed that criminal behavior, though rooted in improper socialization, was intensified by the poor quality of the jails. Establishing the appropriate environment in the community and in confinement was essential if there was to be any hope for renewal. Howard cited the inscription at St. Michael's which warned that, "It is doing little to restrain the bad by punishment unless you render them good by discipline."³⁹ According to Howard, "regular steady discipline in a penitentiary house had the power to make one a useful member of society."⁴⁰

This process of renewal began, for Howard, with a reformed design for the jails which reversed the patterns of construction, housing, and sanitation that he had recorded on his prison tour.⁴¹ Architecture alone could not do the job of reformation especially in the face of entrepreneurial jailers; discipline required new competent, responsible, and salaried administrators. Howard had recognized early on just how central the role of the jailer or keeper would be to any reform effort. This would become a truism for the nineteenth century when so many reform programs depended on the character of the jailer with his

39 . Ibid., 53

40. Ibid., 56

41. England, "Howard and America," 26

powerful hold on the daily lives of inmates. Thus a primary challenge for penal architecture would be to contain the jailer's authority through a design which promised a self-regulating institutional mechanism independent of the jailer. The keys to Howard's notion of a self-regulating design were the concepts of solitude, silence, and work.

Howard shared the Quakers' view that imprisonment should be a forced withdrawal from society, an inward turning and a purging of the impulses toward sinful behavior.⁴² Solitude would isolate the inmate from the social contamination of corrupt friends and criminal society through the process of self-reflection. Solitude, when reinforced by periods of enforced silence and separate cells, would compel a confrontation with the self.⁴³ Here Howard echoed the view of Blackstone, the English jurist, who wrote that "solitude will awaken reflection, confinement will banish temptation."⁴⁴ The confrontation with the self was the prerequisite for self knowledge, the basis of transformation. Solitude and silence provided the environment would serve as the occasion for self-renewal. In the environment of the new penitentiary, the criminal's mind would become the arena of a punishment far more insidious than the old corporal punishments. If, in John Howard's scheme, solitude and silence would engender self-examination, then work would teach the internal discipline necessary for regular habits. Howard, unlike other reformers, justified work on

42 . Ignatieff, 58

43 . Ibid.,58

44. Grunhut 35

moral, not economic grounds. He was not unconcerned with profits; but any financial gain would be a byproduct of the disciplining activity of work whose main objective was to "make men diligent and then they will be honest." ⁴⁵

Solitude, silence, and work could only be effective in a hygienic environment. Howard's concern for sanitary conditions was tied to his belief that poverty and poor hygiene corrupted the environment and contributed to criminal behavior for Howard and his fellow reformers linked crime with disease and contagion and punishment with hygienic treatment. To Howard, the medical analogy suggested the moral as well. Thus a penitentiary which shaved heads of inmates, distributed standard uniforms, and conducted frequent inspections was meeting both the medical and moral test. Both contemporary medical practice and the Christian monastic tradition of mortification and self-abnegation informed these actions.

In addition to his innovative ideas about prison design and administration, Howard brought to the reform cause a sense of moral purpose which brought the issue into the public consciousness, drew others to the cause, and required state and local governments to address the conditions of their prisons and the treatment of criminals. Howard's influence over the thinking about the penitentiary in the century ahead was in this connection of moral purpose to architectural design, a connection which integrated the principles of silence, solitude and work.

45 . Ibid., 36

In the United States, Howard's advice was sought by reformers who read and discussed his work and drew courage and purpose from his moral sensibility.⁴⁶ The generation of post-Revolutionary American reformers were deeply indebted to Howard and considered him the Father of the penitentiary movement.

Beccaria, Bentham, and Howard pointed to the failures in the criminal codes, the cruelty and ineffectiveness of the old jails and corporal punishment and offered new concepts for the design and organization of the penitentiary. But their work, while introducing the idea of reformation, emphasized the treatment of the individual criminal and not the social causes of the criminal act. While the commitment to reform was progressive, it shifted the burden almost exclusively to the individual and created the expectation that given the right institutional arrangements a criminal can be reformed if he has the will. While we can celebrate the new hope in the possibility of reformation we need to note the way in which the new punishment has encoded in its architectural designs and institutional arrangements a definition of criminal behavior which resorts less to social causation and more to individual failure.

Beccaria, Bentham, and Howard provided the ideological foundation for the penal reform movement in Europe and the United States. The history of the penitentiary in general, and Sing Sing in particular, cannot be understood without an appreciation of their work. This does not necessarily mean that the American penitentiary was a derived institution. European practices and ideas

about changing punishment were in the air and known to American reformers. We need to study the historical reshaping of these notions to accommodate the special needs of the United States and the way in which these concepts were utilized in the building of the American penitentiary in general and Sing Sing in particular.

46. England, "Howard and America" reviews Howard's influence on American penal reform.

Chapter II

Slaves of the State: The Penitentiary In New York 1796-1825

Europeans had a long and complicated history of grappling with crime and punishment, so it is not surprising that, as Americans began to explore these same questions in the post-Revolutionary period, they should turn to Europe. The process was not a simple borrowing, however, but a complex adaptation of these ideas to the American setting. This adaptation was accomplished through a series of experiments which placed the United States at the center of the penal reform movement in the first half of the nineteenth century. While Americans can not be described as the founders of the penitentiary, they did apply and test unprecedented theories in state-sponsored penitentiary construction whose scope and reputation eventually attracted European attention. In the eyes of the nineteenth-century world the United States served as a laboratory in penal reform.

Sing Sing, erected between 1825 and 1828 at the beginning of the second prison building boom (the first occurred at the end of the eighteenth century) is the product of European ideas and post-Revolutionary American

experimentation. Sing Sing would become the most visible example of the American achievement in penitentiary construction. To understand its birth, early history, and attraction we need to investigate the circuitous path of American penal reform from the 1790 to 1825.

While the new republic recognized the need to change the penal system, there was less certainty about the form of the new punishment. This lack of consensus placed the new nation in the position of "experimenting willingly, eagerly and at times precipitously."¹ The early American penitentiary, built on an uncertain and conflicted intellectual foundation, was not surprisingly the victim of rapid shifts in direction. This uncertainty freed the new states from theoretical rigidity in developing the American penitentiary.

The pattern of trial and error, which developed immediately in the 1790s, was intensified by fierce inter-state competition and the complicated legacy of European reform. The failure of Europeans to resolve the debate over retribution, deterrence and reformation created an ambiguity of intention which American penal reformers would attempt to resolve through a series of experiments beginning with Walnut Street in Philadelphia and Newgate in New York City. Even Sing Sing in Westchester County was a response to the unresolved penal debate about the objective of punishment.

One practice in American colonial society ripe for radical reform was the treatment and punishment of criminals. David Rothman, who describes the way post-revolutionary reform blossomed in the nineteenth century into the

¹ . Miller, "Dread & Terror" 155

asylum movement, saw the revolution as a watershed.² He writes that, "the rhetoric of the Revolution had prepared Americans to fulfill a grand mission, and now they would demonstrate how to uplift one part of mankind, the criminal class."³

Newly drafted state constitutions reflected nationalist sentiments and Enlightenment ideas. Criminal codes were changed to eliminate the sanguinary forms of punishment so identified in the American mind with English oppression. The reformation of the codes implied a new way of punishing, one that would have to respond to the new Republic's nationalist and humanitarian concerns, i.e. to undo English penal practices and to treat citizens with new respect. The new states also had the task of undoing certain colonial attitudes and practices, which conflated crime and sin.

Colonial law had defined crime as a sin and the criminal as a sinner. Thus the list of crimes included fornication, Sabbath-breaking and adultery; in colonial counties such as Middlesex, Massachusetts, 65% of the of the pre-Revolutionary crimes were in these categories.⁴ A gradual secularization of crime in the post- Revolutionary states is evident in the decline in criminal prosecution for "moral" crimes and an increase in prosecutions for crimes against property.⁵ In Middlesex the criminal was no longer "envisioned as a

² . Adam J. Hirsch., " From The Pillory to The Penitentiary: The Rise of Criminal Incarceration In Massachusetts." Michigan Law Review (1982) #80, 1193

³ . David Rothman, The Discovery, 60

⁴ . Nelson, "Emerging Notions of Civil Law" 100-106

sinner against God but rather one who preyed upon his fellow citizens.⁶ Crime, now defined in Enlightenment terms, was not a blow at the moral order but rather a breach of the social contract to be punished accordingly. For Americans the objective of punishment would be to defend their new and fragile social order; punishment needed to deter. The task ahead was to reconcile deterrence with the reform impulse to reduce sanguinary punishment and eradicate the definition of crime as a sin. The first generation of American reformers was confident that it could create laws and construct institutions which would reflect the republican respect for the perfectibility of human life and so reject capital punishment, the handmaiden of monarchy.

The pre-Revolutionary criminal codes in the new American republic resembled those in Europe. Lists of felonies, which included buggery and sodomy, had continued to grow in the late eighteenth century; colonies like New York enumerated thirty capital crimes. Judges and juries hesitated over this *formidable severity and applied the codes irregularly.*⁷ The harsh colonial system, which promised deterrence, practiced an informal leniency that undermined the legitimacy of the courts and the law. Severity did not work: it was perceived, ironically, as being both inefficient and cruel at the same time.

Even in those cases where the law was executed to the letter and corporal punishment like flogging or branding were administered, the criminal

⁵ Ibid.

⁶ Ibid., 111

⁷ Miller, "Dread," 90

frequently endured the punishment and was not deterred from future crimes. Critics argued that the relatively short duration of all forms of corporal punishment made even the most intense pain bearable. The answer did not therefore lie in the strict enforcement of the brutal criminal codes but in their reformation. However any new codes would have to effectively deter the criminal and do so in a humane, non-sanguinary form.⁸ The immediate alternatives to corporal punishment—the local and county jails and the almshouse—were poorly managed, unhealthy, and inadequate in size. If reform of the criminal codes implied a change in the practice of punishment, Americans would interrogate European models in their quest for new solutions.

Post-Revolutionary American reformers embraced the basic framework of the Enlightenment and agreed that in a republic organized around the ideals of freedom and the social contract, which required a self-disciplining citizenry, the appropriate punishment was loss of liberty. Such a punishment separated the criminal from society and punished him for the social threat he embodied. This idea had the virtue of punishment in kind; a blow at the liberty of a fellow citizen was to be punished by an equivalent loss of freedom, which could be extended through time in direct proportion to the severity of the crime. Time was an attractive device for the measurement of the punishment; it was readily quantifiable and could be regulated in proportion at first to the severity crime and later to the degree of reformation. Jeremy Bentham had proposed just such a calculus, one which made punishment measurable and rational and

which restored legitimacy to the criminal codes. The critique of the old punishment had left the alternative unclear. Now in the early Republic a new form was beginning to take shape, one frankly indebted to European ideas.

"Doing time" would also remind the criminal day after day, hour after hour of his offense against the social order through the concomitant loss of liberty. The daily reminder would enforce itself on his mind, compel introspection, elicit remorse, and turn the criminal toward reformation; all without resorting to attacks on the body. Physical endurance which helped the criminal absorb the traditional harsh corporal punishment would not insulate him from the rigors of doing time. He could not grin and bear it. It was ironic that the shift from the body to the mind, justified in the name of humane treatment, was at another level even more coercive. One of the ambiguities in the history of the penitentiary is the transformation of an idea for humane treatment into a new kind of terror.

At this stage, prison reform was informed by a materialist psychology based on the disciplining of the body over time as a means to re-educate the mind. Influential Americans, like Benjamin Rush, subscribed to this materialist psychology and shared John Howard's faith in the re-education and the re-socialization of the criminal through the practice of self-discipline. While Rush and his fellow reformers were convinced about the failures of the old forms of punishment and the goals of the new punishment they continued to search for an

⁸ Neuman, 117; Miller, "Dread," 121

environment which would accomplish these new republican tasks of reforming and deterring.⁹

Time offered the new state, not only a calibrated means to deprive the criminal of his liberty, but a way to measure his labor as well.¹⁰ The Pennsylvania State Constitution of September 1776 recognized that, to deter more effectively from the commission of crimes by continued punishment of long duration and to make sanguinary punishment less necessary, houses ought to be provided for punishment by hard labor...wherein the criminal should be employed for the benefit of the public or the reparation of the injuries done to private persons.¹¹

Labor over a specified time could not only teach discipline but it offered reparations for the criminal action. Labor was becoming a commodity that could be calculated and included in the new punishment equation. The concept of labor as reparation was thus linked to time and became one of the essential components of the American penitentiary.

The term penitentiary, which was slowly coming into use at the end of the eighteenth century in the United States and Europe, distinguished the new institution from the discredited local jails and the practice of corporal punishment. The penitentiary would deprive the criminal of his liberty, encourage him to repent, and require him to reform his habits. These goals, which

⁹ Ignatieff , 69-72

¹⁰ Miller, "Dread," 126-127

¹¹ Ibid.,

constituted the core around which the institution would be organized, were more widely understood than was the precise form of the penitentiary.¹²

Borrowing heavily from the Europeans, Americans began to experiment in 1790 with a series of institutional arrangements, a practice which would continue well into the twentieth century. The experimental quality of the early history generated a pattern of continual scrutiny and questioning about the form of the penitentiary, creating a double history. The development of the penitentiary and penal reform ideas were in a symbiotic relationship, so closely interrelated that the reformers provided a shadow penal government. While the double history reflects the continued search for the right form of the penitentiary, it is also fed by the deeper unresolved tension between retribution and reformation and the lack of public consensus about the goals of the penitentiary.

The first of the penal experiments took place in Philadelphia where a cohesive group of cosmopolitan reformers with a commitment to helping the marginal—the criminal, the poor, and the orphaned, created the first penitentiary in the United States at Walnut Street in 1790. This group drew upon the legacy of William Penn and the humane provisions of the Great Law of 1682 which provided alternates to capital and corporal punishment with a system of fines, imprisonment and the workhouse. Penn's Code, though replaced in 1718 by the Duke of York's harsh sanguinary laws which reintroduced corporal punishment and increased the number of capital crimes, remained a benchmark

¹² Eriksson , 47

for not only Pennsylvanians but New York reform groups as well.¹³ Philadelphia reformers also kept abreast of developments in Europe, closely following the development of Enlightenment ideas as well.¹⁴ This Atlantic connection is documented in the correspondence of John Howard whose advice was frequently sought by American reformers.

One of the key thinkers in this Philadelphia group was Benjamin Rush, the most respected physician in the United States. Rush's reform ideas were based on the assumptions that the creation of a Republic required a new kind of citizen; one who lived a regular, decent and temperate life. Rush described these new citizens as "republican machines" trained "to do their parts properly in the great machine of the government of the state."¹⁵ The repeated use of the metaphor of machines suggests that Rush drew on the contemporary mechanistic views of the universe which embodied a model of order whose principles of regularity were now seen as applicable to the political and social system.

How were the citizens to be taught republican habits in a free society? Rush believed new thinking was called for in order to "lay the foundations for nurseries of wise and good men."¹⁶ Thus in the organization of these institutions the new nation should replicate the mechanisms of the natural order and avoid

¹³ Miller, "Dread," 117

¹⁴ Klein, Legislation 27

¹⁵ Dumm, Democracy and Punishment, 90. The discussion of Rush's influence on the Eddy and the early penitentiary draws from Dumm's work.

all coercive means to train the public to be "republican machines." The selves needed to be ruled as much as they needed to rule.¹⁷ In pursuit of these reform goals Rush became an advocate of free universal education and prison reform.

Rush believed republican governments would have to find ways to inflict pain without alienating the offender.¹⁸ Traditional capital and corporeal punishment so hardened the criminal as to make him a permanent threat to the social order. Rush shared the Enlightenment view in calling for a punishment which would reconcile the criminal through reformation and not alienate him through harsh and vengeful punishment. Rush understood that there were "cords of love as well as fetters of iron, the former bound minds in guilty remorse while the latter bound only the body."¹⁹ But if republican governments followed the policy imperatives of the principle of "cords of love" what were the implications for penal practice?

For Rush the task of the new institutions, like the asylum/penitentiary, was to supplement the work of the other social agents of morality, the church, the home and the school. In proposing alternate institution Rush hoped to link science with religion to reconstruct human beings.²⁰

¹⁶. Dumm, 171 #12

¹⁷. Ibid., 90

¹⁸. Ignatieff 74

¹⁹. Ibid.

²⁰. Ibid., 91, 99

According to Rush vice and crime were the products of indolence, passion, undue excitement, and bad company.²¹ He believed the path to a cure began by "wearing down these excesses through labor and confinement... if continued long enough never fail to produce a change."²² When the traditional institution of the social order failed to create "republican machines" one turned to the asylum/ penitentiary to form the habits necessary for citizenship. The asylum would, in a non-coercive manner, recreate the self in a republican image and likeness. Rush was confident that the scientific knowledge of the day held the key to reform. One historian has suggested the key operative mechanism here is the clockwork in David Rittenhouse's orrey.²³ The synchronization which the orrey represented was embodied in the penitentiary, an institutions which reformed not through intervention or coercion but through its repetitious routine and its architecture.

This conceptualization of the penitentiary may also give new meaning to the notion of self-sufficiency which we have previously discussed as an economic measurement of the well managed penitentiary. Self-sufficiency may also suggest the term self-contained; a closed system which implements the work of reform through its own hidden internal regiment. The penitentiary was so designed to not only separate the inmate from the world outside but substitute for that void a new world which contained within itself the mechanism for

²¹. Ibid., 93

²². Ibid.

²³. Dumm, 111-112

renewal. Design and architecture are thus essential for the reform work of the penitentiary. Rush's ideas represent the most fully articulated conceptualization of the new republican punishment.

In 1776 a group of prominent Philadelphians including William Bradford, Benjamin Franklin, Caleb Lowndes joined Benjamin Rush in organizing the Philadelphia Society for Assisting Distressed Prisoners, the first prison reform society in the new Republic. Under the leadership of this group of successful merchants and businessman, many of whom were Quakers, the Society grew into the Philadelphia Society for Alleviating the Misuses of Public Prisons, and eventually became the Pennsylvania Prison Society. They were the first formally organized Society to advocate state responsibility for the creation of an effective prison system.²⁴ They debated European penal ideas, published extracts from English journals and lobbied for reform of the criminal code.²⁵ In the tradition of John Howard members visited the local jails, examined prison conditions and publicized their findings. They shared a sense of stewardship which helped establish the central place for the private citizen in the history of penal reform.

The cornerstone of the Society's program was the belief that, "the principal ends of society in inflicting punishment were to correct and reform the offender ... to produce such a strong impression on the minds of others as to

²⁴ Mc Kelvey, 8

²⁵ Miller , "Dread,"117

deter them from committing like offenses."²⁶ This program objective could be achieved through hard labor, "publicly and disgracefully imposed" In response to this recommendation the state of Pennsylvania enacted a law which required prisoners to clean streets, repair roads and work on a variety of public works projects. Hard work satisfied the requirement to reform while its public character would serve to deter. Public works projects also had the advantage of demonstrating a cost effective approach to punishment. But the citizenry of Philadelphia were not pleased. They were appalled at the sight of chained prisoners, with their clean shaven heads working in the streets of their fair city. Rather than embracing this productive and humane alternative the public complained so loudly that the State Legislature was compelled to modify the plan. Not only does this episode suggest the power of the public to influence prison reform but reflects a new aversion to public punishment.

If Philadelphians and other Americans did not want to witness punishment then the reformers would be compelled to find a scheme which shielded the public and isolated the practice of punishment. The demand to quarantine the criminal not only from other potential criminals but from civil society represented an ironic reversal of the earlier appreciation of the deterrent effect of public punishment. Society members now moved away from public works and agreed with member Robert Vaux that, "punishment by a more private

²⁶ Barnes, Evolution, 106

of even solitary labor" a concept which would become central to Pennsylvania's prison reform. Punishment was about to go underground.²⁷

Benjamin Rush, conceding that the public works approach was unacceptable, proposed, " a secret punishment in a large house of construction agreeable to its design..." where labor and a system of classification would insure self-sufficiency and reform. Rush's House of Repentance, unlike the old prison can appropriately be called a penitentiary. On April 5, 1790, the Pennsylvania Legislature designated the Walnut Street jail as penitentiary, the first, in the United States.

The old jail at Walnut Street was remodeled and opened in 1792 with a classification system based on the nature of the crime. Vagrants, debtors, and those waiting to testify, were separated with the most hardened criminals isolated in single cells arranged along a hallway and facing the outside yard. This section of Walnut Street was referred to as the Penitentiary House. We can see the early association in the United States of classification and isolation with the penitentiary. The less hardened criminals worked for eight days with modest compensation and shared large common rooms where they were free to congregate with others. The Penitentiary at Walnut Street was governed by a Board of Governors or Inspectors and a Warden with primary administrative responsibility and a staff of keepers and guards.²⁸

²⁷ Newman , 187; Takagi, 26-27

²⁸ . Lewis, Development, 26-27

Innovations at Walnut Street such as, classification, (a long standing demand of reformers), the isolation of the hardened criminals and the use of solitary for the recalcitrant established precedents for future penitentiaries. The solitary confinement of resistant and troublesome inmates introduced the possibility of a punishment within a punishment. Inmates not willing to conform to codes of behavior faced a second punishment hidden from judicial or public scrutiny. Punishment within the prison administered by prison officials opened the door for secret abuses and institutional terror.²⁹

The Walnut Street requirement for prisoners to work, which recalls the precedent of the House of Correction and the Workhouse, established another component of the American penitentiary. Work at Walnut Street would punish the inmate, compensate the state and reform his criminal habits. However reformers and prison administrators in placing a multiple burden on the work requirement created conflicting pressures for the administration of the penitentiary. Evidence of this conflict will soon become clear at Walnut Street.

The classification of prisoners, though crude, was a significant advance over the chaotic arrangements of the old local jails where murders, felons, and witnesses were indiscriminately herded together in what critics described as a "school of scandal" which spread vice and crime. The State of Pennsylvania hoped to prevent this contagion by separating the dangerous prisoners from the delinquent. But these crude divisions did not go far enough; the system of classification introduced at Walnut Street would need refinement;

this task would become one of the principal objectives of the reformers throughout the nineteenth century. Classification, by establishing distinctions among criminals aimed at individualized treatment. Thus at the outset of the penitentiary would be a place for differentiation and not the creation of an aggregate criminal class.

But classification and individualized treatment are in conflict with the practice of equality in which all inmates are treated exactly alike, one like the other. The tension inherent in these two methods of classification will be aggravated by the growth in the inmate population and the rise of the mass penitentiary. The introduction of a system of classification is further complicated by its higher cost. Differentiation among prisoners implied separation and expensive individualized treatment which would alert budget conscious legislatures in the nineteenth century. Fiscal concerns continued to be a concern as the penitentiary slowly creates more systems of classification.³⁰

Pennsylvania responded to the prodding of reformers, constructed the Walnut Street penitentiary and initiated a pattern of state sponsored prison construction. Led by a merchant, political and religious elite the reform cause can not be separated from the interests of these classes of Pennsylvanians. Their feelings of pride in their state's role in shaping the penitentiary fueled interstate competition and rivalry. But while class interests played a role here a

²⁹ . Miller, 132

³⁰ Barnes, Evolution, 106

word of caution about any single explanation of the motives and interests of the city leaders who created the penitentiary.

The central role of the state in creating the American penitentiary is, according to some historians, the work of hegemonic authority in which the state exercises control over one class in the interests of another. In this view the penitentiary is an instrument of power and its history must be read as a reflection of the division of political power.³¹ This interpretation openly implicates the penitentiary in the creation a criminal class. Discussions about the penitentiary contributed to the nineteenth century discourse on crime and the use of the term criminal class.³²

Stability, the spirit of industry and productive labor marked the early years, 1791-95 at Walnut Street raising hopes that an effective alternative to the old system of jails and goals had been found. Word of the experiment at Walnut Street reached New York reformers who saw an answer to their search for a new form of punishment. Walnut Street quickly became the prototype for other states and influenced penitentiary construction through the first quarter of the nineteenth century.³³

But the early optimism, supported by the initial successes raised the expectation about Walnut Street and opened the doors to more and more inmates. Magistrates desperate for an alternative to the local jails and capital

³¹ Takagki, 54: Miller, 143, 156.

³² . Marie Christine Leps, Apprehending The Criminal: The Production of Deviance In Nineteenth- Century America . (Durham: Duke Universty Press, 1992), 1-43

punishment ignored the original capacity, overloaded the prison and doubled its population within five years. Guards and keepers were overwhelmed. The overcrowding drew a response from the Philadelphia Prison Society which called for the construction of a second state penitentiary. In spite of the lobbying effort of the Society and the increasing problems at Walnut Street, Pennsylvania did not construct a second penitentiary until 1817 and only relieved the overcrowding with the completion of Eastern Penitentiary in 1829. The reform ideals about separation and disciplined work gave way under the continued pressure of overcrowding and pushed the administrators into the pattern of custodial care. Pennsylvania Governor's responded to the crises by issuing one hundred and twenty five pardons annually, a response which would later be duplicated by other states governors.

Walnut Street, hailed as the model for republican punishment had within a decade lost its reform character and now depended on force to manage an overcrowded institution. Increasing costs and recidivism were signs of failure. But in spite of this seeming record of disappointment Walnut Street established important precedents including, the classification of prisoners, state sponsorship and control, and the segregation and isolation of the prisoner from the community. These precedents would shape the future of the penitentiary in the United States. Walnut Street turned Americans in a new direction away from the old sanguinary forms of punishment.

³³. Bames, Evo:ution, 170

Another state in which the revolution marked a watershed in criminal and penal practices was New York. The City and the State are a good case study given the sharp contrast between the pre and post-revolutionary criminal codes and forms of punishment.

Criminal and penal reforms in New York State in the period 1790-1801 demonstrate the way in which the reform impulse of the revolution and the ideology of republicanism influenced the creation Newgate penitentiary and the early history of Sing Sing. Thomas Eddy who organized the first state penitentiary, built in New York City, offers an example of the practical application of the new ideas about punishment and the lessons of Walnut Street.

Leadership in New York City in addition to Eddy included De Witt Clinton, John Gresham, John Jay, Ambrose Schuyler and Philip Schuyler; men who extended their post-war philanthropic commitments to include the new State's prisons. Many of them, committed to the idea of moral stewardship, held public office and sought to inform their actions with reform ideals. They saw the alliance of charitable activities and office holding as ethically appropriate.

As architects of a new social order and believers in human perfectability they sought to create an environment, marked by patience and perseverance and separated from the sources of corruption, would reform the criminal. They focused their energies on the creation of reforming institutions rather than changes in the social order. John Pintard, one of this local elite, promised that "the rising generation will find broad and solid foundations laid for

their structures....".³⁴ Self-assured, at times self-righteous, this first wave of reformers had confidence in their moral vision and the beneficence of their actions. They embraced not only the criminal but the juvenile, the poor and the orphaned all groups, who they believed were eager for reformation. This would be the work of the penitentiary, the reformatory, the almshouse and the orphanage - institution they founded and would continue to lead as supervisors and trustees. They were confident that the causes of the problems rested with the individual.

Eddy's Quaker conscience required that he put his new found urban prosperity to good moral use. He began to look for his calling in the less fortunate quarters of New York's underworld. In describing the values of his close friend and fellow Quaker, John Murray, Eddy offers some insight into the values which informed his decision in 1794-5 to assume the responsibility of christian stewardship. He wrote of Murray,

"How rare it is to meet with a person, in the course of prosperous business, to stop short and say; ' I have enough hereafter I will consider, what Providence has put into my hands, as a trust for the good of my fellow creatures.' "³⁵

Eddy's reform sentiments led him to join with like-minded merchants and professionals in a series of benevolent activities and humanitarian associations which addressed the social ills of New York City. Among these men and women who shared a common social standing, the Quakers were well

³⁴. M. J. Heale, "From City Fathers To Social Critics: Humanitarianism and Government in New York 1790-1860." Journal of American History (1976)#63, 35

represented including along with Eddy, Isaac Collins, Thomas Franklin, John Griscom, and John Murray jr. But one should not conclude that these reformers were committed to a narrow religious objective - a reform of the soul. They were after secular progress.³⁶ In addition to prison and other humanitarian reforms Eddy was active in insurance and canal companies; all in the name of public improvement.³⁷ New York reformers believed themselves to be architects of a better world.³⁸

Eddy's quick conversion to reform in the mid-1790s was symptomatic of the post revolutionary fervor. He spoke of "a spirit of reform received from the revolution and strengthened by the discussions of the principle of freedom...."³⁹ That spirit, shaped by his Quakerism, drew him first to the New York Criminal Code and its long list of capital crimes.⁴⁰ The severity of the code was manifested in the number of capital crimes, which included not only treason and murder but arson, burglary, breaking and entering, forgery, maiming, robbing a church, rape, and sodomy.⁴¹ Eddy felt he could "no longer acquiesce in a

³⁵. Ekirch, "Thomas Eddy and the Beginnings of Prison Reform in New York", 378

³⁶. Heale, "From City Fathers," 23

³⁷. The list of Eddy's benevolent activities reads like an inventory of New York city's reform movement. He was an active member of the New York Manumission Society, The Free School Society, The American Bible Society, one of the founders and a Director of a Savings Bank. He also helped found The Society For the Prevention of Pauperism, The Society For the Reformation of Juvenile Delinquents, the Lunatic Asylum and the New York Hospital. Knapp, Life of Eddy, 1-2

³⁸. Heale, "From City Fathers to Social Critics." 28

⁴¹. [Eddy], An Account of the State of Prison or Penitentiary House in the City of New York, 9
Eddy is generally recognized to be the author of this anonymous account.

⁴². Ibid.

system of laws, many of them products of barbarous usages, corrupt society and monarchical principles and imperfectly adapted to a new country of simple manners and a popular form of government."⁴²

Eddy's focus on the criminal codes was typical of the concerns of the post Revolutionary generation of Americans who like Benjamin Rush, judged capital punishment unrepublican.⁴³ The war had sensitized Americans to the harshness of the death penalty and the severity of their criminal codes. The new republican ideology instigated a search among New Yorkers for alternative forms of punishment; ones which respected their new attitude toward human nature.⁴⁴

Thus when Eddy identified the unreformed criminal code with monarchy and British rule, he came to a conclusion shared by other Americans. Eddy drew his principles of republican punishment not only from American revolutionary fervor but from the Enlightenment and works of Montesquieu, Howard and Beccaria and their faith in the perfectability of man. He opened his Account of the State Prison with quote from Montesquieu,

In moderate Government, a good legislator is less

⁴¹. Ibid., 9-10

⁴². Ibid., 9 One should not assume Eddy's central role in reforming the harsh criminal code that he operated alone. New Yorkers had been engaged with the question of capital punishment since 1792 and had unsuccessfully introduced a reform bill in the legislature to amend the codes in 1795. Opposition to capital punishment was a catalyst in the reform of the criminal codes and the creation of the penitentiary. See, Philip English Mackey, Hanging In the Balance : Anti-Capital Punishment Movement in New York State 1176-1861 (New York: Garland, 1982), 51-63

⁴³. Louis Masur, "The Rise of Criminal Law In Post Revolutionary America," Criminal Justice History 28-29. Also see William E. Nelson, "Emerging Notions of Modern Criminal Law in the Revolutionary Era: A Historical Perspective," New York University Law Review, 42 (May 1967), 450-482.

⁴⁴. Masur, "Rise," 28-29

bent upon punishing than preventing crimes; he is more attentive to inspire morals, than to inflict punishment. ⁴⁵

He wrote to a friend,

Some years ago I was led to reflect on the state of the criminal code in this state (New York), and warmly impressed with the belief, that all laws not founded on the principles of truth and justice, the common feelings of humanity, and the rights of mankind, should be repealed; I took a very decided active part in endeavoring to obtain a repeal of our former system and establishing one more consistent with the pure principles of Christianity. ⁴⁶

Eddy begins his work in 1794 with a series of visits to Philadelphia the center of criminal and penal reform in the new republic. He obtained William Bradford's report on the criminal code entitled, " A Inquiry How Far the Punishment of Death Is Necessary In Pennsylvania" and distributed two copies to the New York State Legislature. Governor George Clinton had called the Legislature's attention to the harsh criminal code in 1794 and 1795. Nothing came of this first effort. ⁴⁷

Eddy maintained his interest in Pennsylvania's reforms. He continued to correspond with his fellow Quaker Caleb Lownes, a merchant and Inspector of the new penitentiary at Walnut Street. They shared the hope that Christ's grace was available to all and it had the power to move an individual from sin to perfection.

⁴⁵. [Eddy], An Account, preface

⁴⁶. Eddy to Patrick Colquhoun 5 June 1802, Knapp, 179

⁴⁷. Ekirch, Thomas Eddy (1938), 17-18

Individual change for the Quaker, should be the result not of coercive political power but rather persuasion and self discipline. Thus imprisonment was a technique, a pedagogy, for persuasion; a place to teach the criminal the difference between right and wrong. ⁴⁸

Eddy found in Philadelphia's penal reform movement a union of republican ideas about man's reformability and traditional Quaker beliefs in a forgiving God, the foundation he believed for a new criminal code and a new form of punishment. ⁴⁹ The close ties with Lownes provided Eddy with direct access to the records, officials and the inmates. He concluded that the reform of the codes and punishment were interdependent and needed to go hand in hand. Thus Eddy's proposed reforms of the New York State Codes was linked with reformation of the criminal through imprisonment. ⁵⁰

In 1796 Eddy and the influential State Senator Philip Schuyler proposed a reform of New York's criminal code and a system of punishment. ⁵¹ He enlisted State Senator Ambrose Spencer and his Quaker friend John Murray in the assault on the old sanguinary punishment. In January of 1796 Spencer introduced Schuyler's reform bill which was supported by Samuel Jones who

⁴⁸ Dumm, Thomas. Democracy, 65-81; Masur, "Rise" 29.

⁴⁹ Masur, 29-30

⁵⁰ David Rothman described the two reforms as separate and sequential and argued that the revision of punishment only came after the reforms of the codes did not reduce crime. He suggested that it was a repulsion from the gallows rather than any notion of the rehabilitative capacity of the penitentiary which was at work in the 1790s. But the ideas of Thomas Eddy and the regime he instituted at Newgate did have reformatory goals. David Rothman, The Discovery, 60-62; Dumm, 95

⁵¹ [Eddy], An Account, 11-13; Knapp 56-58;

called for the construction of two state prisons. Other legislators recognized the connection between the code and imprisonment. Governor Jay had echoed this sentiment in his address to the legislature in early January when he asked, "how far the severe penalties prescribed by our laws in particular cases admit of mitigation and whether certain establishments for confining, employing, and reforming criminals will not immediately become indispensable?"⁵²

After extended legislative debate the Assembly passed "An Act making alteration in the criminal law of this state and for erecting State Prisons" on March 26th. The new law called punishment which was proportionate "to the different degrees of guilt of the offenders" and limited capital punishment to treason and murder. Life imprisonment was reserved for other former capital crimes while imprisonment with hard labor and or solitary for up to fourteen years for all other felonies above the degree of petit larceny. The law called for one year of imprisonment for petit larceny and other minor crimes and prohibited whipping.⁵³

The reform law of 1796 also provided for the creation of State prison system and appropriated \$50,000 for the construction of new penitentiaries in New York City and Albany. Eddy along with John Murray, his fellow Quaker, was appointed to the Board of Commissioners charged with the building and

⁵². NYSS, Journal, (1796), 28

⁵³. I.N. Phelps Stokes, The Iconography of Manhattan Island 1498-1909 6 vols.,(New York: AMS Reprint 1967) 5:1330

organizing the New York City prison. He organized the building committee, developed a plan, selected an architect, and chose a sight.

In these matters Eddy sought the help of Caleb Lowmes. In April Lowmes wrote a detailed letter to Eddy outlining some principles to guide New York in its planning. Lowmes stressed the need to select an "airy situation, with extensive grounds to secure not only the benefits of air but room for the employment of the prisoners.... and the planting of a vegetable garden."⁵⁴ Here Lowmes address two key elements in the design of the new penitentiary- ventilation and employment; the former identified with a healthy environment and the latter with self-discipline and indemnification. In selecting the site Lowmes warned Eddy not to place the penitentiary too close to the present city but to consider New York's inevitable expansion and choose accordingly. The site should also be distant enough to insulate the penitentiary from the contagious disease which are, according to Lowmes, "the offspring of large and crowded cities."⁵⁵ The notion of isolation from the city proper was motivated by Lowmes' concern for the health of the prisoner and the need to isolate the criminal from the public. Distance from the city core would separate the act of punishment from daily life and public curiosity. No Tyburn spectacle in the new Republic.

Eddy planned carefully, instituted good regulations, appointed men of principle as keepers and selected respectable citizens to serve as inspectors. There would be little to fear. However Lowmes reminded Eddy that the social

⁵⁴. Caleb Lowmes to Thomas Eddy, 19 April 1796. Schuyler Papers, New York Public Library

threat to a city in the form of a riot or disease required not only able staff but enclosing walls around the penitentiary.⁵⁶

The interior prison space should be large enough to allow for the creation of shops and outdoor work areas for such as stone cutting. The list of outdoor shops included an ice house, a saw pit, and a smoke house. Public works at Walnut Street had led to such an outcry that work had to be taken indoors, within the walls of the penitentiary. Lownes stressed the need to make every effort to use work "to raise the prisoners worth in his own and others estimation ... and everything avoided that would depress or disgrace him."⁵⁷ Lownes new scheme envisioned work not only a a source of revenue but as a means to restore the prisoner's self worth.

Armed with these guiding principles of disciplined labor, close supervision, separation, and proportionate punishment, Eddy was ready to go forward.⁵⁸ He hired Joseph F. Mangin as architect and dispatched Isaac Stoutenberg to negotiate with the Mayor and the Common Council for the sale of the several water lots along the North River about "one mile from the upper western suburbs of the city." Additional land was added in March of 1797

⁵⁵. Ibid.

⁵⁶. Ibid.

⁵⁷. Ibid.

⁵⁸. It should be noted that the inmates at Walnut Street were classified by crime, gender and placed in solitary night cells. Not all of these innovations would be employed by Eddy at Newgate.

providing a site of almost four acres north of the city and bounded by Greenwich Street and Washington Street.⁵⁹

Lownes who had remained in close contact with Eddy and came to the city, approved of the site, "particularly as to its elevation and contiguousness to water."⁶⁰ He also provided plans which Eddy submitted to Schuyler in July. They represented such a radical departure from the original designs, that Eddy hoped Schuyler had not gotten too far on a plan if his own.⁶¹ The Lownes-Eddy design called for a two story (30 feet high) classic Doric order style building built with a freestone construction. The building shared with other penitentiaries of the period an imposing facade with strong and the simple lines which announced to the public the austere and ascetic quality of life on the inside. The intention was to use architecture to deter the future criminal and to communicate to the public the nature of new form of punishment. The harsh and foreboding message of the design was underscored by the exterior steel gratings which encased each window.⁶²

The front façade, decorated with a pediment and crowned with a cupola and bell, was two hundred and forty feet long, broken by a central entrance, which marked the administrative center. The building was divided into

⁵⁹. Stokes, Iconography 5:1330-1332

⁶⁰. Ibid., 5:1132

⁶¹. Ibid.

⁶². Coffey, Inside Out 13-18; A detailed 1814 description of Newgate William Torrey, former agent, can be found in William Roscoe, Observations on Penal Jurisprudence and the Reformation of Criminals. (London: T. Cadell, al.) 31-34.

four wings; two of which extended west from the main facade. The north and south wings contained 52 apartments, measuring 12' by 13' and each able to accommodate 8 men. Each apartment was illuminated and ventilated by a grated window large enough to permit the free flow of air and conversation with acquaintances.⁶³ The grated door permitted the keepers to look directly into the cell to observe the inmates.⁶⁴ Each apartment was equipped with religious books, including of course the bible, and a lamp.⁶⁵

On the second floor of the north and south wings there were 7 solitary cells each measuring 3 ½ ft. by 3 ½ ft. by 5 ½ ft. In addition to the apartments and the solitary cells the building contained a chapel, a hospital, a kitchen and a dining hall. The entire structure was enclosed by a stone wall, 23 feet high on the river (Hudson) side and 14 feet high on the street side. The cost for the original structure was \$208,846. With a capacity of 416 prisoners in the apartments and 14 in the solitary cells Newgate seemed much larger than the original projections of Eddy and Lownes for a prison with a projected capacity of 200.⁶⁶ Yet within five years the population at Newgate would exceed 600 prisoners.

⁶³ . The use of the term apartment indicates that several inmates occupied this space and more than likely communicate on a regular basis with each other. The more familiar term cell is reserved for the penitentiary which houses inmates in a single cell, separates then inmates one from another and as a result makes communication problematic.

⁶⁴ . Roscoe, 44

⁶⁵ . [Eddy], An Account, 38

⁶⁶ . Eddy to Philip Schuyler, 22 August 1796, Schuyler papers.

The interior spaces of the north and south yards was used for a sawmill and a garden. But in the first decades of the nineteenth century the interior space was subdivided and crowded with workshops, and water pumps, a fire engine house and a bathing area.⁶⁷ With time the enclosed open space for walking and exercising and was given over to production. At the western end of the prison a wharf was constructed from which goods, supplies and inmates were transported up the river by sloop.

Upon entering Newgate the new prisoner was stripped, given a haircut, bathed, and outfitted with a new shirt, trousers, shoes and socks. The basic dress was a brown uniform; second offenders wore red and blue.⁶⁸ The entrance rituals marked a point of transition between the inside and outside worlds; first steps in the process of a new identity both as criminal and possibly reformed prisoner. Basic information, about the prisoner' history and physical characteristics was recorded by one of the keepers.⁶⁹ This information was "needed for treatment "⁷⁰

Eddy established a daily routine which varied little from day to day. Prisoners were awakened by a drum beat at 6 A.M. or daylight in the winter. Their cells were unlocked and they immediately proceeded to their work assignments. The breakfast bell sounded at 8 A.M. and the men assembled in

⁶⁷. Roscoe. 33

⁶⁸. [Eddy], An Account, 39

⁶⁹. Coffey, 15

⁷⁰. Roscoe, 43

the dining hall where they ate in silence. Meals were to be frugal and daily life devoid of any luxuries. Eddy took pride in reducing the cost of provisions to 5 3/4 cents a day for each inmate.⁷¹ He had studied the work of Count Rumford, the American-British scientist who had written a guide to frugal cooking and improved nutrition.⁷² He followed Rumford's lead and innovated in the use of heads of oxen for soup meats and rye in the preparation of coffee.⁷³ The concerns for the cost and nutritional details of the prisoners diet indicates the pragmatic quality in Eddy's reform program which even extended to the fuel where he saved money by substituting coal for wood.⁷⁴ He was no visionary disconnected from the daily routines of institutional life but a pragmatic reformer concerned with the details of management. For Eddy reform and efficiency were interdependent.⁷⁵

Eddy believed that hard labor "will prevent those who are discharged as well as others from the commission of crime."⁷⁶ In addition to serving as a deterrent, prison labor indemnified society for the cost of the crime and reimbursed the state for the inmate's maintenance.⁷⁷ Convict labor should meet these criteria.⁷⁸ Thus productive work was to be the centerpiece of daily activity.

⁷¹. [Eddy], An Account, 46-47

⁷². Ekirch, Thomas Eddy, 23

⁷³. Ibid., 46

⁷⁴. Ibid., 47

⁷⁵. [Eddy], An Account, 21-27

⁷⁶. Ibid., 35

Eddy was concerned with the difficulty in locating suitable work for the prisoners. His choices were shaped by the budgetary need for low overhead and high profit and a concern for the health of the inmates and the security of the institution.⁷⁹ Following these guidelines Eddy immediately set up a shoe and boot-making shop and quickly followed with a tailoring and clothing shops which produced clothing for the inmates.

Self-sufficiency not only had an obvious economic objective, but it also grew out of a moral feeling that neither free citizens nor the state should pay the cost of maintaining the criminal in prison; justice required that the inmate assume responsibility for the cost of his maintenance. These concepts had the effect of elevating self-sufficiency to a moral principle one which given its simplicity could be understood by the general public.⁸⁰

Eddy was appointed the first agent of the new penitentiary in 1797 at a salary of \$1500. He was responsible for both fiscal and disciplinary matters to the Board of Inspectors, made up mostly of prominent citizens, "good men" selected by the legislature and the Mayor, and serving without pay. He purchased supplies, sold the prison made-products, and hired and supervised the staff of clerks and keepers.⁸¹ Clerks kept the records and the prison registry

⁷⁷. Ibid., 53-54; 57

⁷⁸. Ibid., 55

⁷⁹. Ibid., 56; Knapp, Eddy, 64

⁸⁰. This may be a throwback to the days of the goals and jails when prisoners were expected to pay their own way and purchase bedding, clothing food and drink.

⁸¹. [Eddy] An Account, 23

and were paid \$500. Eddy complained that the poor pay reduced the pool of qualified applicants for these jobs.⁸²

The principal keeper, whose salary of \$850 was intended to insulate him from corruption and extortion, was the key to the maintenance of discipline at the prison and central to the reform regime. Eddy envisioned a keeper who was "cool, dispassionate and whose heart was warmed by feelings of benevolence."⁸³ In his application of discipline the principal keeper was to be, "temperate, decent and above all patient and discrete." These qualities not only describe the ideal keeper but embody Eddy's hopes for the reform of the inmates through mild treatment. He wrote,

While the unhappy wretches committed to his care are regarded as lives influenced by his fellow man, and capable of reformation, he should never treat them with harshness, cruelty or caprice....⁸⁴

Eddy shared John Howard's belief that, "the most desperate can be managed by a calm, quiet, and steady mode of conduct."⁸⁵ Thus Eddy's commitment to mild treatment, indebted to Quaker attitudes and the ideas of the Howard, introduced penal reform to New York State and the city.

The principal keeper supervised the work of 12 unarmed assistant keepers who were stationed within the penitentiary. They were responsible for

⁸². Ibid., 23

⁸³. Ibid., 25

⁸⁴. Ibid., 26

⁸⁷. Ibid., 27

the day to day discipline of the prisoners and were required to enforce prison regulations, including the prohibitions on cursing and spitting.⁸⁶

After several escapes in 1801, a prison guard of a dozen men was added to the staff, but placed under the control of the Mayor. This division of authority while justified in the name of public safety did little to strengthen the position of the agent and underscored the apprehension of the civil authorities about prison riots.⁸⁷

If mild treatment was at the center of Eddy's reform regime, cleanliness was one of its public manifestations. To facilitate this habit each apartment was provided with a bucket of fresh water and a coarse towel for the required daily washing. Large basins were used for prisoners to bath weekly. All the apartments were washed with lime and water twice a year in keeping with Howard's prescriptions. Eddy believed cleanliness "softened the temper, meliorated the disposition, produce a regard to temperance, order, industry, and by exciting more agreeable and tranquil sensations, to render men susceptible to good impression."⁸⁸ Eddy attributed moral as well as physical qualities to cleanliness. It was a visible sign of prisoner self discipline, control over habits and a manifestation of order and goodness. Reformers were searching for examples of rehabilitation. Cleanliness seemed to offer such a verifiable sign.

⁸⁶. Ibid., 28

⁸⁷. Roscoe, 40-41

⁸⁸. Knapp, Eddy, 62

General interest in cleanliness had intensified at the time of the late Enlightenment as a result of the convergence of moral and physical concerns.⁸⁹ Benjamin Rush, for example, believed that cleanliness was good for the health of the body and also promoted moral virtue.⁹⁰ Quakers, in particular, had the most notable reputation for cleanliness.⁹¹ Eddy worked hard to instill this Quaker value at Newgate. He concluded that,

By the great attention paid to cleanliness, in every part of the prison, they have shown their opinion of its importance in guiding reformation.....though its effect on bodily health be more obvious, its less striking but equally certain effect on the mind has been no where more fully expressed than in this prison.⁹²

Education programs were introduced at Newgate to inmates in good standing who would be allowed to "learn reading, writing, and arithmetic." Instruction was given by other inmates, when available, and paid for at the rate of four shillings a month for writing implements, light and fuel.⁹³ Prisoners were entitled at the time of their release to any surplus wages which remained after the maintenance fees were deducted from their total earnings. Fees for the educational expenses would be deducted from the same account.

The office of agent also required Eddy to prepare an annual report for the Board of Inspectors which was incorporated into their report to the state

⁸⁹. Richard L. Bushman and Claudia L. Bushman, "The Early History of Cleanliness in America." Journal of American History 1217.

⁹⁰. Ronald Takagi, Iron Cages. (New York: Alfred A. Knopf, 1979) 22.

⁹¹. Bushman and Bushman, 1218

⁹². [Eddy], An Account, 53

legislature. In gathering information for the report, Eddy, eager for a measure to evaluate Newgate, prepared a detailed profile of the inmate population including their age, race, gender, occupation, and residence, and observations of their character, behavior and work habits. Lownes had stressed the value of knowledge for the security of the institution; Eddy now sought to use this information to evaluate reform.

The construction and organization of the first State penitentiary in New York City was based on a set of goals and assumptions about the process of reform and the nature of the criminal. A full understanding of the design and organization of Newgate requires an examination of the assumptions which guided Eddy's plans and the post revolutionary reform agenda.

For Eddy the goal of imprisonment was clear—the prevention of crime.⁹⁴ But within this general goal he developed a set of objectives which he ranked in the following order,

1. the amendment of the offenders
2. deterring of others by his example
3. reparation to society and the party injured⁹⁵

In this ranking he clearly meant to put the primary emphasis on the first of the objectives—the reformation of the criminal. Eddy's commitment to reform is clear. He wrote,

⁹³. Knapp, Eddy, 62

⁹⁴. Ibid., 59; [Eddy], An Account, 58

⁹⁵. [Eddy], An Account, 58

Imprisonment is to secure society against future mischief...it is that mode of punishment which affords the only chance of reclaiming him from evil.⁹⁶

In order to effect this reformation of character the prisoner's old passions and corrupt habits had to be replaced with cleanliness, decency, order and industry.⁹⁷ To do this one needed proper methods and dedicated administrators.

Eddy saw the work of prison reform as a calling of the highest order. He believed that, "for those to whom the superintending of such an institution entrusted, to effect as far as possible, the amendment of the delinquent and thus to fulfill the highest duty of humanity."⁹⁸

He was confident that the goals of reformation could be achieved "even in the worst of men by a steady, firm and persevering attack to correct their acquired bad habits"⁹⁹. The key here is the reformation of the prisoner's mental constitution through a "system of regular labor and exact temperance by which habits of industry and sobriety are formed."¹⁰⁰ The penitentiary and the daily regime will reform the criminal through hard labor, discipline and simple

⁹⁶. *Idid.*

⁹⁷. Thomas Eddy to De Witt Clinton, 17 April 1818, Clinton Papers, Special Collections, Columbia University.

⁹⁸. [Eddy], *An Account* 52

⁹⁹. Knapp, *Eddy*, 91

¹⁰⁰. [Eddy], *An Account*, 52-53. For a full discussions of the meaning and place of habits in Republican ideology see, Dumm, *Democracy*, 170, #10

living. When the inmate resisted and refused to work, he would be isolated in a solitary cell, placed on a diet of bread and water where,

with his thoughts continually directed to his present condition and past conduct he may sooner or later perceive the wickedness and the folly of his former course of life, feel the little pangs of remorse and be disposed to further amendment.¹⁰¹

True to his Quaker principles Eddy relied primarily on the persuasive daily routines of the penitentiary and not on corporal punishment. Even difficult cases should not be treated with force. Reformation will come about through the re-patterning of the prisoner's habits and not as a result of an attack on his body. It seemed to early penal reformers that the penitentiary's design and daily routines provided a mechanism to reform the criminal. In this view Eddy and other reformers may have been influenced by the work of Benjamin Rush with which they were familiar.¹⁰²

The design and organization of Newgate reflected certain assumption about the sources of crime and the nature of the criminal. Eddy located the root of crime in two domains; one individual and the other social. He noted early on the disproportionate representation of city residents (75%) in the population of Newgate. He traced this to the idleness, vice and dissipation of city life caused by the intemperance and an abundance of city taverns (1200 according to his count).¹⁰³ City residents were beset by the other temptations including horse

¹⁰¹. [Eddy], An Account, 32

¹⁰². Ekirch, "Thomas Eddy and the Beginnings of Prison Reform in New York," 379

¹⁰³. [Eddy], An Account 58-59

racing, billiards, games of chance and animal baiting. Every year a new distraction undermined regular habits.

In addition to these failures of individual character Eddy pointed to the increase in the city's population, the influx of "indigent and vicious emigrants" from Europe and the rapid growth of wealth which had led directly to luxury and corruption.¹⁰⁴ Eddy's concern for the excesses of luxury was shared by other republicans in the 1790s who feared it could undermine the new republic from within.¹⁰⁵

But the connection of crime with dissipation and luxury could be broken. He believed that even though the criminal was undisciplined, immoral and capable of every atrocity "all were once innocent" and could be restored through treatment.¹⁰⁶ Eddy judged only about 10% of the inmates at Newgate to be hopeless, "those now old in the habits of profligacy"; they should be separated from the rest. A second class consisted of men who in spite of some moral education were led into crime by "passion or evil example and who retained some sense of virtue." Men in the third class had a good reputation and were arrested for their first offense "even before they were familiar with vice, men who wished perhaps to return to the path of virtue but had not energy enough to trace the steps."¹⁰⁷ Eddy believed that reformation of the second and

86. Knapp, Eddy, 66

¹⁰⁵. Gordon Wood, The Creation of the American Republic, 1776-1878 (New York: W. W. Norton, 1969) 65-70; 108-116; 414-415; 610-611.

¹⁰⁶. [Eddy], An Account 51-52

third classes could be effected within the walls of the penitentiary. Eddy's discussion of the causes of crime resembled Rush's analysis with its emphasis on "habits". It is not surprising that they would be drawn to similar reform strategies.

Eddy also shared Rush's belief in the primacy of science, not religion, in reform as well as in the redemption of the criminal. They both intended to reconstitute a new republican citizen out of the fallen criminal. While Eddy stressed the importance of religious and moral instruction these were not his first concerns. He did little proselytizing among the prisoners and was much more concerned with teaching the habits necessary for citizenship. Eddy even went so far as to criticize his fellow Quakers for their preoccupation with morality at the expense of education.¹⁰⁸ Eddy wrote,

It is a system of addressing the intellectual and moral character of the man, of treating the convict as a being of a compound nature- both physical and spiritual that constitutes the peculiar merit of prison discipline¹⁰⁹

A comparison of Eddy's views with those of the Chaplain at Newgate, John Stanford, offers a contrast with a more direct religious approach. Stanford served as chaplain at Newgate for almost twenty years. While he is not officially listed until 1812 there is some suggestion that his tenure may have begun informally at an earlier date.¹¹⁰ The English-born and Episcopal-trained minister,

¹⁰⁷. [Eddy], An Account 51

¹⁰⁸. Ekirch, Eddy 43

¹⁰⁹. Knapp Eddy 95

¹¹⁰. Charles Sommers, Memoirs of the Rev. John Stanford D.D.Late Chaplain to the Humane

converted to the Baptists prior to his arrival in New York in 1786. He joined many of the same reform societies of which Eddy was a member. His ministry to various philanthropic institutions, including the prisons, began at the turn of the century.¹¹¹ Stanford referred to the prisoners at Newgate as his "Greenwich Congregation."¹¹²

Stanford's memoirs contain a series of accounts of his missionary activities at Newgate. In almost all of them he tells the story of a journey from crime and dissipation to redemption and true faith. He describes hardened men preparing to meet death without fear because they have religion.

In one poignant case Stanford follows the spiritual and physical journey of a twenty-year old inmate, J. B., over a three month period. Stanford notes the dual journeys; one from illness to death and the other from apostasy to conversion.¹¹³ Most of Stanford's cases followed the same pattern ending with death and reconciliation; in no case does he tell of the reformation and return of the prisoner to civil society. Stanford is clearly focused on redemption and indifferent to the social reformative concerns of Eddy. While these are differences of emphasis they juxtapose the social, if not secular, concerns of Eddy against the religious and spiritual interest of Chaplain Stanford.

Institution and Criminal Institution in the City of New York. (New York: Swords, Stanford & Co. 1835), 117

¹¹¹. Ibid., 14-39

¹¹². Stokes, V 1544

¹¹³. Sommers, 117-118

Eddy's effort to reconcile the scientific and the religious is most evident in his collection and publication of an annual statistical profile of the Newgate prisoners which he appended to An Account of the State Prison or Penitentiary House in the City of New York. Eddy believed that the statistics provided the empirical knowledge necessary for an evaluation of the penitentiary experiment.

Eddy's catalogued the annual admissions from 1797-1801 by race, gender, nativity and age. He also listed occupations, pardons granted and the health of the inmates. This concern for statistical knowledge which Eddy adapted from the Caleb Lownes is far removed from the view of the prisoner held by Chaplain John Stanford, a decade later where the only counting was of redeemed souls.

Eddy's statistical profiles tell us a great deal about the social characteristics of the criminal classes in New York City at the end of the eighteenth century. They also represent the first step in the identifying the criminal and the construction of a genus. He was especially concerned about the disproportionate number of foreigners and blacks in the prison population. He noted that while the blacks only represented 1/28 of the New York State's population they constituted 1/3 of Newgate's population.¹¹⁴

The key indicators of the efficacy of the penitentiary were reformation and expenses and Eddy concluded that in neither of these cases was the

¹¹⁴. [Eddy], An Account 86

expectation met.¹¹⁵ The assumption was that deterrent and reformatory objectives of the penitentiary would reduce crime rates and the size the prison population. However the number of recidivists increased and Newgate's population grew in regular increments.¹¹⁶ In early discussions with Lownes Eddy had projected an inmate population of about 200. Newgate census had reached 435 within two years, 550 as early as 1801, and reached 600 by 1816.¹¹⁷ Apartments designed for 8 men were housing 12 to 15 inmates in 1800 and by 1820 20 prisoners were jammed into each unit.¹¹⁸

Newgate's population moved beyond the planned capacity very rapidly as a response to increasing crime rates, aggressive prosecution, and population expansion. Some revisionist historians have suggested the possibility that the penitentiary created a penal space which was satisfied by a widening definition of criminal behavior. The penitentiary designed to reduce crime may have affected notions of criminality and contributed to an increase in the criminal population.

Overcrowding could only be remedied, at least in the immediate future, through the wholesale use of pardons. Eddy deplored this practice because it hit at the very core of reform ideology. Eddy complained to Governor Clinton,

¹¹⁵. Eddy to De Witt Clinton, 17 November 1818 Clinton Papers Special Collections, Columbia University.

¹¹⁶. Coffey, 55

¹¹⁷. The original plan called for the construction of a second penitentiary at Albany but that idea had been abandoned in 1797 and the \$20,000 allocated for the upstate penitentiary was shifted to Newgate. This may have contributed to the rapid increase in Newgate's population.

To pardon a convict is contrary to the nature and spirit of the penitentiary system, except a long term of good behavior of circumstances not known before the trial¹¹⁹

While he recognized the necessity of the practice given the overcrowding, he remained firm in his belief that pardons should only be used when there was evidence of reformation, and a recommendation from the inspectors that the prisoner has conducted himself

with uniform decency, industry and sobriety and has never attempted to violate any of its regulations and whether from what is known of his temper, character and deportment, it is probable that if restored to society he will become a peaceable, honest and industrious citizen.¹²⁰

In order for this to happen Eddy believed a prisoner needed to do "sufficient time to discover his real disposition...." no "man entering with vicious habits can expect to divest himself of this in less than 4-5 years."¹²¹ These comments reaffirm Eddy's commitment to reformation and his continued belief in the penitentiary even in the face of overcrowding and institutional lethargy.

Under Eddy's early administrative direction Newgate showed profits from 1797-1801 and seemed to be moving toward self sufficiency. But this pattern did not continue. Expenses quickly exceeded those of all other prisons. The drop in revenues was attributed to poorly trained and undereducated

¹¹⁸. Eddy to George Tibbitts, Stephen Allen and Samuel Hopkins 7 January 1825 in Knapp, Eddy 81

¹¹⁹. Eddy to De Witt Clinton, 17 April 1818, Clinton Papers, Special Collections, Columbia University.

¹²⁰. Knapp, Eddy, 73

¹²¹. Ibid., 73-74

inmates, who destroyed materials, instigated riots, and started fires.¹²² The riot of 1799 in which a bloody battle ensued between guards and inmates, and the suspicious fire of 1804 had cost lives and money.¹²³

The riots and fires, instigated by the prisoners protesting payments, the quality of food and work routines, raised doubts not only about Eddy's administration but more importantly about the reform agenda itself. While overcrowding, rising costs, and inmate resistance were the more obvious problems they along with contraband goods, including liquor and the easy flow of information undermined Eddy's reform administration. He resigned in January 1804 following the appointment of less friendly Board of Inspectors . These new political appointments were an ominous warning of the future politicization of the state prison system. Neither Eddy's standing as the founder of the Newgate nor his early work as an effective administrator could save his job.

Though Eddy now turned away from prison matters and began to doubt Newgate's future he never considered abandoning the penitentiary idea.¹²⁴ Eddy's abiding confidence in the institution was based on his assumption that the penitentiary as a mechanism of penal reform could be adjusted until the correct principles were discovered. He spent his later years determined to reform the internal arrangements and the physical design of the penitentiary. For Eddy

¹²². Eddy to Clinton, 17 April 1818, Clinton Papers.

¹²³. Stokes, V 1372; 1422

¹²⁴. Knapp, Eddy, 88

his experience reinforced the notion that architecture was the key to renewing the penitentiary.

Eddy was convinced that the problems at Newgate were rooted in the faulty design of the prisoner's apartments, an accusation he repeated many times. In a letter to Governor Clinton he described the connection between design and reformation. Newgate's construction did not provide for separation or classification of the inmates, Rooms calculated for about 8, "contained each night 18 men of all descriptions, crowded together, young and old, healthy and unhealthy, moral and immoral." The failure to isolate the criminals on from another meant they would corrupt each other, and young offenders would return to society completely hardened.¹²⁵ He wrote, that if rooms for prisoners should lodge but one prisoner the chance of their corrupting each other would have been diminished.¹²⁶ The failure of design to secure separation among classes of criminals transformed Newgate a house for reform into a school for crime.

This was for Eddy the key to the debacle at Newgate and the source of frustration for early penal reform in New York State.¹²⁷ What was needed was a different penal architecture one in which according to Eddy,

Without single night cells the task of reformation would never succeed. Experienced criminals would continue to corrupt the novices and conspire with others to undo the reform goals of the penitentiary.

¹²⁸

¹²⁵. Eddy to Clinton, 17 April 1818, Clinton Papers.

¹²⁶. [Eddy], An Account, 17-18

¹²⁷. Eddy was not alone in this judgement. William Coffey described the "radical defect" in the design as a "cancer." Coffey, 19.

In the words of one former inmate the penitentiary had become a place where, "young villains soon became old knaves."¹²⁹ Reform penology needed to break the hold of the prisoners on the penitentiary's sub-culture.

Eddy envisioned the single cell as the antidote because it compelled reflection;

In the silence and darkness of night the voice of religious instruction is heard. In his cell the convict is unseen and unheard and where nothing can reach him but the voice which must come to him as it were from another world telling him of things, which perhaps, never before entered into his mind; telling him of God, of eternity, of future reward and punishment, of suffering far greater than the mere endurance of the present life. Discovering he has a spiritual nature; and he is not the mere animal which his habits and hither -to uncontrolled propensities would indicate: and this is a discovery which alone, may, and does effect, a great change in a man's character...a new ambition is created....

It is this system of addressing the intellectual and moral character of man, of treating the convict as a being of a compound nature - both physical and spiritual - that constitutes the peculiar merit of the prison discipline....¹³⁰

A design which incorporates the solitary night cell with close daily supervision will restore the reform ideals of the penitentiary. What was needed was a modification in the design of the prison; the substitution of single cells for the congregate apartments used at Newgate. Eddy's critique of Newgate led him back to its original architectural rendering which he now concluded was flawed. Eddy was so convinced of the basic soundness of the conception of the

¹²⁸. Eddy to William Roscoe, 8 August 1818, Knapp, Eddy, 285

¹²⁹ Coffey, 54

¹³⁰. Knapp, Eddy, 94-95. One should note the affinity of this idea with the character of Quaker meeting and the centrality of quiet reflection and the invitation it offers to god, the inner light.

penitentiary that he does not search for alternatives but rather for modifications in its design.

The mechanism of renewal is thus embodied in the design of the penitentiary. Architecture contains self-sustaining principles which will lead to reformation. In attributing to architecture a moral dimension Eddy was foreshadowing the nineteenth century view that it was indeed a moral science. ¹³¹ Eddy was so dedicated to this proposition that he continued to agitate for the single cell throughout the second wave of penitentiary building in New York State from 1816-1828. ¹³² Eddy's ideas, though they did not bear fruit in the initial design at Auburn, were incorporated in to the remodeling of the north wing in 1823 and central to the construction of Sing Sing in 1825, the first penitentiary in New York State designed for the single cell.

His work at Newgate and his subsequent call for reforms strengthened the place of the penitentiary as the central element in the punishment of criminals in New York State. Eddy, who has been called the John Howard of America, remained hopeful that the penitentiary could, in spite of the shortcomings of Newgate lift the " Cimmerian darkness" which had come to characterize the life of a New York prisoner in 1820s. ¹³³

Eddy continued to hope that the State of New York would "have the honor of perfecting the present penitentiary by adopting this plan for the single

¹³¹. Rothman, 83

¹³². Knapp, Eddy, 76. Knapp contends that Eddy conceived the single cell plan and made it known to the public.

cell. Again we hear an expression of state pride in penal reform. The penitentiary would, he wrote,

become a durable monument of the wisdom, justice and humanity of its legislators, more glorious than the most splendid achievements of conquerors or kings; and be remembered when the magnificent structures of folly and pride, with their founders are alike extinguished and forgotten.¹³⁴

Even after his resignation Thomas Eddy sustained his faith in the face of Newgate's tarnished reputation and growing public doubts about penal reform. He remained true to the principles of his Quaker faith and the revolutionary call for penal reform. He continued to hope and work diligently to make the penitentiary an institution which honored his faith in the capacity of individuals to change.

Eddy's tenure at Newgate created an identification of the agent's personality and the health of a new institution. His experience provided the initial outline of a penal cult of personality. The history of the penitentiary was thus inextricably tied to the personality of the agent/warden. Dependence on the charisma of the administrator also raises doubts about the ability of the penal ideas and designs to sustain reform. Without Eddy-like characters we can expect a loss of direction and a sapping of the reform impulse.

Reformers, legislatures, and prison officials agreed that a new state penitentiary was needed to deal with overcrowding and the chaos at Newgate

¹³³. The phrase "Cimmerian darkness" comes from Coffey, 74

¹³⁴. [Eddy], An Account, 70

and to save the penitentiary ideal. But where could they turn to for new models. Newgate, which had begun with a promise by Eddy that it, "would be a durable monument of the wisdom, justice and humanity," was discredited.¹³⁵ In the absence of alternatives the only choices seemed to be tinker with Walnut Street model and to experiment with untested designs. Faith in the penitentiary as the essential form of punishment was so strong that the remedy for penal problems led to reforms in its design or its daily regime.

The proposal to build a second penitentiary was not a new one. As early as 1791 Eddy himself had suggested the construction of two prisons; one in New York City which was Newgate and a second in Albany. The legislature had rejected the latter as too costly and unsightly and wondered if New Yorkers want to adorn the state capital with a penitentiary? For the first two decades of its history New York tried to manage with one state prison, a decision which may have contributed to the overcrowding at Newgate.

In 1815 the control of the Legislature's State Prison Committee passed into the hands of a Federalist Assemblyman from Cayuga County, John H. Beach who shared Eddy's view that a second state penitentiary was needed but not in Albany or New York. Beach, a local booster, with banking and real estate interests, began to lobby intensively for the construction of the second state penitentiary in Auburn where construction costs would be lower, power was available from the Owasco River and land and building materials were cheap and locally available. Of course many of these advantages Auburn offered the

¹³⁵ . Lewis, Newgate. 35

State would not only benefit the economic life of the community but coincided with the interests of Beach himself. Unlike Eddy's efforts for Newgate, Beach saw political and economic advantage in the location of a penitentiary in his town. Politics which had come to play a critical role at Newgate was the determining factor in the selection of the site at Auburn.

In 1816 Beach's lobbying paid off. The State Legislature, followed the recommendation of the State Prison Committee, and appropriated \$20,000 for the construction of a new penitentiary and appointed site selection committee whose members including Beach, chose Auburn.¹³⁶ Though the legislature and the site selection committee were fully aware of the failures and the overcrowding at Newgate they ignored the design critiques of Eddy and others and returned to the Walnut Street model.¹³⁷ Thus we could expect few innovations in the construction of the Auburn penitentiary.

Beach honoring his promise to keep costs down induced a local farmer, George Casey, to donate six acres of land to the state for the new penitentiary. The gift was especially remarkable give the granite deposits it contained, its proximity to the Owasco River and the availability of state funds to purchase the land. Either Casey had a remarkable sense of civic duty or some hidden advantage was going to accrue to the town. The hidden advantage may have been the damming of the Owasco River, which would provide cheap water power to the penitentiary and Auburn businesses as well.

¹³⁶ . Richard Here. (Ed.D. diss., Pennsylvania State University, 1950)

William Brittin, a local builder, was hired to supervise the construction. He assembled a crew of Beach cronies and local contractors, along with free laborers and convicts. The mixing of free and unfree labor posed immediate problems. Freemen were often required to witness and even participate in the disciplining of prisoners, unfree workers with whom they identified. The sense of camaraderie they free felt for the prisoners inhibited Brittin's ability to use corporal punishment to discipline the construction crew. The irony of building their own prison was not lost on the inmates. While the citizenry and even the free workers found poetic justice in the idea of the construction costs being partially born by the labor of criminals, the inmates prisoners reacted violently, clashing with free laborers and setting several fires. In addition to these ongoing construction delays there was the discovery of an Native burial ground on the site; work waited on the removal of baskets of skeletons.¹³⁸

On June 28, 1816. New York State opened its second penitentiary to serve upstate and rural New York. Thus the state legislature was operating with a rural-urban principle of division in selecting prison locations. Newgate, would serve the city and Auburn rural and northern sections of the state. The new penitentiary contained 28 congregate, apartment-like cells, each with a capacity of 8-12 men and arranged in two wings extending back from a central administration hall which linked the northern and southern sections. Shops were constructed behind the main cell block and within the enclosed wall. While

¹³⁷ . Lewis, Newgate. 57-58

¹³⁸ . Herr, 37

Auburn was imitative in design its capacity of 500 inmates exceeded that of Walnut Street and Newgate.

William Brittin, having supervised the construction of Auburn, now faced the task of creating a regimen for daily life inside the prison. The lessons of Newgate's failure were not lost on Brittin. His priority was to check conspiracies, prevent smuggling of food and contraband and avoid rioting. But Auburn quickly became another Newgate. Riots, fires, smuggling and brutal punishment came quickly. Public confidence and legislative patience reached such a low point that there was open talk in 1818 of abandoning the penitentiary idea altogether.¹³⁹ While much of the blame was placed on the failure of the new institution and the rejection of corporal punishment the source of the problem can be traced back to the dislocations caused by the War of 1812.

The economic impact of the War on New York was devastating. In 1814 and again in 1819 Newgate found the market for its prison- made goods closed because of economic conditions caused by the War.¹⁴⁰ As Newgate's revenues declined conditions in the prison deteriorated. Inmates became unruly and revenue starved administrators were increasingly preoccupied with the maintenance of order; reformation became a secondary if not irrelevant concern. The internal crises was exacerbated by a doubling of the rate of imprisonment and increased criminal activity generated by the large body of unemployed ex-soldiers. Social order was threatened not only by rising crime rates but also by

¹³⁹ . Lewis, Newgate. 61

an increase in poor relief raising the specter of social fragmentation and dislocation.¹⁴¹

Social anxiety now clouded the discussions of social reform. Some penal reformers pondering the increase in the rates of imprisonment wondered if the penitentiary could either reform criminals or deter crime.¹⁴² State legislators concluded that the roots of the crises could be found in the leniency of a system which, "rarely produced any good effect... they (the prisoners) perceive their punishment is light for neglecting to do their tasks they become quite indifferent."¹⁴³ Failures in the system were laid at the door of administrators who now faced accusations of being too soft, a charge which not only relieved the legislature of any direct responsibility but also had a good deal of public support.

The legislature began to develop a series of penal axioms which would govern many policy debates and decisions well into the nineteenth century. The first was that lenient treatment of inmates and increasing costs were correlative. Leniency, the collapse of internal discipline, made it difficult if not impossible to organize inmates into a productive work force and inevitably led to reduced revenues, institutional deficits and larger State appropriations. They concluded from this series of facts that leniency increased prison costs.

A second axiom explained the continuing overcrowding of the system and the concurrent inability of the penitentiary to either deter crime or reform the

¹⁴⁰ . Lewis, Newgate. 44

¹⁴¹ . Klein, Legislation 94; Miller , "Dread," 257

¹⁴² . Lewis, Newgate. 61

criminal. An increase of inmate populations did not as many nineteenth century reformers believed, reduce crime but rather led to recidivism and higher rates of incarceration, a clear indication of the failure of the penitentiary to break the prison sub-culture and to prevent the hardened criminals from corrupting first offenders.¹⁴⁴ They concluded that the penitentiary continued to serve as a school for crime.

These failures were especially disturbing given the hope and optimism which accompanied the early years of the penitentiary's history. State lawmakers believed that kindness and mild treatment failed to reform the criminal but rather emboldened him and did not deter future criminal behavior. A tougher punitive approach was needed to truly break the prisoner.

Symptomatic of this disillusionment was the 1817 law in which the State legislature mandated the death penalty for any inmate committing an assault on any prison keeper or official. Kind treatment and administrative patience was giving way to capital punishment. The legislature had concluded that inmates were regularly conspiring, openly hostile and quick to challenge prison authority. Agents and keepers were not an even match for inmates who by 1820 seemed more dangerous and more determined to resist.

But even this threat of capital punishment did not work. In June of 1819, as word of the a bloody riot at Newgate reached state officials, they were quick to turn to harsher measures. Within the year flogging was re-instituted

¹⁴³ . NYSA Journal 44th Session. 1820-21. 218

¹⁴⁴ . Klein, Legislation. 90; NY SA Journal Session1820-21. 440

with the sanction of the Legislature. Recalcitrant inmates could now legitimately receive corporal punishment. Although the new law limited a single flogging to 39 blows and required the presence of the principal keeper it clearly signaled the renewal of the attack on the body.

One year before the 1819 riot at Newgate the State Prison Inspectors had warned that the, "mild system seldom reclaimed the vicious and a better one must be raised."¹⁴⁵ Greshom Powers, the agent at Auburn, warned in 1820 that public opinion was so dissatisfied with the existing method of penitentiary punishment that the old sanguinary code could be restored¹⁴⁶. Samuel Hopkins a State Legislator and prison inspector, complained that, "having for 25 years employed our sympathy and resources for the comfort of the criminal part of our societies, now our duty is to look toward the innocent."¹⁴⁷ The penal experiment in mild treatment was floundering and on the brink of failure. The growing demands for harsh and corporal punishment threatened to push the State back to the sanguinary punishments of the eighteenth century. This marked a critical juncture in the history of the penitentiary.

The New York State Legislature, acknowledged the crises when in a debate in 1820-21, it framed the question to be the, "continuance or abrogation of the penitentiary system of punishment."¹⁴⁸ The Assembly Committee on

¹⁴⁵ . Herr, 40

¹⁴⁶ . New York Assembly Journal 1828 #51. 51

¹⁴⁷ . Lewis, Newgate, 64

¹⁴⁸ . NY SA Journal 1820/21 44th Session. 215

Prisons backed away from "abrogation" and urged "continuance". They recognized that, "while there are undoubtedly evils of great magnitude ...that at present exist in the arrangement of our prison ... we are fully persuaded they can be palliated."¹⁴⁹ The Committee believed that the crises in the prisons could be solved by making the penitentiary a place which truly punishes the guilty through a plan of "dread and terror."¹⁵⁰ Thus the Legislature was prepared to salvage the penitentiary by imposing a radically tougher regime. This critical moment of doubt in the early history of the penitentiary led not to dismantling of the penitentiary but to its hardening. The life of the penitentiary would be extended, in the face of this formidable criticism, by adopting a tougher approach to internal organizational. The plasticity of the penitentiary is clearly evident. An institution which could held the keys to reform could just as easily become a place of dread and terror.

The penitentiary survived this first onslaught and endured. The durability of the penitentiary, in the face of not only the criticism of early nineteenth century New York legislators but throughout the nineteenth century, remains a perplexing historical question. Were there no alternatives to the penitentiary or did the supporters believe so deeply in the structure that no criticism no matter how severe could dislodge the idea from its central role in the system of punishment. Legislators, reformers and at times the general public decried the institution but never abandoned it. The resolution of the crises of

¹⁴⁹ . NYS A Journal 1820-21 44ht Session 216

1820/21 not only extended the life of the penitentiary but initiated the pattern of reform and reaction, mild treatment followed by harsh punishment which in turn would be challenged by a second wave of reformers.

Prior to the full debate of 1820-21 the State Legislature had in 1819 reorganized the existing northern wing at Auburn. Under the direction of the first agent William Brittin a five tier block of solitary cells was constructed within the existing institution. Brittin who used the cell block at St. Michaels as his model, was able to complete the renovation in 1821 in spite of a costly fire.

In March of 1821 the Legislature outlined a new classification system for the remodeled North wing at Auburn. Hardened criminals- capital and repeat offenders - would be placed in solitary cells while the less dangerous would be confined in congregate cells and the least dangerous would work in groups during the day and be confined in solitary cells at night. At the center of the new classification system was the idea of solitary confinement whose simplicity and harshness answered many of the criticisms of Newgate and Auburn.

The introduction of solitary confinement was the culmination of a long standing fascination with the idea. The solitary idea had grown in popularity during the second decade of the nineteenth-century thanks largely to the success of the new Pennsylvania penitentiary at Eastern, on the outskirts of the Philadelphia where reformers adopted a variation of mild and humane punishment. But hard liners were also pleased by the retributive quality of solitary confinement. Both groups seemed to agree that "no radical change can

¹⁵⁰ . Lewis, Newgate. 62-64

be effected until the stubborn spirits are subdued and their depraved hearts are softened ... and made to endure great suffering, that applies as much as possible to the mind".¹⁵¹ The awful isolation and depravation of solitary provided sufficient dread and terror to break down inmate recalcitrance and undermine the prison sub-culture, the powerful disruptive elements which had weakened Newgate and threatened to do the same to Auburn. Isolation would make it impossible for inmates to communicate and plot. The only contact with the outside world would be in the form of the daily meals. The classification of inmates into three categories was also aimed at eliminating the schooling of youthful prisoners in crime which had become one of the by-products of all early prisons. While those demanding a tougher line would be satisfied with solitary confinement, reformers could take encouragement from the renewed focus on the mind. Again we see the capacity of the penitentiary to accommodate a variety of penal strategies even ones diametrically opposed.

Solitary confinement was also efficient; it required a smaller staff and cost less to maintain. Here we had the union of frugality and toughness; inmates would be harshly punished at bargain daily rates. The burden of physical punishment would now be shifted back to the prisoners.

On christmas day 1821, New York State initiated its own experiment by placing eighty of Auburn's most hardened criminals in solitary confinement, and unlike the regimen at Eastern, they were given neither work or exercise. Their isolation was complete. In its search for a better institutional arrangement

for the penitentiary New York State began a harsh penal experiments in "mental suffering."¹⁵² For a moment New York thought it had found a design for dread and terror but the experiment was a quick and disastrous failure.

In 1822, within a year of its inception, the Auburn prison physician reported that half of the deaths at the prison and a number of cases of insanity and occurred in the solitary cells. He related one account in which an inmate in solitary banged his head against the cell wall so many times that he destroyed one of his eyes.¹⁵³ A few months later in 1823 Governor Yates was so shocked during his visit to the solitary wing at Auburn and the plight of the men, who were suffering from consumption and insanity, that he ordered the immediate release of all in solitary and granted them pardons. As if to underscore the Governor's shock when one cell door was opened the inmate leaped from the fourth floor catwalk to the pavement below in an attempted suicide.¹⁵⁴ While mental suffering, dread and terror characterized the experiment it came at too high a price. In addition to the deaths and insanity solitary confinement did not reform or deter the inmates from future criminal activity. Twenty of the survivors of the experiment would soon return to Auburn as second and third offenders.

Solitary confinement was not the panacea that reformers and legislators had hoped for. And although the intention was to remain focused on the mind as the target of punishment and the agent for reform, in reality solitary t

¹⁵¹ . Ibid., 68

¹⁵² . Ibid.,

¹⁵³ . Powers, Brief Account. 44-45

broke the prisoner's mind and crippled his body. Growing disillusionment and eventual rejection of this approach compelled New York to renew its search for a viable a new institutional arrangement.

In 1824 the State Legislative Committee on Prisons completed its investigation of New York's penitentiary and officially ended the experiment in solitary confinement. Prison Commissioners Allen, Hopkins and Tibbetts drew three basic lessons from the short history of the penitentiary in New York. They concluded that convicts in the past had not been treated with enough severity, too much faith had been placed in reformation and radical changes were needed in the organization of the penitentiary if it was to be salvaged.¹⁵⁵ Allen, Hopkins and Tibbbitts considered themselves reformers but of a different stripe. The change they advocated was the adoption of the hard line which had been gaining momentum since 1817. They constituted a new variety of penal reformers who departed from the humane and mild approach of Thomas Eddy and the first generation. This shift in attitude would now guide state policy and be a decisive influence in the design of Sing Sing whose construction would be guided by these same three commissioners.

The administration at Auburn began to pick up the pieces in 1823 from the solitary experiment. The State Commissioners, John Cray, the Auburn architect and Elam Lynds, retained the classification system from 1819 and modified the northern wing of the prison to accommodate single night cells and

¹⁵⁴ . Ibid.

¹⁵⁵ . Lewis, Newgate. 82

congregate work areas for the day. Men would be isolated in the evening and work in common and in silence in the day. As the state continued to improvise it now turned away from the solitary approach to a reliance on work and silence as the organizing principles for the future.

But the financial concerns which had made the frugality of solitary experiment so enticing would not go away. Work which had been used in the House of Correction and the Workhouse as a retributive and disciplining device now could be used to make the prisoner pay his way, an idea which had both financial and moral implications. If the inmate, as a result of this new work regime, gained a marketable skill it would be a fortunate by product although not a primary objective of the silent congregate system.

In January of 1823 the Newgate inspectors endorsed the Cray-Lynds plan and proposed an extension of the silent congregate system in the form of county workhouses. William Coffin, Newgate's principal keeper, embraced the reformatory possibility of work in the Cray-Lynds arrangement which, he thought, promised a new future for the prisoner for whom "only work would enable him to earn a good living... and become a more useful member of society".¹⁵⁶ Again one should note the conflicting expectations placed on the organization of the penitentiary by the state and prison officials. Could one institutional arrangement satisfy the desire to punish harshly, reduce costs and transform the criminal into a productive citizen.¹⁵⁷

¹⁵⁶ . Klein, Legislation. 105-106.

Temperate voices like, Gulian Veplanck, while approving the inclusion of work in the new system warned his fellow legislators to avoid placing too much confidence in any untried new schemes or pre-conceived theories. He urged a re-evaluation of the central relationship between labor and discipline.¹⁵⁸ Verplanck's emphasis on the practical, his cautious view of reform ideas and his linking work and discipline reflects the pragmatic nature of penal reform in New York State.

Another glimpse into the evolution of the State's penal philosophy in the 1820s can be found in the September 1826 trial of an Auburn Assistant Keeper charged with the use of excess force in the punishment of an inmate. In his charge to the jury presiding Judge Walruth made it clear that the penitentiary system itself was on trial. Walruth began his instructions with a thumbnail sketch of penal reform in the State. He noted the failure of various penal innovations, to deter crime. He complained of the abuse of the pardoning power which in order to make room for new inmates threw upon society, "a gang of hardened criminals." He reminded the jury of the recent calls for a return to corporal punishment. Walruth concluded his review of the state of the penitentiary in the mid 1820s not with a call for its dissolution but rather pointed to the need for a more tightly administered system. He argued that the only way to produce reformation in the guilty or to restrain the villainous from the perpetuation of crime is "through the terms of punishment" which should make the convict "feel

¹⁵⁷ . Ibid., 106

¹⁵⁸ . N.Y.S.A. Journal 1828 51st Session. 63-66

his degraded situation" and come to understand the difference between his situation and that of the "upright and honest freeman who labors for his daily bread." He cautioned against a misapplied sympathy for the offender which was an injustice to the mature part of the community. Instead, he continued, we must recognize that it is through "the terms of bodily suffering alone, that the proper effect upon the mind of the criminal was produced." This could only come about however if prison discipline were rigidly enforced by the active infliction of bodily pain for after all we should not forget that, "convicts are not ordinary men...they should feel that they were in reality slaves of the state"

It is not surprising, given this charge, that the jury acquitted the Auburn Assistant Keeper and in effect condoned his use of deadly force. The verdict indicates a hardening of judicial attitudes toward the penitentiary by the mid 1820's; the tough line was gaining more adherents. Not only was a discernable shift taking place but Walruth's linking of the treatment of the criminal with the honest freemen suggest that the issue of punishment reached beyond the halls of the legislator and the salons of the reformers but included a new constituency - the public. The penitentiary should clearly mark the difference between the criminal and the freeman. It had a role to play in identifying and separating one from the other.

A more pragmatic view of the penitentiary was emerging by 1825-1826 shaped by the riotous history of Newgate, the outbreaks of violence at Auburn, and the continuous overcrowding which necessitated wholesale pardons. Overcrowding was an indictment of the system because it documented the

failure of the penitentiary to deter crime and reduce the number of criminals. Persistent overcrowding, not only made prison officials doubt the efficacy of reform and humane treatment, but pressured administrators to control dangerously large numbers of prisoners. In the face of this kind of pressure little time or inclination remained for schemes of rehabilitation.

By the middle of the 1820's New York State found itself disillusioned with penal reform. A series of experiments, born with great hope, failed dismally, disappointing reformers. Yet these failures in humane punishment and the persistent overcrowding compelled the State to search for an appropriate penal form. What architectural design and internal organization would deter crime and reform the criminal? What had the State legislators and reformers learned from three decades of trial and error. Did the newest innovation in the North wing of the Auburn penitentiary hold any promise? By 1825 the penitentiary remained an unproven institution with an embarrassing public record of failure which had chastened most reformers and strengthened the hard liners. Yet no one seemed ready or eager to abandon it.

Chapter 3

The Construction of Sing Sing 1825- 1828

“The one punishment dreadful enough to act as a deterrent”.

New York’s prison system had been in the grips of a prolonged crises, marked by the economic dislocation of the post war period, rapid increases in prison population, internal disruptions at Newgate, and the scandalous abuse of the pardoning power. The failure of the solitary experiment at Auburn drove the New York State Legislature to experiment at Auburn in 1824 with the silent-congregate form, group work in silence and solitary night cells, an innovation which was quickly embraced as the answer to the penal riddle of punishment and reformation.

New Yorkers took great pride in what they soon came to call the “Auburn system” believing that it offered a better alternative than the solitary model in use at Eastern State in Pennsylvania. But Auburn constituted only a partial remedy for New York’s troubled prison system. The early successes at Auburn served to highlight the costly failures at Newgate, which had begun with the kind of high expectations and confidence that would greet other penal innovations in the State, now collapsing under the burden of riots, deficits and overcrowding.

Reformers and legislators considered tinkering with the congregate arrangements at Newgate and at first proposed a remodeling which would replicate Auburn's north wing experiment and the single cell design. But a growing body of legislators, including a special State Investigating Committee, argued that Newgate's design was so fundamentally flawed and its history so scarred that the institution was unredeemable. The committee concluded in 1824 that Newgate had been created without fully understanding "that upon the structure of a building mainly depended the success or failure of their benevolent design."¹ Newgate had failed to sustain its reform goals and had deteriorated into a "school where vice is taught and the whole of the edifice is ill adapted to the purposes intended"² In the emerging penal lexicon the designation "school of vice" suggested the loss of all reform possibilities and the triumph of prison sub-culture-tantamount to an institutional death sentence. When an investigating committee of the State Legislature compared the \$40,000 estimated cost of renovating Newgate to the \$60,000 for the construction of a new eight hundred cell state penitentiary its fate was sealed.

The Committee recommended a new penitentiary with an unprecedented capacity of 800, far beyond anything then in existence in the United States. New York legislators were thus not only contemplating replacing an overcrowded Newgate but thinking on a new massive scale. The justification for this projected capacity was the pattern of wholesale pardons in the 1820s; New York's ad hoc

¹. NYS S Journal (1825), 175

². Ibid., 176

response to overcrowding. From 1820 to 1825 New York State granted 740 pardons; only 77 convicts served full terms in state penitentiaries in the same period. In 1826, after the introduction of the single cells at Auburn the problem of overcrowding was so severe that the State was compelled to pardon 449 men, a significant jump from the 286 pardons granted in 1823.³ In the context of such an overloaded system it was commonplace for inmates with the aid of friends, politicians, pardon brokers to anticipate shortened sentences.

The scandalous use of the pardoning power is illustrated in the case of James Wilson, an Auburn inmate, serving five years for grand larceny who had also done time in South Carolina and Massachusetts. Wilson with the aid of a co-conspirator and a concealed weapon attempted an escape from Auburn in the summer of 1825. In the botched escape Wilson inflicted serious injury on a keeper and was in turn himself badly hurt. While recuperating in the hospital the audacious Wilson, with the help of friends, successfully petitioned the Governor for a pardon. His story documented the lack of any systematic qualitative criteria for making such judgments and the haphazard manner in which pardons were granted. Only in a chronically over-crowded system could inmates with the criminal history of a James Wilson find themselves freed while recovering from the injuries suffered in an attempted escape. New York State needed a new state penitentiary which would not only reverse the dismal record of Newgate but would provide sufficient cell capacity to end the pattern of generous pardons.

However State legislators were reluctant to acknowledge the issue of overcrowding because it touched on the question of recidivism - the litmus tests for the effectiveness of the penitentiary. If the penal system was working to reform and deter the criminal, general wisdom held that rates of imprisonment should decline. Yet New York found its prisons persistently overcrowded leading to the conclusion that the penitentiary was at fault. Given these assumptions one's first response to the penal crises would not be to build another penitentiary. Yet that is exactly what New York chose to do.

The issue of overcrowding in the 1820s needs to be evaluated in the context of the growing population of New York City and the nation. In 1800 New York, Boston and Philadelphia with a total population of 150,000 provided 800 prison cells; a ratio of one cell for every 200 citizens. If that ratio was to be maintained the states of New York, Massachusetts and Pennsylvania required over 6,000 cells in 1850 when their populations had reached 1.25 million. The new scale represented by Sing Sing is in part a response to the increases in urban population. However we should recall that the change in the criminal codes and the movement away from sanguinary punishment at the end of the eighteenth century also increased New York's prison population. Thus the growth in penal capacity was a result of both the short and long term patterns in New York State's treatment of the criminal.

One could argue that the increase in prison capacity was a result of a system that acquired its own momentum and from states which found the

³. Ibid., 177

population necessary to fill the increased cell capacity by criminalizing the marginal in a more aggressive fashion. The scale of the penitentiary proceeds from increases in the number of criminals, the levels of crime and prior increases in capacity leading to resultant expansion of the criminal classification. This argument would point to the leap New York made from one State penitentiary in 1796 with a capacity of 400 to two penitentiaries in 1830 with a combined capacity of 1400. Rising crime rates and reform impulses alone may not explain the increased capacity of the state's penitentiaries.

One early consideration of the Investigating Committee involved the expense of renovating Newgate against estimated cost of building a new penitentiary. The legislature balked at the cost of constructing a new and larger penitentiary in the face of little if any evidence that prisons reformed the criminal or contributed to any decline in recidivism. It is only the severity of the crises of the 1820s that forced the State of New York to overcome these apprehensions and to act.

The Legislature divided the state into two penal districts; one would serve New York City, Long Island, Westchester and the five adjoining counties on either side of the Hudson while a second district containing the remainder of the state would be assigned to the existing penitentiary at Auburn. In March of 1825 the legislature appointed Stephen Allen, Samuel Hopkins, and George Tibbitts to a special committee with the mandate to select and acquire a site, and supervise the construction of a new 800 cell penitentiary. ⁴ The Committee was

explicitly charged to follow the Auburn model (the north wing) in the design and construction of the new prison having concluded that, “from a comparison of the discipline observed and enforced in the two prisons (Auburn and Newgate) and the differences in their *construction* the excellence of one and the serious defects of the other must be manifest...

Their frustrations with the failures at Newgate pushed them to take a hard line in their planning. Sing Sing should maintain,

a rigorous and uniform discipline among the prisoners as an indisputable requisite to the success and prosperity of the system; and that can only be enforced in a prison so constructed as to admit of separation, confinement and solitude of the convict, at all times except during the hours of labor.⁵

The architecture of Sing Sing would thus correct the design failures of Newgate.

While they maintained their confidence in the power of architecture the legislature also recognized that much depended on the administration of the new institution. Rigorous enforcement of the code of silence would eliminate “all evil combinations”, the kind which the committee believed had undermined Newgate. Thus while they emphasized the way “a night spent in a dark and solitary cell was an opportunity for the mind, harrowed with a recollection of a wasted life, for remorse and repentance” they also appreciated the way it would “develop a patient and submissive demeanor in the convict.”⁶ This was a remarkable article of faith in the face of evidence to the contrary. Unlike Eastern Penitentiary

⁴. The words Sing Sing derive from the local natives the Sint-Sincks who inhabited the area before European settlement.

⁵ NYS S Journal , (1825) , 175

⁶. Ibid.

in Philadelphia where the architecture and the solitary system were correlative Sing Sing would have the complication of congregate work which threatened the rule of silence and thus required close supervision.

The Commissioners followed three guiding principles in shaping the design of new penitentiary; the single night cell, congregate work and silence. Their recommendations expressed the growing legislative view that emphasis on retribution and deterrence was needed to counter the weaknesses of schemes based on kind treatment.

While the shift to a hard line was a logical outgrowth of the failures at Newgate the attitude of the individual committee members toward penal reform also played a key role in shaping the plans for Sing Sing. Allen, Hopkins and Tibbetts were not strangers to the issues of reform penology. They had been members of the 1824 State Prison Investigating Commission which visited Newgate and Auburn and concluded that,

the beneficent influences and the tendency to reward good behavior had their limitations; the former did not produce reformation and the latter proved more an incentive to rely on public and private bounty.⁷

To counter these tendencies the commissioners recommended that crime and pauperism be made distinctly uncomfortable ways of life.⁸ The three commissioners brought these tough attitudes to Sing Sing.

⁷. NYS S Journal, (1827), 59

⁸. Ibid.

Stephen Allen, a New Yorker, was a good example of an early nineteenth century humanitarian reformer. He combined a career in government, serving as Mayor of New York City and as a State Legislator with extensive reform activities including service as President of the Society for the Reformation of Juvenile Delinquents and as Administrator of the House of Refuge.⁹ His experience with juveniles had led to a clear distinction in his mind between the youthful offender about whom he retained hope for reformation and the hardened adult criminal who did not have the "same claim upon our commiseration that the honest and unfortunate part of our species have."¹⁰ He was convinced that the reformatory approach, "the system of attentive kindness and forbearance has failed and will fail whenever and wherever put into operation."¹¹ Allen would bring a very chastened view of reform to the committee's work.

Samuel Hopkins, whose commitment to reform was inspired by a religious conversion in 1821, was a Federal and State legislator who as an active participant in the New York Society For the Prevention of Pauperism and helped prepare its 1822 "Report on the Penitentiary System in the United States" which criticized state prisons for poor design and construction, overcrowded cells and the abuses of the pardoning power. The Report recommended a tougher regime built around solitary confinement, the one punishment dreadful enough to act as

⁹. M. J. Heale, "Humanitarianism in the Early Republic: The Moral Reformers of New York 1776-1825", Journal of American Studies, (1968) #22, 161-175.

¹⁰. Lewis, Newgate, 82

¹¹. Idid.

a deterrent.¹² Hopkins wrote that, "punishment must include suffering, such suffering as will excite feelings of terror and then, the highest and best purpose of punishment is answered."¹³

The third member of the commission was George Tibbitts, a successful Troy businessman, an experienced legislator having served in Congress and the State Legislature where he was instrumental in the financing of the Erie Canal. He may have known fellow Troy resident Elam Lynds, Sing Sing's first agent. While Tibbitts shared a religious outlook with Hopkins he was probably chosen for his financial expertise.

The Commission informally surveyed the existing penitentiaries in the eastern United States and Europe. Their commitment to the Auburn model was reaffirmed when they chose Elam Lynds, its Principal Keeper to supervise the construction of the Mt. Pleasant Penitentiary as it was originally designated.¹⁴ Lynds prepared for his new assignment with a visit to the New Hampshire penitentiary which was successfully employing prisoners in quarry work. He joined the Auburn silent congregate arrangement with quarry work as key determinants for the site selection and guides for the design and organization of the new prison. The Commission, in accord with Lynd's views, explored two potential quarry sites; one at Manhattanville on the Spuyten Duyvil, at the southern end of Marble Hill, and a second at Sparta, a Hudson River town, in

¹². M.J. Heale, "New York Society for the Prevention of Pauperism"

¹³. Miller, "Dread " , 256

¹⁴. Sing Sing was a village in the town of Mt. Pleasant.

Westchester, 31 miles north of New York City.¹⁵ In addition to the potential for a prison based quarries both sites were on rivers offering easy transportation of goods and men to and from New York City. The river based location of Sing Sing would give rise to the colloquial phrase, "going up the river" used to describe New York City criminals who were sentenced to the new state penitentiary.

Elam Lynds, a transplanted Yankee, grew up in Troy, New York in a middle class family. He served in the War of 1812, achieved the rank of Battalion Commander, and gained the military experience which in the early nineteenth century qualified an individual for prison administration. He would bring to the penitentiary the pugnacity of the parade ground which made him the prized candidate of the hard liners. Lynd's penal career began at Auburn where as Deputy Keeper, he worked closely with John Cray the man responsible for the design of Auburn and the remodeling of the north wing.

Lynds drew some hard lessons from his Auburn experience which occurred during a time of tumult and uncertainty in the early 1820s. His tenure as Agent and Principal Keeper which began in 1821 left him with little hope for reforming the criminal and the real doubt about the ability of a penal institution to transform a criminal's character.¹⁶ Lynds' penal conservatism was grounded in his

¹⁵ . William Tieck, Riverdale, Kingsbridge, Spuyten Duyvil (New Jersey: Fleming Ravell Co., 1968), 49, 128. The quarry was operated by John and Curtis Bolton and had been closed in 1824 making the site available for other uses. Marble Hill , along with Kingsbridge, was part of Westchester in the early nineteenth century. The villages of Sparta and Sing Sing were both in the town of Mt. Pleasant and competing for domination of the area . The role of the prison in determining the outcome of this rivalry is uncertain. .

¹⁶ . Torsion Eriksson, The Reformers: An Historical Survey of Pioneer Experiments in the Treatment of Criminals, (Elsevier, 1976) 50

fundamental belief that prisons needed to instill respect by breaking the inmates spirit and reducing him to, "a silent and isolated machine."¹⁷ Indeed for Lynds this first objective could only be accomplished in a penitentiary whose daily regiment was tightly organized and whose inmates were closely supervised. These hard line attitudes established Lynds as the folk hero of the hard liners and his appointment to build Mt. Pleasant would leave a distinctive mark on its early history. Even reputable first generation post Revolutionary reformers like Thomas Eddy embraced Lynds "enthusiasm for the penitentiary."¹⁸ Edward Livingston, a leading penal reformer, agreed; "courage and, firmness, and knowledge of human nature compensate for his overzealousness in certain areas."¹⁹ The endorsement of these two major figures of early American reform penology reflects a growing disillusionment with kind and moral treatment. The willingness to overlook the reported excesses of the Lynds' regime underscores the desperation of the mid-1820s to reshape the penitentiary to inflict harsh punishment.

The commission selected the Silver Mine Farm at Mt. Pleasant north of the village of Sparta and just south of the town of Sing Sing.²⁰ The location won out over Manhattanville because the quarry was judged to be of better quality and

¹⁷.Lewis, Newgate, 88

¹⁸.Ibid., 89

¹⁹.Ibid., 88

²⁰. J. Thomas Scharf, History of Westchester County, New York 2 vols. (Philadelphia: L. E. Preston &Co. 1886), II 322-324

abundant enough to provide the basis for a long term, profit-making prison industry. The commissioners believed that,

the benefits which will result from the location of a prison at this place and the employment of the convicts at the business of stone cutting ... for a great length of time if not for all future time will support it without any further charges on the State. ²¹

The commissioners were keenly aware of the State's objectives of making the new penitentiary economically self sufficient and durable, "for all future time."

The country site was selected not only because its potential profitability but also for the assumption that general expenses would be cheaper outside the city. But economic considerations were not the only concerns of the commission. If the penitentiary was to separate the criminal from the corrupting influences of society a location 31 miles from the city seemed sufficiently isolated. They had found a "salubrious" location favorable to the moral health of the prisoners. ²²

The rural location of the penitentiary was influenced by the work of John Howard who recommended the open country, on the rise of a hill and near a running stream. The Mt. Pleasant site although not on high ground was in the country and near water. By removing the prison from the everyday life of the urban environment, and severing the criminal and his punishment from the neighborhood and its residents Howard was abstracting the prisoner from the community. ²³ Rural isolation would also insulate the city from the social danger of prison riots and remove a disruptive element from the urban landscape. Rural

²¹. NYSS Journal 1825. 62

²². NYS S Journal, (1825), 62

segregation may have also contributed to the development of the concept of a dangerous class; one which needed to be isolated from other classes.

In March of 1825 the State appropriated \$20,100 for the purchase of the Silver Mine Farm and Lynds hired Ossining civil engineer George W. Cartwright to prepare the plans for the cellblock using the north wing at Auburn as the model.²⁴ Cartwright and some local friends had previously tried unsuccessfully operate the Silver Mine which the state subsequently purchased for the new state penitentiary.

Lynds then selected one hundred inmates from Auburn mostly experienced stone cutters and masons. He was reluctant at first to use Newgate prisoners given their record of difficult behavior. They had not been through the “breaking in” process of the Auburn inmates and would according to Lynds not be immediately productive.²⁵ Lynds also shared the anti-urban bias and characterized Newgate inmates as recalcitrant and dangerous.

The Auburn “one hundred” shackled and tightly guarded arrived at the Mt. Pleasant site on May 14, 1825 with no shelter to protect them and no wall to secure them. They immediately set about the task of erecting temporary barracks, a kitchen and a carpenter’s shop and within a few days began the slow and arduous task of quarrying, finishing and dressing the stone for the main cellblock. On close inspection the quality of the stone proved disappointing; it

²³. Robin Evans, "Prison Design 1750-1842" (Ph.D. diss. University of Essex 1975), 107

²⁴. Copies of the original drafting plans are in the archives of the Westchester County Historical Society.

was of uneven quality and difficult to extract. A mountain of stone which stood on the building site had to be removed and replaced with fill. This slowed the work and required additional weeks of labor.

In an effort to contain costs, an objective shared by both the legislature and prison officials, Lynds employed few outside laborers and craftsmen. But cost was not the only concern for Lynds. He did not want to repeat the disasters which marked the construction of Auburn when free laborers mixed with the inmates, often took their side in disciplinary issues and indirectly encouraged the fires and riots of 1817.²⁶

Construction moved slowly; by 1827 only 428 of the projected 800 cells were completed. Costs doubled; the original estimate of \$60,000 jumped to \$126,000 by 1828. While these overruns were a cause for concern, and an ominous warning of things to come, they would be offset by the sale of Newgate to the City of New York for an estimated \$100,000. The legislators seemed unperturbed by these numbers. When they compared the estimated cost per cell for Mt. Pleasant it remained far below the \$1,650 Pennsylvania had spent on the Eastern State penitentiary in 1824.

Over the next three years in a show of disciplinary virtuosity Lynds not only completed the cell block but stopped two attempted escapes and controlled over 100 men without the aid of any restraining walls. Prominent visitors, including

²⁵. New York State Senate Journal, (1827), 61

²⁶. Lewis, Newgate, 37

Thomas Eddy, marveled at this accomplishment thereby adding to the reputation of Elam Lynds.

The main cellblock was completed in October, 1828. The four story oblong shaped structure measured 476' by 44, larger in size than any existing single prison in the United States. The four foot thick unadorned stone walls with no formal entrance, was punctuated by almost 800 window slits, approximating but not aligned with each single cell.²⁷ The facades were devoid of all decoration; its stark simplicity contrasted with the typical asylum adornment which embellished the facade and marked the administrative center of these institution. Sing Sing's raw simplicity expressed a cold austerity.

The interior of the cell block consisted of four tiers of cells each with 200 cells, 100 facing east and 100 west running parallel to the Hudson River. The tiers at the first level were nine feet from the outside wall of the cellblock, the distance narrowed somewhat as one ascended to the third and fourth tier. Each tier was subdivided into military companies of fifty men apiece and reached by stairwells which connected with the gallery or apron extending out from the cell doors. Individual cells measured 7' by 3'3" by 6'7". The floors and the walls were stone and thus fireproof an important consideration given the number of inmate fires at Newgate and Auburn.

The back wall contained a vent for the circulation and exchange of air. One of the first concerns of penal reform in the eighteenth century was the removal of

²⁷. James R. Brice, Secrets of Mt. Pleasant Prison Revealed and Exposed (Albany: n.p., 1839), 31

putrid air. The medical analogy is clear; the spread of the goal fever was likened to the spread of crime. If the prison structure could inhibit the spread of fever it could check the contagion of vice in and outside the penitentiary.²⁸ The system's dependence on the natural flow of air was less than optimum. Subsequent criticisms of Sing Sing would focus on the poor ventilation which trapped offensive smells and persistent dampness in the cells.²⁹ Inmates would suffer greatly from the failure of the original design to solve the ventilation problem.

Cell doors were made of iron and covered with metal sheeting. The upper quarter of the door contained a small cross bar window to let light and air into the cell. (see illustration). The doors were operated with a patent lever lock which enabled a keeper to open and close fifty cells at one time. The new lock, invented by a prisoner, operated on pulley system which engaged 150' bar with the overhead latches of fifty cells. This represented a significant advance over the Auburn system where cells had to be individually locked, a time consuming remnant of small local jails. The patent lever lock required the placement of the cell door flush with the outer edge of the cellblock eliminating the 21" of recessed space which at Auburn separated the cells one from another and provided a small private area for private conversation with prison officials and the Chaplain. The hold of the Auburn model on the mind of the Legislature was so powerful that even this minor departure from the original plan required a

²⁸ . Evans, 108-109

defense.³⁰ Lynds argued that the recessed space in the Auburn cell block was in fact a design flaw which allowed guards and inmates to secretly conspire and exchange contraband. Lynds mistrusted the keepers whom he felt were much too sympathetic to the prisoners and too quickly drawn into inmate conspiracies.³¹ Another defender of the lever locks suggested that the lengthening of the cell, a by-product of placing the doors flush with the wall, offered the prisoner an additional two or three walking paces within his cell, thereby providing more space to move about.³² The debate over a small architectural detail underscores the centrality of design to the development of the penitentiary.

Far more significant than the placement of the cell door was the absence of an outside wall, the traditional barrier between the public and the criminal. Economic considerations undoubtedly played a part; original cost estimates did not include the construction of an outside wall. But there were other issues. The need to move from the quarries to the east of the cellblock to the stonecutters workshop to the west of the cellblock and to the wharf required that the large space around the prison remain open. An archway through the center of the cell block provided for the east-west movement of stone. A wall also seemed unnecessary given the original intention to use the main cellblock as the eastern wall, the Hudson as the western barrier while workshops to the north and south

²⁹. Lewis, Development, 110

³⁰. Klein, "Legislation," 137

³¹. NYSS Journal, (1827), 327

³². *Ibid.*

would complete the enclosure.³³ Finally there was the precedent of the 1825-1828 building period when Lynds controlled the prisoners without any walls. He maintained order without an outside wall by intense vigilance and the threat of force which began to shape Sing Sing's harsh reputation.

The preoccupation with and the discussion of the Sing Sing's architecture underscores the key relationship between penal reform and architecture in the nineteenth century and the belief that architecture was one of the moral sciences.³⁴ The Boston Prison Discipline Society, an early watchdog group led by Louis Dwight, subscribed to this theory;

there were principles in architecture by the observance of which great moral change can be more easily produced among the most abandoned of our race ...there is such a thing as architecture adapted to morals; that other things being equal, the prospect of improvement in morals depends, in some degree, upon the construction of buildings.³⁵

The penitentiary embodied the ideas about punishment and the strategies for reformation of nineteenth century reformers and legislators. The heated debate between New York and Pennsylvania was in essence a debate over differing architectural principles. Accounts by foreign visitors contained not only narrative descriptions of American penitentiary but detailed architectural plans as well; the best example is the work of the English visitor William Crawford whose 1835, Report On the Penitentiaries of the United States, included the floor plans and facades of eighteen American penitentiaries.

³³. William Crawford, Report On the Penitentiaries of the United States, (Montclair, New Jersey: Patterson Smith, 1969), 29

³⁴. Evans, 17

The emphasis the reformers placed on architecture reflected their perception of the social changes taking place in ante-bellum America. The loss of moral influence of traditional institutions such as, family, church and community, filled many Americans with anxiety. The social failure to teach moral conduct and the ensuing corruption of the social order were seen as dangers to the health of the body politic. Reformers recalled John Howard's analogy between disease and crime and reasoned that the criminal had to be isolated from these corrupting influences and the contagion of vice which had exposed their hidden dispositions to crime. They responded to the threat to the moral fabric of the nation with evangelizing and institution-building.

The task of isolating the criminal from a corrupted society and introducing him to moral instruction became the principal focus of the reformer's penitentiary. The first task, isolation from family, friends and community and had to be so complete that the criminal would in Gershom Powers words, "...literally be buried from the world."³⁶ The death metaphor is frequently used in the first half of the nineteenth century to describe not only the isolation of the inmate from the world outside but to express the hope that the old criminal identity would die in the new penitentiary.

The formidable challenge of designing an environment which would separate the outside from the inside and isolate those inside one from another

³⁵. Boston Prison Discipline Society, Fourth Annual Report, 54-55

³⁶. Lewis, Newgate, 115

was placed at the door of the architect.³⁷ Walls and spaces became tools for social control; means to contain and isolate. Even the choice of materials would have to serve these objectives.³⁸ This theoretical connection between architecture and penology was made explicit early on in the criticism of Newgate's design- the source, said the critics, of its failure. The remedy lay in an architecture which, according to reformers and legislators, more accurately expressed the punitive as well as the reformatory nature of the penitentiary. They hoped for a design in which, "the outward appearance of a new institution might be used as a kind of repellent to counteract the growing reputation of being sponging houses full of well fed, idle felons."³⁹ Architecture needed to express the austerity of the penitentiary through a design whose radical simplicity emphasized toughness and utility not compassion and embellishment.⁴⁰ Penal reformers were architectural determinists who placed their hope for a better penitentiary in the hands of the designers.

Sing Sing's austere facade signaled to those outside that this penitentiary is not another "sponging house." The stark, unadorned exterior echoed the frugality of life inside while the relentless monotony served to mimic the rigid daily routine of inmate existence. The Sing Sing facade was foreboding enough to act as a deterrent to those on the outside who did not appreciate the true

³⁷. Evans, 17

³⁸. Anthony B King ed., Building And Society (London: Routledge & Keegan Paul,1980), 17

³⁹. Evans, 181

nature of imprisonment. While an east archway provided access to and from the quarries it served neither as an entrance of administrative center for the prison. Entrance to the cell block was through two small doors at the southern and northern end, barely visible in the front view, suggesting that the inmate was sealed off with no possibility for escape.

The interior duplicated the pattern of exterior austerity and repetition, layering four tiers of cells one on top of another. The cells were a prison within the prison; men locked in individual units which were in turn enclosed by the external wall of the prison. Inmates gazing out of the barred opening in the cell door would quickly meet the outside wall reminding them of their double confinement. Cell followed cell, tier upon tier in an imposing sameness 800 times over.

Sing Sing was the first penitentiary designed and constructed with the objective of efficiently confining men on a massive scale. Prisoners, though provided with individual cells, were seen as a mass, and not as individuals with different histories and levels of criminality. The failure to develop a classification system in tandem with the innovation of the penitentiary is another indication of the thinking of the reformers and the State Legislature. Classification implied distinction which in turn would lead to a differentiation in the daily regime of the penitentiary and the multiplication of administrative responsibilities and splintering organizational unity.

⁴⁰. King, Buildings, 17

The design and construction of Sing Sing represents the shift in penal philosophy from kind and moral treatment to a hard line. This foreboding structure will determine much of Sing Sing's subsequent history and influence the actions of the inspectors, agent and wardens who controlled the prison's inner life.

The confidence of reformers and legislators in the new penitentiary was based not only on architecture but also on the reputation of Elam Lynds whose successful completion of Sing Sing enhanced his reputation as a disciplined manager. Lynds would now face the challenge of organizing the internal regime of the first and the largest penitentiary in the world built around the congregate-silent or "Auburn model."⁴¹

Lynds joined the staff at Auburn in 1817 and within four years became agent and principal keeper until his resignation two years later. This was a critical period in Auburn's history moving from the solitary experiment to the congregate model. Lynds' role in the early history of Auburn is a matter of dispute. Some observers like Alexis de Tocqueville credit him with the introduction of the lockstep, silent/congregate work, and the solitary night cells, and the other elements which constituted the "Auburn system."⁴² Other penal

⁴¹. Auburn was not originally constructed as a congregate-silent prison but was remodeled after the disastrous solitary experiment of 1821-22. Sing Sing with a capacity of 800, which would be shortly expanded to 1000, would be the largest congregate/silent penitentiary in the United States if not in the world.

⁴². Robert Wiltse, Lynds' successor and not an unbiased observer, credits Lynds with innovating the "Auburn system". NYSSD, (1834), #92.

historians credit John Cray with creating the Auburn model.⁴³ The issue of the authorship is a secondary interest to the history of Sing Sing. Rather what matters here is the role of Lynds in applying the Auburn ideas to the internal organization of Sing Sing and his experience with the congregate/silent system. We recall that Lynds came to Mt. Pleasant with 100 hand picked Auburn prisoners to build the new penitentiary. But it may be the ideas he brings with him more than the manpower that was decisive for Sing Sing's early history.

The term "Auburn model" rightly belongs to Sing Sing. Auburn was originally designed in the old Newgate style with congregate rooms. The experiment in the north wing with the single cell represented an adaptation to the original design. Auburn is a transitional institution pulled in two directions. But the issue here is not only the design but the penal philosophy it embodies. If New York was moving from the reform regime of Newgate to the hard line, Auburn represents the transition point in which the past and the future coexist. Sing Sing is the first institution in New York and the United States to be designed in congregate/silent style for large number of prisoners. Sing Sing's proximity to New York City, the direct access by Hudson River steamboat and later by rail made it the most visited of New York's penitentiary. When the American public and the European travelers spoke of the Auburn model they really were talking about Sing Sing, the penitentiary they most likely visited.

Between 1828 and his resignation in 1830 Lynds established the basic administrative structure for Sing Sing building on and refining the Auburn

⁴³. The controversy is fully discussed in Lewis, Newgate, 84-85 and in note 8.

precedents. His work was codified by his successor Robert Wiltse in 1834 in a special report to the New York State Legislature entitled, "A Detailed Statement of the Government, Discipline, Etc. of the New York State Prison At Mt. Pleasant."⁴⁴ At the core of the document are the basic administrative concepts, introduced by Lynds, with glosses by Robert Wiltse his successor, which shaped the internal order at Sing Sing until the reforms of 1840.

Mt. Pleasant, as it was initially designated, was governed by three Inspectors appointed by the Governor.⁴⁵ The qualifications for the position and the terms of office were not specified. The Inspectors would meet monthly, select a president and keep official minutes of their deliberations. They were to conduct regular on-site inspections of the prisons and prepare an annual report for the State Legislature.⁴⁶ Inspectors were authorized to inquire into the government, the discipline, and the finances of the prison. They appointed the agent and periodically evaluated his management of the prison. They were paid on per diem basis for those days on site. Though the inspector was at the top of the administrative hierarchy, his power and control were compromised by the

⁴⁴. Robert Wiltse. "A Detailed Statement of the Government, Discipline, Etc., of the New York State Prison At Mt. Pleasant: Together With A brief Review of the Penitentiary System of the United States , Etc.,Etc." NYSSD (1834) #92

⁴⁵. The term Mt. Pleasant was in official use, that is the designation which appeared in the legislative documents through 1840s. Throughout this work we will use the more familiar and more generally used term Sing Sing. Both names derive from the towns and villages in which the Penitentiary was located, i. e. Sing Sing was a village in the town of Mt. Pleasant..

⁴⁶. The basic source material for this study comes from the Annual Reports of the inspectors, agent, warden, clerk, chaplain, and physician as well as numerous State investigations into the affairs of the prison. Though these reports must be used with caution, given the bias of some officials, internal evidence and the abundant supporting statistical record provide an adequate check against any skewed reporting.

unspecified terms of office, political pressure, and the absence of a fixed salary. Their monitoring function was weakened by their lack of detailed knowledge of the daily operations a result of infrequent visits and distance from the prison. They quickly found themselves in an adversarial relationship with agent who worked to keep information from them.

The agent, or principal keeper, was appointed by the inspectors to supervise the day to day operations, discipline the inmates, and provision the penitentiary. He, along with the keepers under his direction, was responsible for the health, safety and productive employment of the prisoners. The last of these responsibilities involved negotiating labor contracts with manufacturers.⁴⁷ He was required to, "to use his best endeavors to defray the expenses of the prison by the labor of the prisoners."⁴⁸ This last charge, though reasonable and financially logical, was the most burdensome and quickly became the target of conflicting pressures from the legislature, the contractors, the free workers and the inmates.

The agent quickly discovered that financial self-sufficiency was the single most important criteria used to measure administrative effectiveness. Institutional self-sufficiency implied no annual deficit or extraordinary appropriation from the legislature; the latter action would signal an inefficient administration; a red flag that all was not well. But this concern for self-

⁴⁷. The dependence on the quarry sites and stonecutting at first led officials to underestimate the significance of outside labor contracts. However by the 1830s and clearly by the 40s represented the major share of prison labor and income.

⁴⁸. Wiltse, "A Detailed Statement," 14

sufficiency was more than a financial question. It touched a sensitive public nerve about the cost of punishment and the axiom which equated self-sufficiency with tough punishment and deficits with laxity. Institutional finances were thus moralized and transformed into a principle of assessment. Operating deficits would for the life of Sing Sing in the nineteenth century, if not for all prisons as well, be identified with a pampering of the inmates. The pressure for self-sufficiency bore down on the agent and exerted a powerful influence on his attitude toward the inmates and the penitentiary.

The agent, appointed the principal keeper, the P.K. and an assistant keeper to serve as his eyes and ears inside the penitentiary. The P.K. supervised the admission interviews, the orientation to the prison, and the work placement. Unlike the agent, the P.K. had direct daily contact with both inmates and keepers. He was the interface between the administration and the prison population and the object of cross pressures from both sides.

The twenty-one assistant keepers were on the line every day. Mostly locals appointed by the agent to secure the goals of the penitentiary against the wills of the prisoners. Assistant keepers must, "make use of every exertion to prevent any communication between them"(the inmates) appreciating that, "the preservation and the effort of the whole system of discipline depends upon non-intercourse between the convicts. ..." ⁴⁹ The maintenance of silence, which fell so heavily on the assistant keepers, was central to avoiding inmate plots and the

⁴⁹. Ibid., 15

growth of an inmate sub-culture. If silence was not maintained the isolation of the inmate from the source and occasion of his crime, would be undermined. Silence, which was easily maintained in the Pennsylvania system because of the architecture of the solitary cells became a fundamental disciplinary challenge at Mt. Pleasant.

Silence also governed the behavior of the keepers while on duty. Prison regulations prohibited them from unnecessary familiarity or conversation with the inmates. They should refrain from any discussion, "in the presence of the convicts about the policy of the institution..." which did not "cultivate an ardent desire to exalt the character and the interests of the institution."⁵⁰ These admonitions express an anxiety about the keepers ability to maintain proper distance and institutional allegiance. There is also a fear of conspiracy not only among inmates but between prisoners and keepers as well. Conspiracy at two levels one tangible—involving the exchange of contraband and information with the outside and the other—the far more insidious development of a mutual understanding between the jailers and the jailed. When keepers were admonished to, "do nothing in this particular which they will no allow the convict to do" their behavior was categorized with that of the convicts.⁵¹ The regulations stipulated that whistling, singing, scuffling, loud laughter are prohibited to both convict *and* keeper. The conflating of these regulations for both keeper and prisoner indicates how keepers, who came from the local community and may

⁵⁰. Ibid., 15-16

⁵¹. Ibid., 16

have shared common class backgrounds with the inmates, were also observed and watched. These regulations underscore a hidden anxiety that keeper and convict thrown together in the daily life of the penitentiary would make a common alliance to subvert institutional routines. The moral line between prisoner and keeper was not as clear nor as deeply etched enough to prevent such a common understanding.

Keepers were to insure that convicts labor in silence and live in obedience and to that end they were required to punish all violations of the rules of the prison. While they had the authority to punish they must do so judiciously and report all punishments. The goal here was to "command as well as compel respect" More than any other position in the penitentiary that of keeper was the most problematic. The keepers were also focal point for the inmates' anger. The full weight of the prisoners' hostility descended on them daily. The relationship between the keepers and the convicts was the most charged in the new penitentiary. They were the daily representation of institutional order in the penitentiary and carried the burden of enforcing the rules which unlike Eastern architecture and design alone could not.

Sing Sing was not enclosed with the traditional outside wall for the first twenty five years of its existence. It was guarded by a contingent of twenty-four armed guards, who under the supervision of a sergeant, were "to make use of every means in their power, should any convict attempt to escape, to prevent such escape."⁵² To that end they should never "leave their post when on duty

under any pretense without relief" and "suffer no person to pass from or to the prison, except by the usual way past the quarry, without express orders."⁵³ The guards were a human wall separating the convicts inside from friends, the public and freedom on the outside.

The physical health of the inmates was entrusted to a part-time local physician, who was appointed by the inspectors. The physician conducted a daily sick call, recorded inmate ailments, prescribed medication, and when necessary placed the inmate in the hospital located on the top floor of the cell block. Throughout the nineteenth century history of Sing Sing the physician recorded the date, circumstances and cause of any inmate deaths. The physician's report was included in the Annual Reports and provided an insight into the impact of imprisonment on the health of the convicts and the way in which the character of the penal environment affected the body.

The prison chaplain, initially not a paid staff position, was at the outset subsidized by the Boston Prison Discipline Society, an evangelical prison reform group committed to the idea of a prison chaplain. The uncertainty of his salary and the marginal character of his position reflected institutional suspicion about his role and influence within the penitentiary. He was admonished by the institutional regulations to, "conform strictly to the rules of the prison" and not to see himself as an independent outsider or friend of the convicts. He was warned no to give the "convict intelligence other than what his profession requires; he is

⁵². The guard houses were located around the perimeter of the prison.

⁵³. Wiltse, "Detailed," 18

to give them no hope of promises of aid in procuring pardons which would only excite hypocritical pretenses to sanctity." Here we see the possibility that the chaplain may be drawn into encouraging easy reformations and quick conversions. Clearly he was not to think of himself as the convicts' agent or ally but rather he should work, "to convince them of the justice of their sentence, and make them feel the necessity of amendment, and strict obedience to the rules and regulations of the prison."⁵⁴ The objective of the administration was to use the chaplain to legitimate punishment in general and inmate punishment in particular. The force of religion, with the encouragement of the chaplain would, they hoped, give the institution a moral legitimacy and with the architectural arrangements compel acceptance through the "solitude of their cells where they cannot escape reproof of their own reflection."⁵⁵ But religion was double edged for it had the power not to legitimate punishment but to question its value and to challenge the nature of the penitentiary itself when its treatment seemed unchristian, and cruel. The troubled place of religion in the history of Sing Sing is best observed through the actions and struggles of the chaplain.

This administrative apparatus met the prisoner as soon as he entered Sing Sing. Immediately upon his reception he was bathed and cleansed of any filth or vermin he brought with him. The first action taken in the name of hygiene again reminds us of the influence of the metaphor of disease and the threat of contagion. His old clothes were taken from him to be returned or more likely

⁵⁴. Ibid., 17

recycled to other inmates who have done their time or are pardoned. He was given a striped roundabout coat, a blue striped shirt, and trousers made of cotton and wool with the stripe running around the body and the limbs. The outfit is completed with a cotton/wool cap, wool socks and standardized leather shoes. All the clothing items were made at Sing Sing.⁵⁶ The clothes are not sized resulting in a general ill fitting look which in the case of shoes could lead to pain and humiliation.

The second step in his initiation was the haircut, administered by an inmate under the watchful eye of the deputy keeper. Levi S. Burr, an ex-con, described the intention of the barber to, "make the subject look worst-hardly known by acquaintances."⁵⁷ The short haircut is an example of an action, though grounded in the legitimate concern for hygiene, touched the new inmates sense of self. Levi remarked that the disfiguring haircut won the praises of the deputy keeper. Bathing, haircutting and the shedding of the old clothes for a new unsized and ill-fitting prison uniform are part of the humiliation which marked the social death of the convict. The rituals simultaneously serve the reform ideology of hygiene and the hard line concern for discipline.

Following these preparatory activities the prison clerk officially enrolled the prisoner in the register, recording his name, height, age, physical appearance,

⁵⁵. Ibid., 18

⁵⁶. Ibid., 29

⁵⁷. Burr, Levi S., A Voice From Sing Sing, (Albany: n.p. 1833), 19

race, occupation, place of birth, crime, and sentence.⁵⁸ Information about family life, religion, economic condition went unrecorded. Name, physical appearance and nativity counted for purposes of identification. Information about occupation was necessary for the new inmate's work assignment.

The deputy keeper then reviewed Sing Sing's regulations reminding the convict that he,

will now be compelled to submit to the laws which govern the prison and that the laws which convicted him are not sanguinary but penitentiary: that he is doomed to suffer a term of years of imprisonment at hard labor which is intended to reform him as well as punish him: that it is necessary for him to remember where he is: no longer free: that his crimes have deprived him of the right of citizenship.⁵⁹

The Deputy keeper reiterates the idea that in New York State punishment has shifted from the body to the mind; it is not sanguinary but penitential. The inmate's dual loss of freedom and citizenship clarifies the meaning of the death metaphor and defines the civil death of the convict. But there is still hope that through hard labor that the criminal will be reformed. The adjective hard suggests that labor carries a second objective-to punish. State and the prison officials expected work to punish and reform.

⁵⁸. An intake interview for each new admissions was reported in the annual report. The information was more detailed later in the nineteenth century. The admission registers for the period 1828 - 1868 may have been destroyed in a fire or lost. Records for the period 1865 -1971 in addition to items listed above contain information about the inmates family background, criminal history, physical characteristics, education religion and work history. See Guide To Records Of Correctional Services in the New York State Archives. (Albany, New York: The State Education Department, 1990).

⁵⁹. Wiltse, "A Detailed, " 17

Work at Sing Sing took place in congregate workshops or quarries where the inmate would, "labor diligently, obey all orders, and preserve an unbroken silence."⁶⁰ Convicts were not, "to exchange aloud with each other under any pretense whatever, not to communicate any intelligence to each other in writing; they are not to exchange looks, winks, laugh or motion with each other".⁶¹ While working they are required to "maintain silence and not sing, whistle, jump, dance or run and ought to conduct themselves in conformity with the prison's concept of perfect order." This restriction highlights the fear of the power of communication and its role in the development of a prison sub-culture. It was not only verbal communication which was to be checked but all bodily signals must be prevented. Control of the speech and facial expression depended on observation and discipline of the inmate's body. While control of the body furthered the institutional agenda and the reformation of the criminal it required the criminal to exercise an extraordinary self-discipline in order to avoid additional physical punishment. Normal speech was prohibited and all bodily gestures were now freighted with conspiratorial potential.

If the convict breaks any of the rules and does not submit to the authority of the keeper swift punishment will follow for "obedience we must and will have."⁶² Transgressing the prison's rules places the convict in the position of receiving a second punishment, one administered not by the court or the judge

⁶⁰. Ibid., 18

⁶¹. Ibid.

⁶². Ibid., 36

but by the penitentiary and dependant upon, "the convict himself, he can have much, a little or none at all, just as he pleases."⁶³ Submission is inevitable and escape is "futile"; he will be hunted down, shot if necessary and punished after his recapture. His conformity to the laws of the institution and the penal regime suggested reformation while resistance in any form is dangerously subversive and a sign of the inmate's continued willfulness.

If the penitentiary is the substitute for the theater of the scaffold its central drama is not the execution of the criminal but the breaking of his will. The ensuing battle between keepers and inmates opened the door for a new kind of secret violence and a return to the punishment of the body.

The new inmate is now ready to start his first day at Sing Sing. Just before he is sent to his cell, designated by number and company, he is given a wooden tub (bucket) for toilet purposes, a can of water and a wooden kit for food. He will remain in his cell for the duration of the day and told not to take down his bed until the evening bell sounds. The following morning at 5:30 in summer or the break of daylight in winter, he will be awakened by the first bell of the day, hear the patent lock open his cell doors, pick up his tub and push open the cell door. Now standing in single file on the gallery he will close ranks and place his right hand on the right shoulder of the inmate in front of him in preparation for the lockstep walk. The keeper will issue the order "step", the convict, starting with his left foot and bent slightly forward, will begin the awkward silent shuffle to his work station.

⁶³. Ibid.

Newcomers were, according to ex-con Burr terrified by the lockstep, afraid they would fall out of step and be preyed upon by vigilant keepers ready with a quick cudgel. He recalled an Englishman named Hughes who could not keep in step because the prison issue shoes were far too small. His feet swelled the first day and with every painful step skin rubbed off. Hughes fell out of step and was cudgeled so frequently over a two day period that he wound up in the prison hospital, a cruel introduction to Sing Sing's daily life. ⁶⁴

In the morning the men marched to the river and dumped the full night tubs into the Hudson and proceeded to the morning work shift. At 7:00 the breakfast bell sounded summoning them to the yard where they picked up the filled kits from a mechanically cranked rotating rack and proceeded to eat the first of three daily meals. The state promised to supply the inmates with a "sufficient quantity of inferior but wholesome food." ⁶⁵ Prison officials carefully enumerated food items keenly aware of the potential cost multiplier factor.

The state guidelines are noteworthy also for what is missing from this diet namely, fresh fruits and vegetables, dairy products such as cheese and milk. These were more costly and susceptible to spoilage. The exclusions of fruit and vegetables from the menu honored the notion of "inferior" food. Thus no inmate's diet should be at a higher standard than the poorest of the free and not all the poor enjoyed fruits and vegetables

⁶⁴. Burr, A Voice, 22

⁶⁵. Wiltse, Brief 31

Cell furnishings also followed austere guideline. A wooden bunk 6'x 2', raised four inches above the damp floor, four blankets, a pint cup for coffee, a small tin cup for vinegar, an iron spoon, a comb and one bible courtesy of the American Bible Society were the basic furnishings. For over a decade the bible remained the only reading material. Lower tier cells were furnished with additional blankets to protect against the excessive dampness. The wooden bed frames were an improvement over the original hammocks which attracted bed bugs and fleas in such numbers, "so as to deprive the convicts of all rest during the night" ⁶⁶

The daily routine of prison life was tightly structured and numbingly repetitious. Prison officials believed that the regimented day would imprint on the minds of the convicts principles of order and self control, qualities lacking in the convict.

It is not surprising that for some prisoners escape from the relentless daily routine was their first order of business and they quickly discovered that illness and the hospital offered one of the best alternatives. ⁶⁷ A convict reported to the physician at 9:00 AM for an examination and if the illness was genuine he would be given a reduced work load for the day. But if it was faking, a determination of which posed real problems for the physician, he would be flogged. The physician found himself caught between the prison administration which paid his

⁶⁶. Ibid.,32.

⁶⁷. Burr, 23

salary and wanted few sick leaves and the inmates some of whom wanted respite from the daily work assignment.

The physician was required to sign death certificates for convicts who died in the penitentiary. This seemingly minor task was important especially when there were questions of institutional neglect or brutality associated with an inmate's death. Indeed one suspects the legislature had these very circumstances in mind when it proposed this regulation. Unclaimed convict bodies were sent to the College of Physicians and Surgeons for use by medical students.⁶⁸ If life inside constituted a social death the use of unclaimed bodies reminds us of the way the state owned the mind and the body of the inmate.

When the inmate left Sing Sing he was provided "necessary clothing, not exceeding \$10.00 in value, and such sums of money, not to exceed \$10.00." Clothed in a old recycled suit, the best of what is available in the prison clothing room, and \$10.00 in cash the ex con inevitably get out of town and back to the place where he committed his crime.⁶⁹ The suit clearly marked him as a "con" and with barely enough cash to survive the first week he was ripe not for new beginnings but a return to old ways.

Sing Sing's regulations were codified by Robert Wiltse in 1834, They governed the daily life of the inmate and constituted a social order aimed at transforming the convict. Each inmate day was marked by the bells, the lockstep, the silence, and the demand for absolute obedience. If the inmate followed these

⁶⁸. Ibid., 38-39;

routines he would recover the habit of self discipline. Rising early, working hard, eating abstemiously were markers which provided the dissipated convict with guides for the well ordered life. The repetition of the daily regiment would impress these habits on his mind and train him to live a moral life. Reform was identified with control and punishment with discipline.

Elam Lynds, drawing on his military experience, had contributed greatly to the new regimen; indeed his name became synonymous with Auburn and especially the hard line. Lynds, brought hard line concepts to Sing Sing where he had an opportunity to integrate them into a new institution. Lynds supervised the construction of Sing Sing and served as its first agent. Upon completion of the main cell block he set about the task of replicating the Auburn model where he had “reduced the prison to a silent and working machine.”⁷⁰ But Lynds envisioned Sing Sing as an institution unlike Auburn; one with its own unique population which required a new approach. The difference between Sing Sing and Auburn was discussed by Horace Lane, a convict who did time in both prisons. Lane created a fictional dialogue between two discharged inmates traveling on a North River (Hudson) steamboat. Lane’s account is also noteworthy for the use of the phrase “down the river” to describe the journey to Sing Sing.⁷¹ He compared the two prisons and found Sing Sing, with its

⁶⁹. Wiltse, Detailed, 37

⁷⁰. *Ibid.*, 37

⁷¹. The term “down the river” was not frequently used in the nineteenth century . Lane may have been referring to the journey of the original “Auburn 100” who came down the river from Albany with Lynds in 1825. The appropriate term is “up the river” as I suggested earlier. See Introduction.

widespread corporeal punishment and its notoriously poor food, more harsh. Lane justified the tough line at Sing Sing given the special character of its population, predominantly from New York City, and concluded that the harsh regime of Lynds was appropriate given this fact. Even Dorothea Dix in her 1844 visit to Sing Sing recognized that,

difficulties and serious obstacles present themselves continually. Here is the most corrupt the most degraded, the most desperate class of prisoners, in any prison north of Mason Dixon line. Coming as they chiefly do from the city of New York...⁷²

From the very beginning Lynds understood the difference between the two penitentiaries, one rural based the other urban, and as a result approached Sing Sing with the lash in hand.

Lynds recognized that control of the prison was a constant struggle with inmates, who according to the English visitor Mrs. Basil Hall, had physical force of numbers on their side. Hall also noted the sense of foreboding which engulfed the prison leaving the visitor with the feeling that it was on the edge of a violent explosion.⁷³ Order rested on a very tenuous basis, according to Tocqueville, "the safety of the keeper is constantly menaced."⁷⁴

⁷². Dorothea Lynde Dix, Remarks On Prisons And Prison Discipline In the United States, (Patterson Smith Reprint: 1984) The legislative record is filled with similar statements about the dangerous urban nature of the inmate population at Sing Sing. Their perception is supported by the statistical record which include in the register of annual admissions the county from where the inmate was convicted. New York city constitutes 60-70% of the population in Sing Sing after the Civil War.

⁷³. Lewis, Newgate. 143-144

⁷⁴. Ibid., 144

For Lynds his main weapon was terror; creating in the inmate the sense that he is always in danger of immediate physical punishment, never free from danger. The shadow of terror would keep the inmates off balance and on the defensive; a strategy designed to avoid the violent outbreaks which marred Newgate's history. With the support of the state prison inspectors and Louis Dwight and the Boston Prison Discipline Society Lynds organized Sing Sing around a regiment of terror and fear.⁷⁵ He was able to proceed along these lines because reform was in retreat. Thus Sing Sing was founded in a moment of retrenchment and reaction. Reform now implied tighter organization of the penitentiary. The humane concerns of the first generation of penal reformers were secondary.

In 1828 Sing Sing inspectors Tibbitts and Hopkins, persistent critic of Lynds, sent a confidential letter to the Sing Sing staff asking them to communicate in confidence, "anything prejudicial to public interest and good government at the prison in the following areas, enrollments to offices, size of the staff, personal abuse or ill treatment of prisoners, spirituous liquor on the property, and the use of prison materials for personal needs."⁷⁶ In addition to the questionnaire the inspectors conducted a secret on-site investigation. When news of the activities of Hopkins and Tibbitts reached Stephen Allen, the third

⁷⁵. In 1825 Dwight, a former agent of the American Bible Society, organized the Boston Prison Discipline Society to reform prison conditions. He became the "de facto the Society" and believed the Auburn System was "worthy of the world's imitation." Lewis, Newgate, 105-108;123;178.

⁷⁶. NYSSD, 1831 #1, 60

inspector, he complained that "the questions seemed to advance each petty officer to superintendent" ⁷⁷ Allen was not only disparaging the inquiry but sympathizing with the difficulty and the responsibility of Lynds' office. When Lynds got hold of the questionnaire he protested that, "the very questions themselves show you (the inspectors) do not believe me or you would not put them in this way" ⁷⁸ Tibbitts and Hopkins found many cases of abusive punishment, poor medical treatment, personal work done for keepers and profane language. The indictment was not directed at Lynds but generalized and attributed to institutional weaknesses. Lynds' reputation was still too strong and most observers accepted these indiscretions as the by-products of a tough regime.

But Hopkins would not let the issue go. He maintained a direct link into the prison through Deputy Keeper Hitchcock and enabled him to gather additional information sufficient to call for Lynds' resignation. Charges against Lynds were widely circulated in newspapers, the state legislature and the Boston Prison Discipline Society. In addition to the earlier accusations about mismanagement and cruel treatment the charge of starvation was added. Lynds was accused of providing poor and insufficient rations some of which contained offal meat, necks and shanks. At times rations were so short that men were left too weak to work. In desperation they ate clay. The conditions were so grievous that prisoners

⁷⁷. Ibid.

⁷⁸. Ibid., 61

rioted. Late in 1829 on several occasions convicts slammed their kits against the cell doors and chanted, "more mush", referring to the gruel that passed for food.

In April of 1829 Lynds responded to the protests with a promise to improve the food but at the same time he issued a gag order prohibiting any public talk of prison matters. When the food crises exploded in September 1829 Lynds saw an open challenge to his authority and ordered the keepers to, "ascertain the authors" promising that either he would "get within a dozen or would punish the whole lot..." He judged the conduct of the inmates as mutinous requiring a harsh response. For the agent the real danger here was public scrutiny which would breach the wall of separation which insulated the public from the life of the inmate.

But Lynds was not insensitive to the political dimensions of the issue. He defended his policy as consistent with the 1825 instructions of the State Prison Committee "that at a state prison rations should consist of the cheapest possible article of healthy human food". Lynds believed his provisions policy was in conformity with the committee's criteria. In the matter of provisioning, the state adhered to the principle of less eligibility, namely that the food and the general condition of the inmates' life should be inferior or of less quality than the life of the free poor.

Three times a day food reminds the convict of his worth in a way that is more felt than any other experience in the prison. Food is the one experience which breaks the routine and allows the convict to satisfy a human need. He anticipates the release the meals provide from silent work and the solitary cell.

The anticipation raises his expectations which are quickly dashed as he examines his food and grumbles to other prisoners. Food is the one experience all convicts share and the grievance of one can quickly become a common cause.

Yet the state mandate was clear-cheap and course food - in accord with the principle of less eligibility. If there is an area where economies were to be made contracts with food provisioners were a good candidate. Food purchasing quickly became an area for corruption as well. Assistant keeper Marshall, Superintendent of the Provisions and Cooking Department was accused in 1829 of charging the state for provisions the prison never received and accepting favors and gratuities from the food contractor. Lynds denied any knowledge of Marshall's activities but admitted receiving "small and inconsequential" gifts from the same contractor. Marshall admitted accepting a payment of \$60.00 as a fee for his management of the food distribution at the prison. Marshall was a resident of the village of Sing Sing and one of the many locals who constituted the prison staff. As the accusations began to gather momentum village friends rallied to his support and memorialized the state legislature on his behalf.⁷⁹ Community support for Marshall illustrates the close relationship between the village and the prison and the important role prison employment played in the economic life of the locals. Most villagers felt Marshall's only crime was indiscretion, a judgment in which the state investigating committee concurred.⁸⁰

⁷⁹. Ibid.

Ever vigilant and unflagging in his criticism of the Lynds' regime Samuel Hopkins seized on the Marshall affair and complained in a letter to fellow inspectors Tibbitts and Allen that, "too many keepers employed at Sing Sing are of low and meager character."⁸¹ He characterized the guards, a majority of whom came from the village, as "swearing, grog drinking, gambling men."⁸² Hopkins was publicly challenging the hiring practices of Lynds, whose selections were venal and self-serving. But given the difficulty of travel, the low wages and long hours what did Hopkins expect? Hopkins' vision of the successful penitentiary depended on the quality of the staff. Lynds appreciated this fact of institutional life as well. However his strategy was to use the power of appointment to secure a loyal staff.

The Marshall affair was not only a sobering one for those who cherished a moral view of the penitentiary but it raised disturbing questions about the difficulty of controlling access to Sing Sing. It was now clear that the contractor whose motive was profit could easily come and go, influence prison decisions and indeed corrupt prison officials. The interests of the contractor undercut the reform goals of the penitentiary.

Lynds was less successful in defending himself from the charges of petty corruption including the appropriation of prison materials and heating fuel, the use of prisoners as family servants, including a black inmate who worked as a

⁸⁰. NYSSD, (1831), #118, 22

⁸¹. Ibid., 17

⁸². Ibid., 22

domestic, personal trips and the production of household furniture. The charges were brought by Deputy Keeper Hitchcock who was immediately dismissed by Lynds for slander. Only a year earlier, unaware of the pipeline linking Hitchcock to Hopkins, Lynds had praised Hitchcock whose whistle blowing now made him vulnerable. The Board of Inspectors rallied to Hitchcock's defense recognizing that if they abandoned him "few keepers will tell the truth and a corrupt agent could save himself."

But the board tabled a motion to remove Lynds and passed the charges on to the State Prison Commission which decided in 1830 that the evidence did not merit dismissal and in no way impaired Lynds' reputation. The committee found in the "whole moral aspect of the prison much to admire and approve."⁸³ Lynds seemed untouchable, above criticism and entrenched in his position. Samuel Hopkins, the inspector who had pressed so hard for Lynds' ouster, dismayed over his durability, warned the Board Of Inspectors,

the case of a state prison is almost the only case of a despotism in a free country; and we are the advocates of that despotic character....and I am convinced that a power so summary and so secret ought not to exist in this country...unless it can be most efficiently watched in its existence.⁸⁴

The Board of Inspectors, the State Legislature and the State Prison Commission were not disposed to censure or remove Lynds; a tribute to the

⁸³. The use of the term moral here, I believe, implies not reform but rather toughness and discipline.

⁸⁴. NYSSD, (1831), #118 17

force of his reputation and the commitment of the state to the hard line which Lynds had come to embody. They saw him as essential to the effective operation of Sing Sing and were willing to overlook his "despotic character"- a small price to pay for penal discipline.

Lynds had successfully completed the construction of the prison with convict labor and the loss of only a few men. He had in 1829 begun to expand Sing Sing with the completion of a wharf on the Hudson for the transportation of men and goods. Permanent shops for stone cutting and an 800 seat chapel were completed by 1830. A fifth story was added in the same year, raising Sing Sing's capacity to 1000 men the largest in the world,.

But the expansion of Sing Sing was also a vote of confidence in its agent. Peter Gansevoort, chairman of the State Prison Committee expressed this optimism when he suggested that the additional cells made economic sense because

it is now clearly established that...governments can be relieved from the expense of supporting the convicted offender against the law; and a discipline can be established and maintained in the prison by which a profit may be derived from the labor of the convicts. ⁸⁵

Such an accomplishment is only feasible if the agent is able to impart a "discipline which has not only enabled the keeper to render the labor of the convict productive, but has in many cases produced moral reformation." ⁸⁶ Profit and reformation; what more could the state ask from Elam Lynds.

⁸⁵. NYSAD, (1831), #407 2-3

Lynds appeared to have won. A new trio of inspectors replaced the founders Allen, Hopkins, and Tibbitts; Lynds breath a sigh of relief. But the State Legislature, now somewhat cautious and on alert, refused to provide funds for the agent's fuel and housing costs. Lynds was affronted and felt rebuked. He resigned on October 13, 1831.

Lynd's tenure as first agent established the framework for prison life at Sing Sing. He supervised the construction of the cellblock and established the internal routine of the institution. Lynd's tough administrative approach took hold at Sing Sing because it was in conformity with the hard line of the State legislature - a union of personal style and public philosophy.

Lynds was so successful in bringing the Auburn approach to Sing Sing that it became the model for what soon came to be designated as the Auburn system. But the early history of Sing Sing was not monopolized by force of one personality. Lynds was as much a creation of the continual flux in New York State's penal philosophy. He thrived in an environment that turned away from regeneration toward discipline and fear. The formative years at Sing Sing were not a penal aberration, nor should Lynds be characterized as a monster. Sing Sing was born at a time when the people and the politicians of New York had lost patience with the early reform ideals.

Sing Sing's emerging reputation as a place of dread and terror reached beyond the walls of the cellblock and the halls of the legislature and into the minds of the criminal. This after all was one of the intentions of the hard liners; to

⁸⁶. NYSAD, (1831), #276, 2

deter crime by creating a penitentiary which instilled fear in the mind and heart of the criminal.

On August 16, 1830 Miles Maxwell arrived at Sing Sing to begin serving his sentence. The prospect of doing time here so overwhelmed him that he took a fatal dose of poison on that first morning.⁸⁷ He was not alone in this kind of action. In each of the first three years of its history at least one inmate had taken his life, usually by drowning in the Hudson River.

⁸⁷. Ibid.

Chapter 4

The Wiltse Years 1831- 1839

"Corporal punishment quick as thunder"

Elam Lynds is rightly credited with building Sing Sing, establishing its basic regime and extending the Auburn system to New York's third State penitentiary. He has a legitimate claim on the title of founding father. But Sing Sing's reputation as a place of dread and terror was the work of Robert Wiltse, Lynds' nephew and successor as agent in 1831. Wiltse's nine year tenure, the second longest in the nineteenth century, enabled him to implement a harsh regime which left an indelible mark on the history of Sing Sing.

Wiltse's role has been overshadowed by Lynds' reputation and strong personality. In a quiet and tough-minded manner he may have done more to fix Sing Sing's harsh reputation than Lynds and merits more attention than

historians have accorded him. Wiltse represented the new kind of prison administrator who was primarily concerned with the effective, profitable and orderly operation of the institution; an administrator who shaped the bureaucratic character of the new penitentiary. Unlike the frank and blunt Lynds, who eventually alienated both inspectors and legislators, Wiltse preferred the quiet anonymity in which he could implement his tough penal philosophy through a series of internal bureaucratic arrangements. Lynd's style drew greater attention but also generated controversy and damaged the reputation of the new penitentiary. Wiltse's quiet persistence may have done more to routinize harsh punishment at Sing Sing.

Wiltse was the administrative embodiment of the hard line consensus which emerged in New York State in the 1820s. But this consensus about the danger and depravity of the criminal class coexisted with the persistence of legislative and reform espousals of regeneration; a commitment which honored the faith in the mutability of individual character. Wiltse understood this dichotomy and was prepared to acknowledge reformation and govern harshly through a pattern of bureaucratized terror.

Wiltse's tenure is well documented as a result of two state investigations into New York's penitentiary system one in 1834 and a second full-scale investigation in 1839. These investigations included site visits, hearings and a review of the history of Sing Sing. The frequency of official inquiries during the nineteenth century, almost two in every decade, illustrates the symbiotic relationship between penal history and penal reform. However the

impact of both these investigations and the ensuing call for change was small. Sing Sing was a more harsh, if not cruel, institution in 1839 than in 1829 even after these critical state investigations.

The first State investigation of 1833 was in part a response to the charges of Inspector Samuel Hopkins and the revelations of Levi S. Burr in a pamphlet entitled, "A Voice From Sing Sing."¹ Burr had served three years in Sing Sing and after his release remained a self appointed prison watchdog. In "Voices", he wrote, there are, "things known only to those who have been and are now the unfortunate tenants of the Sing Sing Bastille" which "if the public knew the conduct in the government of that prison that like the Bastille in France would fall, a sacrifice to their rage"² In "Voices" Burr detailed the life inside under Agent Wiltse describing patterns of work, punishment, and daily life for the inmates whom he called the "community of sufferers."³ Burr's insider's expose fleshes out the exhaustive State investigations and together they provide abundant details of prison life at Sing Sing in the 1830s.

The State Investigations and the Burr's account put Wiltse under close scrutiny. He responded first to the committee with a descriptive listing of Sing

1. Burr, Levi S., "A Voice"

2. Ibid., 3-4

3. Ibid.

Sing's regulations and prepared a full explanation of his penal philosophy which provides us with a second inside account albeit it from a very different perspective.

Wiltse began his defense with a review of the early history of New York's penitentiaries and concluded that prison, here he was drawing on the Newgate example, had become a "college for inmates, who worked less than ordinary citizens, conversed regularly with other inmates, and were pardoned all too easily." The penitentiary had, according to Wiltse, lost the element of terror.⁴ The result was a prison (Newgate) which not only failed to deter but which encouraged men to commit crimes in order to return to "other hardened criminals and their school of crime."⁵ Wiltse did not see the failure of the early penitentiary as one of design. Poor discipline and a weak administration was unable to enforce the rule of silence and thus allowed the inmate sub-culture to flourish.

Wiltse's penal philosophy viewed convicts as depraved men,

who have refused to submit to the laws of society; many of them are only restrained by the fear of immediate death from taking the life of the keepers...they can feel nothing except that which comes home to their bodily suffering.⁶

Here is a bold restatement of the argument for sanguinary punishment, a turning back to the eighteenth century pre-reform attitudes toward

⁴. NYSSD (1834) #92,4-5

⁵. Ibid., 8-9

⁶. Ibid., 9

punishment. This regressive view of punishment was a sign of the degree of backsliding which had taken place throughout the state in the 1820s and 30s.

Wiltse concluded in 1833,

one of the two things a penitentiary can do is either a radical reformation of the heart of the offenders or a restraining influence over their evil propensities The hope of radical reformation is abandoned by most intelligent philosophers. In order to prevent crimes a State prison should not be governed in such a manner as to induce rogues to consider it a comfortable home. They must be *made to submit* to its rules, and this by the most energetic means, corporal punishment for transgressions, which if it is to be effective must be certain and inflicted with as little delay as possible...quick as thunder.... It is much the actual pain inflicted as the *certainty* of its exercise which produces the *effect*... and the convict returns too his labor without feeling the ill effects." (Wiltse's italics) ⁷

For Wiltse the "highest praise which can be bestowed is the complaint of liberated felons" ⁸ Wiltse may have had in mind former inmates like Levi S. Burr, whose harsh indictment of the prison would ironically serve Wiltse's objective of restoring corporal punishment. Fear is the context necessary for inmate self-discipline.

Wiltse and his staff believed that their efforts to break the prisoner's will began on the first day. A deputy keeper warned newcomers at the outset that, "if they do not obey they will be flogged until they do obey ...enough to make them orderly, industrious men and no more."⁹ Former Assistant Keeper Burr noted that the objective of Sing Sing's discipline was to "break men in spirit and constitution. Even men willing to comply and making an effort to do so, had

7. Ibid., 39

8. Ibid., 40-42;

to be broken." He recalled one incident in which an inmate who had misplaced a stone was beaten by keepers several times with a cudgel and flogged with a cat of nine tails while they continued the following exchange,

Keeper, "I will be obeyed"

Prisoner, "I will do it. Tell me what to do."

Burr characterized the random and capricious violence as the result of not only the cruelty of the keepers but the general atmosphere of the prison in which physical punishment would always be visible. This attitude toward violence grew out of basic assumptions about the nature of the convict and the possibility for reformation. On these matters Wiltse was clear. Under his direction Sing Sing moved away from Enlightenment ideas about humane treatment and human perfectability.

Reformation was futile, the principle of less eligibility was applicable and the certainty of corporeal punishment were the lessons Wiltse drew from New York's early penal history. He was concerned that punishment not inhibit the convict's capacity to return to work immediately. These views not only reflected the thinking of the Wiltse and the hard line consensus but also remind us of the failure of the penal reform movement to resolve the conflict between retribution and reformation. Thus the changing attitudes toward the criminal, the swing between moral treatment and the hard line, is not the exclusive result of

⁹. NYSSD (1840)#48,206

the penal philosophy of any one agent but a manifestation of deeper and fundamental underlying conflicts in penal thought.

Wiltse's approach linked the punishment of the body to the containment of the evil instincts in the convict. There was little hope here for the genuine reformation of the mind and heart of the criminal, little confidence in man's potential for reformation. Sing Sing never recovered from the loss of this hopeful expectation about the individual's capacity to change.

The close monitoring and disciplining of the convict was central to Wiltse's system. Inmates were to be retrained through the internalization of fear and the acceptance of institutional dominance. Thus quick and regular punishment of infractions of the rules reinforced the hold of fear on the mind of the inmate. His notion of the celerity of punishment was an ironic twist of the reform argument made by Cesare Beccaria who had recommended a quick disposition of criminal cases in order to restore credibility to the system. The celerity argument was adapted to the service of quick and decisive disciplining of the convicts.

This kind of immediate punishment required a close and regular observation of the daily life of the inmate within the penitentiary. Keepers had to scrutinize every action of the prisoner, create a sense of constant observation and the proximity of physical punishment. To facilitate this surveillance Auburn introduced inspection avenues – partitioned corridors through which officers could pass, unseen and unheard, observing the prisoners so that,

no convict knew at any time but that the invisible eye of a keeper is fastened directly upon him. Thus the apertures in the partition are like so many eyes fastened and fixed on the convict; and the effect is to make him feel, at all times, that any violation of the rules of the institution whether under the eye of their shopkeeper or not, must be at the risk of incurring a serious penalty.¹⁰

Similar hidden observation passageways existed at Sing Sing for not only the use of keepers but for visitors as well.¹¹

The hope was that the press of constant observation would slowly compel the prisoner to accept his objectification as one "constantly being seen, of being alive always to be seen that maintains the disciplined individual in his subjugation."¹² His visibility "assures the hold of power" over him and will compel him to obey through fear and not a change of heart.

Wiltse required of his keepers the,

most unceasing vigilance.... to govern successfully so large a number of convicts as is contained in Sing Sing prison, they must be made sensible that the ordinary sympathies of our nature can not be extended toward them; they must feel they are *powerless*.¹³

In recommending that keepers harden their hearts to normal human feelings Wiltse makes a clear psychological distinction between the inside world of the penitentiary and the outside world of the free society. Inside one must act differently and see the inmate as not capable of normal human feeling. Wiltse's

¹⁰. NYSAD (1833)#199, 24-25.

¹¹. Visitors paid 25 cents for the privilege of observing the inmates at work. The average number of visitors from 1830 through the 1850s generated close to \$1,000 annually.

¹². Foucault, 187

distinction justified the harsh treatment necessary to make the inmate feel powerless. He warned the keepers to remain vigilant and "keep up the strict discipline and if one set of keepers would not another must or should." ¹⁴ Wiltse reinforced this attitude with his own personal example by visiting the cell block regularly and directly participating in the punishment of troublesome prisoners.

Rigid discipline if effectively maintained will, according to Wiltse, in the end require less punishment when compared to the humane and gentle discipline of the reformers. Flexibility was the enemy of order and allowed the inmate to hope that he might break the rules, win a pardon and not serve his full sentence. The relaxation of the code led to, "insolent airs in the conduct of the prisoners; taking more liberties and doing less work, or doing it badly;...insolent toward the assistants and concealing weapons..."¹⁵

Wiltse was sensitive to Sing Sing's position vis-a-vis Auburn and its reputation in the short history of the American penitentiary. He welcomed European travelers, and took pride in their choice of Sing Sing as the institution most representative of the Auburn system. One can speculate on the additional pressure to maintain order and tight discipline generated by his concern for Sing Sing's public image. The policy of open access to European visitors did not however readily extend to state investigators.

The competition and endless comparison with Auburn by state officials in which Sing Sing was often found wanting, added to Wiltse's administrative

13. NYSSD (1834)#92,44

concerns.¹⁶ A good example of this is the 1833 investigation which praised the physical structures at Sing Sing but judged the,

state of business, characters, and manner of punishment ... unfavorable. While at Auburn convicts were resigned to their fate, humbled ...determined to restore themselves....with a ready submission to the rules.¹⁷

Ex-cons who had done time in both prisons judged Sing Sing more harsh, complaining of insufficient food, meals taken in cells, widespread corporal punishment, and excessive use of the cat. Horace Lane in his pamphlet "Five Years" compared his imprisonment at Auburn (1831-33) and Sing Sing (1833-35) and concluded that at the latter he was "in despair most of the time."¹⁸

During the 1839 Investigation Assistant Keeper William Burr, at Sing Sing from 1827-38, responded to the State commissioner's question, "Is stronger punishment necessary at Sing Sing than at Auburn; and if so state the grounds of your opinion?" Burr responded that he thought so, "in consequence of not being walled inthe convicts here are more ferocious and refractory than at Auburn"¹⁹ The failure of Sing Sing to measure up to Auburn was based on the physical character of prison, and the corrupted moral character of the inmates. Sing Sing was a tougher place to govern and to do time and its reputation required a firm hand and a vigilant eye. The reputation of Sing Sing

14. Ibid. 43-44

¹⁶ . Boston Prison Discipline Society 8th Report 1833. 74

¹⁷ . NYSAD (1833)#199,9

¹⁸ . Horace Lane, "Five Years," 5

and its inmates pressured Wiltse and did play a role in making Sing Sing synonymous with cruel and unusual punishment.

The most succinct description of the prison under Wiltse in the 1830s comes from Levi S. Burr who described it as a "catocracy", rule by "cat and cudgel."²⁰ The cat was a six stranded whip, 14-16 inches long, wound tightly at one end with a 16-18 inch handle. In addition to the standard cord cat there was a rawhide version. Both cats would flay the skin off a man's body;

the affected subject was begging upon his knees
and crying and twisting under the lacerating,
that tore his skin from his back....²¹

The cudgel was a cane or stick of various sizes, always in the hands of the keeper and frequently used to strike a quick blow to the convicts head, arms, back or legs;

the deputy keeper approached and gave him a blow
across the mouth with his cane and that caused
the blood to flow profusely.²²

The constant pressure from Wiltse to maintain order pushed the keepers to the practice of regular flogging which all too frequently crossed over into the gratuitous punishment where cruelty became an end in of itself.

The flogging of the inmates was hidden behind the prison walls, removed from public scrutiny and unchecked by state law. There was a ten

¹⁹. NYSSD (1840),#48,91

²⁰. Burr, "A Voice," 16; Lewis, Newgate, 148-151

²¹. Ibid., 17

stripe rule in effect which not only limited the number of lashes but required reports by the keepers of the number of punishments they inflicted. But these restrictions were regularly ignored by the agent, the deputy keepers and the keepers.

William Burr, an Assistant Keeper, overheard Wiltse instruct Assistant Keeper Lent, that it was "not necessary to count the number of lashes."²³

Keepers following the lead of Wiltse frequently "forgot" to count the lashes.²⁴

John S. Mattock, an Assistant Keeper from 1832-36, complained that keepers punished in excess of the 10 stripe limit; in some cases applying 150 to 200 stripes in one session. Stout men and black men were flogged and beaten more severely than others. The special disciplinary problems of the insane and mentally ill provoked excessive floggings; in one case an unstable inmate received over 1,000 stripes in the course of a three week period. Convicts were beaten on their genitals a number of times. Deputy Keeper Marshall after inflicting such punishment promised the convict that it "would stop his going a wenching."²⁵ Direct challenges to the keepers unleashed their anger. Insubordination was among the most severely punished infractions meriting up to 300 stripes.

²². Ibid.

²³. NYSSD (1840) #48, 141

²⁴. NYSAD (1840) #33,34

²⁵. Ibid., 17. Marshall's comment, with its sexual overtones suggests the possibilities that punishment may have given pleasure to some sadistic or masochistic keepers. This argument is fully developed in Myra C. Glenn's, Campaigns Against Corporal Punishment: Prisoners.

Flogging was not the only form of corporal punishment. Some convicts were made to sit in the shallow waters of the Hudson, at dockside, for lengthy periods of time. If they attempted to rise from their seat they would be flogged on the spot.²⁶ Gagging with a 9" rag, tethered to a ball and chain, and boarding or strapped to a flat board, were the favorite remedies for refusing to work.

Wiltse transformed the penitentiary into a theater of punishment. Men passed through the central hall of the prison which served as a whipping area. Two iron rings affixed to the whipping wall, restrained the convicts while the punishment was administered. The cries of the inmates being flogged echoed from the central hall to the cellblocks reminding the inmates of their proximity to punishment. Blood stains on the wall and the floor were visible marks of each days punishment.

Vigilance and cruelty were not the only driving forces maintaining the pattern of ceaseless punishment. A lengthy and wide ranging list of prison infractions would keep the convict in constant peril of breaking the rules. Laughing, smiling, staring, looking around, looking up from one's work, picking up a piece of paper, failure to work productively, talking at night, sneering at a keeper and even looking out of one's cell. The banality of the rules would also serve to keep the convicts anxious and uncertain pushing him toward docility.

The pattern of infractions tended to cluster around the issues of silence and work and were frequently detected and quickly punished. Silence

Sailors, and Children in Antebellum America. (Albany:SUNY Press,1984), 46-47

²⁶. Ibid., 26

was so central to Sing Sing's order that keepers punished actions which though not conversational, were a form of communication, such as facial expressions, night time mumbling, and possession of loose pieces of paper. Talking in one's sleep was punished with a long pole thrust into the cell through the small opening in the door grate. The offending prisoner was poked on the head until awakened. Poles were placed along the galley railings where they were readily available to the night keepers.

The revelations about the punishments in Sing Sing in the writings of James Brice, Levi S. Burr and Horace Lane exposed the brutal inner world of Sing Sing to a public whose understanding of the penitentiary was incomplete which eventually galvanized the reform campaign against corporal punishment.²⁷

Sing Sing's workshops were a flogging factory. The demand for increased productivity drew the contractor' agent, who supervised the workshops, into an active role in the disciplining of the convicts. Agents were known to personally administer up to 20-30 stripes in their workshops for unproductive or inferior work; if this failed the keepers could be depended on to flog the men until they complied. Prisoner Howell who had refused to work was flogged for three successive days each time he was "stripped naked, ropes placed around wrists and made fast to the vice; arms extended; two hundred lashes... ". Some of the blows were inflicted with a cat tied with wire about one inch from the tip. ²⁸ The use of flogging and canning was widespread in the

²⁷ . Ibid., See especially chapter five for these accounts and those of other victims.

quarries where prisoners, harnessed to carts, hauled large stones from the east to the west yards under constant prompting to do this brutalizing work.

The list of infractions was so extensive that punishment on the inside seemed inevitable. One state commissioner inquired in 1839 whether Sing Sing had any record of any prisoner who had done his time without being flogged.²⁹ A prisoner could suffer more from prison administered punishments than the toughest sentence of the courts. Under Wiltse the assault on the body was a way of life at Sing Sing.

Prison officials criticized the restrictive ten stripe rule, observed it only in the breach and were elated when it was suspended in 1837.³⁰ They believed the limitation had emboldened the convicts and made them more recalcitrant. Unarmed keepers in close daily contact with inmates felt vulnerable without recourse to corporal punishment. The keepers felt overwhelmed by the demands of the agent to control dangerous criminals, observe the stripe limit, summon the deputy keeper prior to punishment, and log the number of stripes after the punishment. Outnumbered-twenty to one-keepers were expected to manage up to 800 inmates. Assistant Keeper William Burr called for a "a rigid system of discipline ... to keep them in subjection, and no other punishment except corporal will do...."³¹

²⁸. NYSAD (1839) #335,15

²⁹. NYSSD (1840) #48,210

³⁰. NYSSD (1839)#335,61.

³¹. Ibid.

French visitors Gustave de Beaumont and Alexis de Tocqueville in their May 1831 visit to Sing Sing were astonished by its size and the ratio of keepers to inmates. They believed this disparity could only be maintained by the vigilance and recourse to swift punishment of any infraction. They noted the advantage communication gave to the keepers depended on the fear of punishment which had to be reestablished every day. Control of the prison and the maintenance of order "rested on uncertain ground and created in the French visitors a sense of some future catastrophe."³²

The cumulative impact of the renewed attack on the body left physical and mental scars that at times were fatal. In the 1839 Senate investigation Sing Sing's attorney denied the charge that there was "a casual relationship between whipping and suicide."³³ This connection had been well documented in the testimony of assistant keepers and keepers. Robert Lent, former Assistant Keeper, and Superintendent of the Stone Department, believed the suicides were punishment related. He recalled prisoner Little, who had been repeatedly disciplined, walked out into the Hudson River, "sat down and rose no more," the day after a flogging. Following a failed escape attempt, prisoner Judson jumped into the river and drowned. He left the following note,

To whom it may concern I cant stand to be flogged
to Day I die first farewel all my friends now

³². Gaustave de Beaumont and Alexis de Tocqueville, On The Penitentiary System In The United States And Its Application To France. (Carbondale: Southern Illinois University Press, 1964), 75-77; 200

³³. NYSSD (1839) #335, 52

am willing to own that such a vile outcast you ever
 new
 I would not but for the flogging that I cant take
 I am sorry for what is happened but alas it is too
 late
 ...tell Mr. Lawrence (a Keeper) not to be so fond of
 punishing his fellow creatures he will have to give an
 account sometime feed the mollaters and *show mercy*.

Ap. 30 A Jud
 1838 son ³⁴

Lent reported that prisoners Rychman and Pat Hutton drowned themselves, Richards and Rose slit their throats in the shoe shop; all these actions followed harsh punishments.

In cases where death occurred within the prison the state required a coroner's autopsy but for Little and the other suicides no reports were made. In fact Lent believed the quick burial of the suicide victims was a deliberate effort to avoid a coroner's investigation and the establishment of any causal link between corporal punishment and suicide. ³⁵

Inmate suicides are both a capitulation to the regime at Sing Sing and, as we can see in the Judson note, a final refusal to submit-a last act of resistance. But prisoner suicides are only one small, though dramatic manifestation of widespread inmate resistance, provoked by the Wiltse regime in

³⁴. Ibid.,60; The Hudson River Chronicle, 22 May 1838

³⁵. Ibid., 19

the 1830s. He frequently warned the keepers and the guards of the danger of insubordination.³⁶

Prisoners resisted in three ways; work, silence and the disrespect for the keepers. William Bruce, a contractor's agent, reported that he saw able bodied men in their cells refusing to work One convict told Bruce , "I'll be damned if I will work." The prisoner continued to resist and required 6-8 floggings in the first month until he was converted to the necessity of work.³⁷ Prisoner Kennetti also refused to work and received 400 stripes over a period of several months. Work slow downs were not uncommon and were always met with violent responses.

Insubordination could take many subtle forms; among the most typical was staring. Prisoner Belknap, "tapped" on the head for staring during a chapel service, challenged the keeper. The following Monday several keepers confronted Belknap, removed his shirt, and flogged and beat him with the handle of a cane about 25 times. In the course of the punishment his arm was broken.³⁸

Staring was not an infraction of the official prison regulations but part of the informal rules improvised by the keepers and the guards to prevent actions they judged insubordinate, a challenge to good order, and therefore worthy of punishment. These small seemingly harmless gestures took on significance in the charged atmosphere of the penitentiary. When an inmate

³⁶. NYSSD (1840) #48, 188.

³⁷. NYSAD (1839) #335, 38

³⁸. Ibid., 282

chose to stare at a keeper he was challenging the keeper. Prisoner resistance is measured and most visibly manifest in riots but these everyday confrontations may be equally significant forms of resistance for individual inmates struggling to hold on to their autonomy and a sense of humanity against keepers who referred to prisoners as "dumb dogs."³⁹

Prisoners at Sing Sing understood the nature of the battle they were engaged in. A small prayer scrawled on a newspaper was found on the person of one of the convicts. It read,

Would to God that the people of Sing Sing
had the courage of the people of Auburn: they
would raze the walls of the prison as low as the
foundation in twenty four hours.⁴⁰

Alexis de Tocqueville and Gustave de Beaumont visited Sing Sing on 29 May of 1831 and stayed for nine days. Beaumont wrote to his mother that,

the system of discipline established in Sing-Sing is
very remarkable....Nevertheless one manages to discover
the secret of this marvelous discipline. It reposes on
certain essential principles. The first is the absolute
silence to which the prisoners are condemned...The
second capital rule is the unexampled severity in the
application of bodily punishments.⁴¹

Prisoners understood that the rule of silence was the first essential principle at Sing Sing. The number of punishments for breaking the rule of silence indicates that the inmates were determined to speak. But verbal

³⁹. Ibid., 263

⁴⁰. Ibid., 274. The reference here is to the inmate fire which leveled Auburn penitentiary in 1819.

exchanges among the prisoners were not the only challenges to the silence rule. Inmates were able to communicate with the outside through keepers and guards. Newspaper articles made their way into the prison and were circulated among the inmates. Recidivists returning to Sing Sing would be hot sources for news. The kitchen and meal time were good opportunities to talk. Requests for seconds easily slipped into quick updates for insiders.⁴² Convicts, who enjoyed relatively more freedom in the hospital were able to converse more openly under the reprieve of ill health.⁴³

The close daily proximity of prisoners made it impossible to maintain silence. Any time a keeper saw two inmates looking directly at each other and smiling he suspected some form of communication had taken place. Keeper Dutcher described such a moment. He confronted two inmates and asked them what they were talking and smiling about and "if they do not tell what is going on, I ask them to pull off their shirt and prepare to flog them."⁴⁴ The rule of silence made all inmate gestures suspicious. Facial expressions were part of the language of the prison's sub-culture and as such an indication of the inmate's resistance; a refusal to be broken.

The rule of silence was not only essential to the maintenance of order inside Sing Sing but was a key to separating the inside from the outside and

⁴¹. George Wilson Pierson, Tocqueville In America (New York: Anchor, 1959),67

⁴². NYSAD (1839) #335, 278

⁴³. *Ibid.*, 56.

⁴⁴. NYSSD (1840) #48, 278

keeping the affairs of the prison hidden. Wiltse believed that the interest and involvement of outsiders encouraged prisoner resistance on the inside. Every newcomer according to Wiltse,

enters the prison with full determination not to submit to the punishment which he incurs for breaches of discipline. Why? Public opinion is with him and he knows it; Encouraged by this he breaks all restraints ...discipline must falter, breaks silence, communicates with others....⁴⁵

Some keepers were unwilling to punish if it meant they would become the subject of public notoriety. Keeper Leggett felt "some of the keepers do not punish as much as they would, if it were not for the out of doors clamor". William Burr agreed, "the outdoor clamour has some influence on the internal police of the prison" but warned that "such limiting of punishment is detrimental to discipline" ⁴⁶

"Out of doors clamor" describes the various prison watchdog groups such as the Boston Prison Discipline Society, the State legislators, reform minded New Yorkers and local newspapers like the Hudson River Chronicle.⁴⁷ Although prison officials craved secrecy, documents and stories inevitably reached the public and influenced opinions. While Wiltse had partially

⁴⁵. NYSSD (1834) #92, 40-42

⁴⁶. NYSAD (1839)#335,61

⁴⁷. The Boston Prison Discipline Society was founded by Louis Dwight to "foster the development of industrious habits under strict discipline in congregate shops". Dwight was a strong supporter of the Auburn system in its competition with the rival Pennsylvania system.

succeeded in restricting public access of local reformers to Sing Sing Europeans visitors were welcomed. Like it or not prison administrators were forced to grudgingly acknowledge the power and influence of the "out of doors clamor."

Wiltse's instructions to the keepers to suspend their human feeling and to become indifferent to the suffering of the prisoners institutionalized the inside/outside dichotomy and deepened the suspicion of the out of doors clamor. The inside was always on the defensive, misunderstood and unappreciated by the outside which is always probing, criticizing and attacking. The siege mentality tended to reinforce the insiders feeling that only they understood the nature of the criminal and the organization of the penitentiary. By definition outsiders could not appreciate the difficulty of governing Sing Sing. The less they knew the better.

Prison officials reacted vigorously against outside clamour and would continue to do so because it attacked the system of double punishments; the punishments within the punishment which keepers and the agent felt was essential to maintaining order. In the eyes of the insiders the public failed to see how radically different the irrational world of the inmate and the penitentiary was from their world of reason and order. Keeper Joshua Hodgson understood that violence was an essential element in the life of the criminal and the penitentiary because "according to the history of the prison there has always been acts of insubordination."⁴⁸ Prisoner resistance was endemic and the punishment of inmates inevitable; it was in the nature of the system.

If Sing Sing was a tough place for the general inmate during the Wiltse years it was horrific for the insane, who were misunderstood and brutalized. Their predicament was a result of the failure of the state to provide a separate classification or institution for them. In the 1830s definitions of insanity were entangled with questions of guilt and responsibility. Some Americans feared that new ideas would free the criminally insane from responsibility for their actions. In addition to this wariness the diagnosis of insanity remained crude using the broadest physical symptoms such as intense excitement, glassy and wandering eyes, hallucinations, catatonia, and total loss of understanding and memory to define the condition. Feigned maniacs, a particular problem in the penitentiary, could be detected because they lacked a characteristic "animal odor."

The difficulties in defining the insane were complicated by the need to segregate him from the general population and provide an appropriate placement. Given these complications it is not surprising that Sing Sing's initial response to the criminally insane was to treat them as recalcitrant prisoners in need of more supervision, more prodding and ultimately more punishment. For the keepers the insane were primarily viewed as disciplinary problems-difficult to handle and disruptive. Keepers knew them, watched them carefully, and punished them frequently.

Prisoner Little, who showed many signs of insanity and eventually took his own life, was prone to night outbursts. The use of the poker did not seem to stop the behavior. Wiltse was so angered by the persistence of the outbursts

⁴⁸. NYSSD (1840) #48,192

that he personally administered 100 lashes. Finally Little had to be gagged at night.⁴⁹

Prisoner Martin was a cross-dresser. In addition to his roundabout coat he wore pantaloons, a straw hat, and a women's vandike (large collar) around his shoulders. How he got these garments raises a whole other series of questions. Keepers also reported he ate his own excrement. His cell was filthy and at times he refused meals. Because he was so noisy he was prodded regularly with a pole kept on the gallery outside cell #300. His refusal to work was suspect by some keepers who beat him regularly. He became emaciated, weakened and died within a year and a half of his admission to Sing Sing.⁵⁰

A "Spanish" prisoner named Canetti was flogged more than any other insane convict, receiving over 1000 lashes in a three week period; in one session 400 stripes were administered. Guards reported that little skin remained on his back. These punishments were for "looking off", refusing to work and constant smiling. Canetti also spent one month in solitary. Several keepers thought that he was insane.⁵¹

The young, first time offenders were especially vulnerable. Prisoner Wood, described as a "smart and active young man" was "whipped, refused to work, whipped again and again" and fell into insanity. Convict Isaac Van Weiler, judged insane by the assistant keeper, was whipped on his private parts.

⁴⁹. NYSAD (1839) #33, 17; The Hudson River Chronicle, 2 October 1938

⁵⁰. NYSSD (1840) #48, 98-99

⁵¹. Ibid.

Keepers reported inmate Adams regularly butted his head against the cell wall leaving a bloodied print. He was released following these actions only to return very shortly thereafter. His behavior was not judged insane.⁵² Prisoner Van Allen, judged at first an "intelligent Negro", feigned insanity and had to "brought to his sense with a flogging."⁵³ This punishment was repeated many times.

Even the informal classification by the keepers did not lead to separation or different treatment of the insane but ironically led to more severe punishment. The insane, even when they were identified as such, were categorized as intransigent prisoners, difficult to break. The preoccupation with the feigning of insanity was a result of both the uncertainty of the diagnosis and general belief that the inmates would try any means to avoid work. Keeper John Mattocks echoed the widely held belief that, "it is difficult to determine the question of insanity" given the numerous examples of feigned insanity. 54

Diagnosis of the insane fell to the prison physician. Sing Sing village physician Dr. Hoffman, who served under Wiltse, defined insanity as the loss of reasoning power and was confident about his ability to distinguish the real from the feigned. by judging "from the general character and conduct of the patient." He concurred with prison officials in the belief that the insane could be controlled by the dread of punishment. Hoffman's criteria will make it easier to label a truculent convict insane and administer the appropriate punishment-an attack on

⁵². NYSSD (1840) #48, 195.

⁵³. Ibid. 208

the prisoner's body. The scandalous treatment of the criminally insane will not end in New York until the state establishes a separate institution for the criminally insane at Auburn in 1859.

But the insane were not the only group singled out for special treatment. Black prisoners were also marked as different and in need of rigorous discipline. Color consciousness was made explicit in Sing Sing's inmate registers and statistical tables through the nineteenth century. The total population of the prison was color classified as "white" and "colored," and sometimes a third group "mulatto" was listed. The narrative record of prison officials, especially the testimony of keepers before the numerous state investigating committees, provides ample evidence of the color consciousness of the institution.

On December 7, 1837, Richard Howell, a black prisoner, was ordered by Assistant Keeper Pinkney to return a piece of work he had taken from a fellow inmate in the shoe shop. He refused, was struck with rattan and then threatened Pinkney with his shoe knife. He was subdued and Assistant Keeper ordered him to remove his clothes, he refused and continued to challenge Pinkney. Finally, with the aid of several other keepers, he was tied down and punished with rawhide and the wired cat. Pinkney kept no count of the number of stripes and only stopped when he was exhausted. Deputy Keeper Marshall, at the center of so many of the punishment episodes in the Wiltse years, relieved Pinkney and continued the punishment, again keeping no count. The keepers took turns punishing Howell over the next two days. Pinkney having recovered his strength

asked Marshall if he could resume punishing Howell. Marshall said "certainly, you can't give him too much". The use of the wire lash against Howell and "others of like disposition ...black man" was justified, according to some prison officials because of the differences in the thickness of the skin and its sensitivity to the cat.⁵⁴ Thus in the case of blacks in the 1830's the wired cat seemed like an appropriate instrument to inflict pain. ⁵⁵

Black inmates constituted significant numbers among at Sing Sing. This evidence is impressionistic based on the narrative accounts of the keepers where blacks were specifically identified by color. They were treated as potentially very dangerous based on popular notions of special physical prowess. Keepers often called on them to help subdue quarrelsome white inmates and remove them to their cells. But this attribution of physical strength also contributed to the belief that because of their toughness blacks needed to be punished more severely.

The pattern of excessive punishment of resisters, the insane and blacks was justified in the minds of prison officials and Agent Wiltse as necessary to institutional order. In the context of a penitentiary without walls, a 30 to 1 keeper-inmate ratio, and a urban based population it is not surprising that Sing Sing was prone to violence.

⁵⁴. Ibid., 155-160

⁵⁵. On sensitivity and endurance to pain and the question of race see Martin Pernick, A Calculus of Suffering. (New York: Columbia University Press, 1985), 161-164.

Often these struggles erupted over the quality and quantity of food at Sing Sing in the 1830s. The spoiled food and short ration were a mistreatment that was gratuitous and perverse. Food shortages weakened the inmates, made it difficult for them to work and in a few instances led to open rebellion. Given all the ensuing problems why did Agent Wiltse continue to short the food supply and provoke the inmates?

No aspect of prison life had the volatility of food; in the mind of the prisoner poor food triggered a explosive reaction because it touched not only their stomachs but their health and their sense of humanity. Meals were daily reminders of how little the agent, the state and the public thought of them.

Complaints about food first appeared under Lynds in 1829. But these complaints remained sporadic until the Wiltse regime when they became constant and widespread.⁵⁶ At the times the food shortages reached very painful levels. According to Assistant Keeper Amzi L. Dean, "sometimes convicts with tears in their eyes would complain of hunger."⁵⁷ Food shortages drove the inmates to eat the slops from the swill tubs outside the kitchen area.⁵⁸ Periodic food riots erupted in 1837 and 1838 in which inmates would bang their kits

⁵⁶ . Lewis, Newgate, 151-154.

⁵⁷. NYSAD (1839) #335, 43-44

56. NYSSD (1840) #48, 134-135

57. Ibid., 144

against the cell doors. Keepers and guards knew this was a sure sign of prisoner unhappiness over food.⁵⁹

Complaints over the quality of the meals reached the level of black humor. A standard question asked of keepers was, "Were the bugs you saw in the peas dead?" The usual response was, "I have seen them both dead and alive."⁶⁰

The meat supply was the most vulnerable to spoiling and economizing. In addition to constant charges of rancid meat inmates accused Wiltse of adding hearts, tongues and sheep joints to the mix.⁶¹ Fish was often substituted for meat. Cod, the cheapest replacement, was boiled to the consistency of glue.⁶² Always in search of ways to economize prison officials used greasy froth from the soup kettles for the ration of molasses, which was more costly. This innovation was attributed to Charles Wiltse, agent Robert's brother.

The food was not only inferior but insufficient as well. Inmates were so desperate for food that they stored away any extra rations they could get their hands on and hid them in the ventilation ducts in the back of their cells. Food was so scarce that inmates bartered for it and keepers treated it as contraband, searching for hidden supplies and punishing traders and hoarders.

⁶⁰. Ibid., 126

⁶¹. NYSAD (1839) #335,22

⁶². Ibid., 24

The shortages hurt the quarrymen and the coopers, physically bigger men, who worked harder and had large appetites. Initially keepers acknowledged these special needs and permitted them to mark their cells with an "E" for extra rations. But as the quantity of food diminished in the mid-1830s the extra rations were discontinued. Some keepers continued to permit the big eaters to go directly to the kitchen for extra food but they were often rebuffed by Marshall, the Deputy Keeper and punished by keeper Tomkins, the kitchen supervisor. Both keepers saw the food line as a dangerous place providing prisoners with the opportunity to converse. They were especially concerned with the number of recidivists who appeared on the line shortly after their return to Sing Sing eager to exchange news with the kitchen inmates for food.⁶³ The distribution of extra rations threatened prison discipline, especially the rule of silence, and could not be allowed to continue. Discipline had a priority over food.

Prisoners were driven to desperate measures. Horace Lane recalled being so hungry that he, "would take every chance I could to get grass and weeds to eat."⁶⁴ Levi S. Burr, another former inmate, felt "the cry of hunger was general" and that he personally "suffered to such a degree that you would eat roots from the ground."⁶⁵ Hunger pushed the inmates to grab for the fullest food kit on the rack an action which was disruptive and led inevitably to punishment by the keepers. Burr was convinced that the previous days uneaten rations,

⁶³. NYSSD (1840) #48, 214,231

⁶⁴. Lane, "Five Years," 12

⁶⁵. Burr, "A Voice," 24

especially the spoiled food, reappeared the following day. Given this practice it is not surprising that prisoners went half fed for several days.⁶⁶

Scarce and inferior food affected the work capacity of the inmates. Agent Wiltse, while on a tour of the coopering shop, asked Assistant Keeper Lent why the work had fallen off. Lent responded, "they are feeble for want of food." Wiltse defensively jumped on Lent's statement; " Jack are you endeavoring to get up another excitement?" "No" said Lent, "all I want is for the men to have enough to eat and they would perform their labor."⁶⁷ Lent's conclusion that food rations and productivity were related, was supported by Giles Leach, a contractor's agent, who noted a one-third reduction in worker productivity which he attributed to the enfeebling steady diet of peas and cod.⁶⁸ State investigators concluded that the food provisions under Wiltse did "not revitalize the prisoner."⁶⁹ Many observers concluded that the food supply had an adverse affect on the health of the prisoners.

Wiltse's disregard of the causal link between the inferior meals and inmate productivity and the loss of institutional revenue is puzzling. Increases in prisoner output would have generated more revenue which in turn could have improved the meals and eliminated a source of constant tension between the institution and the prisoners. Yet during most of the period, especially the years

⁶⁶ Ibid.

⁶⁷ NYSSD (1840) #48, 161

⁶⁸ NYSAD (1839) #335, 15

⁶⁹ NYSSD (1840) #37, 49

1835-39, Wiltse persisted in providing inferior rations for the inmates. Wiltse's problematic food policy was shaped by public opinion, prison design, his penal philosophy, and self-interest.

The state legislature mandated the purchase of food which was coarse and cheap. A guideline used to interpret the term coarse was the principle of less eligibility which in this instance fixed the quality of prison food as inferior to the diet of the poorest of the free. Frugal-minded agents, like Wiltse were always alert for ways to economize and food was a prime candidate. Between 1837 and 1839 Wiltse reduced the cost of daily rations and claimed to have saved the state over \$5,000.⁷⁰ The Agent's action not only promised to save money but at same time win points with the legislature and the public for his efficient administration.

The absence of a mess hall in the original design of Sing Sing, no doubt a casualty of cost, required all meals be prepared by the kitchen crew and distributed in wooden kits. These meal were standardized, an essential requirement in providing three daily servings for 700-800 hundred inmates. It was difficult with this format to arrange for extra portions for the big eaters without slowing down the distribution of the meals and introducing a food classification system. In a mess hall it would have been relatively easy to provide additional portions for the hungry.

Prisoners carried their filled kits back to their cells were they ate standing or sitting close to "a night tub sending forth various nauseous(sic)

unwholesome smells...compelling them to eat their fish and meat like dogs" in a manner "calculated to brutalize them and render them adverse to improvement and reform."⁷¹ As early as 1834 inspectors and legislators had called for the construction of a mess hall for more civil eating and as a means to meet the needs of the big eaters. Prison officials did not endorse this idea citing the disciplinary problems associated with the potential danger of massing of 600-700 prisoners.

Food was used by Wiltse and the staff as a reward and a punishment. In the effort to break the will of the prisoner many possibilities were followed. While sufficient quality food was not considered in Wiltse's or the State's or even in the public's scheme of things an entitlement, inmates had to be fed. The decision about the quality and quantity of the meals was in the hands of the keeper and agent; this power provided them with another punishing mechanism. Troublesome prisoners who were confined in solitary always had their food ration drastically reduced. The inability of the prisoner to control his food supply and his continued dependence of the prison officials to feed him was a daily reminder of how little power he had.

In 1835 in an effort to save money Wiltse, with the approval of the Inspectors, awarded himself the food contract. He promised to provide more food at lower cost (8c a day for each convict) and on a regular basis. While keepers acknowledged that the food problems had been a long-standing

⁷⁰. NYSSD (1840) #48, 121 The Hudson River Chronicle, 2 October 1838

⁷¹. NYSSD (1840) #37, 13

difficulty they emphasized the fact that the quality and quantity of rations deteriorated after Wiltse became the supplier. Wiltse appeared uninhibited by any potential conflict of interest. The food contracts had been unsatisfactory for a while, costs were being reduced and the public wanted coarse and cheap meals for the prisoners.

In addition to the regimen of punishment convicts faced the dangers of disease such as the cholera which visited the prison during the epidemics of 1832 and 1833. In each of those years during the months of July and August over 300 men suffered the violent diarrhea and the wrenching vomiting which characterized spasmodic cholera. In those two years over 150 men died; one can imagine the fear engendered by the smell of death which hung over the prison. Chaplain Dickinson called it "a time for dying."⁷² The disease was caused by water and or food contamination by the cholera organism resulting in dehydration which, if unchecked, led to death.

As the disease spread within the prison those with cholera were quarantined in the quarry shop and the chapel. Symptoms appeared in most of the inmates; these early signs of the disease created a panic which spilled over into the neighboring towns. Governor Throop visited the prison in the summer of 1832 to help calm the prison and the communities in and around Sing Sing.⁷³ The panic forced the town of Sing Sing to cut off all communication with the

⁷². NYSSD (1833) # 199, 27

⁷³. *Idid.*,49; Charles E.Rosenberg, The Cholera Years. 13-81; *The Westchester Spy*,. 14 August 1832.

prison and restrict all contact with towns people who worked there. If the walls of the penitentiary were a prophylactic against the spread of disease as well as crime Sing Sing, not enclosed by walls, was an especially dangerous institution.

But cholera was not the only ailment to strike the inmates in 1832. The prison physician reported digestive disorders and diarrhea which kept the men on the brink of dysentery. Hoffman described a cycle of disease at Sing Sing which hit the prison in 1832, beginning with typhus in October and early November, influenza in November and December and measles in February followed by an outbreak of consumption which took 28 lives; all prior to the cholera outbreak in the summer.⁷⁴ Hoffman believed consumption was the greatest threat to the prisoners at Sing Sing whose riverside location damp cells and insufficient supply of fresh air were the environmental preconditions for the germination of disease.

The cycle of disease, debility and death was so pervasive at Sing Sing that it led to open speculation about the general health of the institution in comparison to its sister prison at Auburn. While Sing Sing, again was found wanting, the explanation for the poor health was attributed not to design or treatment but according to Wiltse to the character of Sing Sing's population.⁷⁵ Dr. Hoffman confirmed Wiltse's assessment and reported in 1832 that many prisoners from New York City, the largest contingent at Sing Sing, "were found to

⁷⁴. NYSSD (1833) #199, 27

⁷⁵. NYSSD (1840) #48, 264-265.

be diseased, some permanently incurable with impaired constitutions." ⁷⁶ The urban connection offered a ready-made explanation for both the dangerous character of the inmates and now by extension for their poor health as well.

At the center of the practices and patterns of Sing Sing in the 1830s was Robert Wiltse. He was the dominant force, the efficient administrator, whose word had the authority of law inside the prison. Wiltse's actions could not have occurred without the tacit consent of the Board of Inspectors who had legal authority over Wiltse. By the 1830s the Board was comprised of locals who did not enjoy the political prestige of the original Board of Allen, Hopkins and Tibbetts, men who had the influence to challenge an Elam Lynds and even the State legislature. In the initial conception of the Board's relationship to the Agent was that of manager to administrator. ⁷⁷ The combination of Wiltse's determination and the Board's passivity shifted the power to the agent.

The hierarchical organization of the penitentiary, institutionalized by Wiltse, had the support of the state legislature for most of the nineteenth century. This was partly a result of the use of a military model in developing the structure of the penitentiary. Wiltse as Lynds' apprentice and learned early on the mechanisms necessary for good government of the penitentiary. ⁷⁸ The new inspectors also sought to avoid the tumult of their over-zealous predecessors which they believed was a result of their excessive involvement in the prison

⁷⁶. NYSSD (1832) #14

⁷⁷. Klein, Prison Methods, 374

⁷⁸. B.P.D.S. 8th Report 1837. 76

affairs of Sing Sing. The legislature was not eager to repeat the earlier experience where it found itself challenged by the likes of Inspector Samuel Hopkins and caught in a power struggle over authority and accountability. The legislature and the agents wanted more pliable and deferential appointees. One simple way to avoid a repetition of the original conflicts was to appoint men whose political loyalty was not in doubt. These new appointees marked the beginning of the politicizing of the prison government if not of the penitentiary itself.

The centralization of power in the hands of a strong agent was integral to the Lynds-Wiltse hard line. In their eyes Sing Sing was a place for the socially degraded criminal class and it required a strong hand at the helm; one who could act decisively and fearlessly. The agent under this regime ought to embody the disciplinary power of the institution. Thus we see Lynds and Wiltse personally involved in the disciplining of the prisoners on numerous occasions. The identification of the hard-line with central authority is one of the most important developments in the early history of the penitentiary. The central role of the agent will carry through much of the history of Sing Sing where the personality and penal philosophy of the agent, the warden and later the superintendent is often the decisive element in the daily lives of the convicts.

Wiltse also found the Board a compliant one and avoided the struggles which marked the Lynds' regime and opened the internal affairs of Sing Sing to close public scrutiny. If there was a clear difference in the management of the institution between these two men, who shared a common

tough approach, it was the success Wiltse had keeping a lower profile. His reputation did not, in spite of his lengthy tenure, achieve the notoriety of Lynds' and he remains relatively unknown in the early history of Sing Sing. His greatest bureaucratic accomplishment was consolidating power in the hands of the agent and isolating the Board of Inspectors. The degree of ignorance and isolation of the Board was revealed in the comment of Inspector Colonel Joseph Hunt who was unaware that the Agent was their appointment.⁷⁹ Wiltse's skill in managing the Board is clear in the statement and behavior of Walker Todd, a local lawyer and Inspector, who in spite of monthly visits to the prison over a full year had no say in Wiltse's appointments or governance of Sing Sing. He felt perfectly satisfied with this full abdication of power to Wiltse who he considered, "better qualified for the station than any other man who can be procured."⁸⁰

Wiltse's consolidation of authority led to abuses of power including corruption, nepotism, and self-interest. Keepers charged that appointments to the staff involved payoffs and the going rate for the position of guard, the least desirable position, was fifty dollars. The widow of one job candidate, Gilbert Montross, fought to reclaim the fifty dollars when her husband died before the job was ever offered. Inspector Richard Voris, a local who served as the job contact at the prison, refused at first to return the money and only did so after he was pressed by a trustee of the Montross estate.⁸¹ Charles Wright, an Assistant

⁷⁹. NYSAD (1839) #335, 37

⁸⁰. Ibid., 49

⁸¹. Ibid., 29-30

Keeper, denied paying any fee for his appointment but did admit a monthly payment of \$5.00 was a "present" to Voris. Keeper Dutcher went back and forth between Vorhis and Wiltse in frustrating effort to gain a promotion. After Dutcher told Voris, "he was willing to, satisfy him for it" Voris promised to, "endeavor to get it for him."⁸² Wiltse used his appointment power to select keepers and guards loyal to him and beholden to Inspector Voris who served as his "bag man."

Other Inspectors remained indifferent to matters of prison administration. However when Walker Todd attempted to exercise his Inspector's oversight authority and recommended the establishment of better accounting procedures for the operating budget he was rebuked by Wiltse.⁸³

Wiltse also used his appointing power to influence local politics. Paul Lent, an Assistant Keeper, was a candidate for the office of constable and collector in the 1838 village election in Sing Sing. He was summoned to Wiltse's officer and told, "to withdraw his name from the election and not attend the polls." Wiltse promised Lent that, "he could do better by him than the office would give" Lent and his supporters relented insuring the victory of Wiltse's man.⁸⁴ The link to local politics was strengthened with the state appointment of locals to the Board of Inspectors. Keepers and guards were also largely drawn from the community further solidifying the local political base. Wiltse understood that

⁸². Ibid., 42

⁸³. Ibid., 49

⁸⁴. Ibid., 17-18

control of the Inspectors and the locals was crucial to maintaining support for his administration. He used the patronage possibilities in his appointment power to the fullest.

Wiltse was not above a little nepotism as well. He gave the blacksmith and lock contracts to his brother Charles Wiltse and awarded the food contract to himself. The latter action was justified in the name of economies. The period of Wiltse's food contract coincided according to several keepers with the most grievous food shortages at Sing Sing. Only a pliant Board of Inspectors would have not recognized the conflict of interest and not responded to the growing prisoner discontent over the food rations. But Wiltse always countered these complaints by pointing to the savings and the reduction of the cost of a daily meal.⁸⁵

Wiltse's defense of the food contract and the quality of the rations is more than a cynical self-serving rationalization. He was under legislative pressure to cut costs in the face of declining revenues. Stone cutting contracts fell off and production in the quarry slowed as a result. This was a serious blow to the early plans which envisioned a self-supporting prison with a stable revenue base and labor program based on productive quarrying for years to come. The decline was first noticed by Wiltse in 1832. The quality of the limestone continued to deteriorate. The administration was so desperate they considered reducing production in an effort to inflate prices.

⁸⁵. Ibid., 121

Contracts with the State for supplying the "marble" for the Capitol building in Albany provided no payments to the prison for either the stone or the labor of the prisoners.⁸⁶ The State contract also prohibited Wiltse from entering into any other quarry agreements until the order for the Capitol building was filled. State officials thought the prison should be grateful for such a large order in a depressed market at a time when the quality of Sing Sing marble had been called into question. Wiltse was in the position of having to fill the this state order for which the prison would get no financial credit and would in fact be limited in its ability to generate other revenues from the quarry. The State's contention that the market for Sing Sing marble had dried up was disputed by two later contracts in 1840; one provided William Paulding with stone for the construction of his Gothic estate in Tarrytown, Paulding's Knoll, later renamed Lyndhurst, and a second for the ventilators for the Croton Water Works in 1841.

But the tenuousness of the income from the quarry and its poor limestone came as no surprise to Wiltse. As early as 1833 a state commissioned study directed by James Hall reported that the remaining stone deposits were not firm enough to guarantee durability and contained visible flaws which indicated decomposed layers existed below the surface. Hall concluded that it would be impossible for the quarry to be profitable.⁸⁷ Wiltse responded to this report by implementing additional economies in prison expenses and searching for alternate uses for prison labor. He considered the importing of unfinished

⁸⁶. NYSSD (1836) #5

marble from Charleston and cutting and dressing it in the Sing Sing stone shops. He saw the potential for profit in the labor intensive work of the stone shops, where the work was strenuous. But as long as Sing Sing's quarries and quarry workers were monopolized by the contract for the State Capitol Wiltse's hands were tied.

At times the search for alternates became desperate. In 1835 the State Legislature recommended the introduction of mulberry trees and the development of silk production. This seemed like an safe uncomplicated area to venture given American dependence on foreign silk; no American business or worker would be displaced by a successful silk industry at Sing Sing. Eleven acres of the prison farm were planted with mulberry trees; but given the care and close supervision the operation required it was not surprising to find that little silk was produced. Prison Inspectors had little faith in the operation from its very inception.⁸⁸

The shrinking revenues, the Hall report and the Capitol contract forced Wiltse to aggressively shift from quarrying to manufacturing activities. He opened the prison to more contractors in the 1830s and diversified the use of prison labor. The numbers of men employed in the cooper and boot shops began to increase increasing revenue quickly and surpassing the stone quarries.

⁸⁷. NYSAD (1833) #199, 1

⁸⁸. NYSSD (1836) #5

In a relatively short time Wiltse had made the prison less dependent on the quarry and moved toward the prison factory.⁸⁹

But diversification was a mixed blessing. The introduction of more outside contractors brought their agents into the prison. The quarry operation had been an exclusively an in-house operation, under the control of the prison officials. Now contractor's agents would complicate the internal organization; their presence and interests threatened to compromise the silent system and the isolation of the inmate from the outside world. The new agents, concerned with productivity and profits, were now drawn further away from reform. Punishment was now a device for improving productivity. Some agents smuggled contraband into the prison to use as a reward or a source for petty graft. Prior experience at Sing Sing as assistant keepers was considered by contractors as a valuable qualification for the management of the inmate workers and the new job of contractor's agent, give their intimate knowledge of the inside world.⁹⁰

Driven by the need to produce revenue in the face of falling quarry production Wiltse was forced to seek other business activities for Sing Sing. While economic viability required diversification the ensuing complication reminds us of the difficulties of managing a large penitentiary in the 1830s. It further illustrates the tension between the ideals of reform penology in which labor played a central role and the concerns of the legislature and the

⁸⁹ .Lewis, Newgate, 153

⁹⁰ . NYSSD (1840) #48, 135

administration for productivity and profit in which revenue drives prison practices.

At the conclusion of its 1839 investigation the Prison Commission offered a harsh summary of the Wiltse years at Sing Sing,

the object of our prison system: reformation of of the convict which at the same time he is punished for his offense is totally lost sight of in the present management of Mt. Pleasant prison....⁹¹

One historian concluded that the Wiltse years were a "phantasmagoria of wretched living."⁹²

Wiltse was criticized for his poor treatment of the insane and for "compelling men to eat like dogs."⁹³ We can call the Wiltse years a catocracy in which control of the prisoners depended on swift and harsh physical punishment. Some might attribute the brutality to Wiltse's personality and a penal philosophy shaped during apprenticeship with Elam Lynds.

But such a judgment of Wiltse's regime ignores the external and internal pressures on the Agent and the institution to reform and punish the criminal, to balance the institutional budget, and to keep those inside isolated from the influences of the world outside. While there is no doubt that Wiltse's personality colored the 1830s at Sing Sing, it is also true that the nature of the problems faced by the Agent were complex and not susceptible to an easy

⁹¹. NYSSD (1840) #37, 49

⁹². Lewis, Newgate, 155

⁹³. Ibid.

solution. The history of Sing Sing in this decade is was not an aberration but rather a reflection of the complex issues inherent in the penitential punishment of criminals.

Chapter 5

Varieties of Reform

"And this prisens is like heven above"

Elam Lynds and Robert Wiltse established the character and reputation of Sing Sing as a place of dread and terror. Their actions reflected the shift in New York State away from the humanitarian reforms of the post revolutionary period which sought to eliminate corporal punishment and transform criminals into citizens. By the end of the 1830s these hopes seemed lost. But for a brief moment at the end of the decade and in the early years of the 1840s reform returned to Sing Sing in several different varieties. This second generation of reformers while sharing some of the views of their predecessors offered a broader definition of reform. The struggle to implement these changes tells us a great deal about Sing Sing's institutional dynamics and its receptivity to change.

In the election of 1838 the Whig candidate William H. Seward defeated the Democrat William L. Marcy for governor of New York State. It did not take long for the ripples of this Whig election victory to reach Mt. Pleasant. In February of the following year the Whig controlled State legislature appointed a three man committee to investigate the state prisons at Auburn and Sing Sing and to "examine the business and all the affairs thereof, and that the committee have the power to send for persons and papers."¹ Party changes generated prison investigations and eventually new appointees. This election was no exception. The investigators arrived at Sing Sing on 2 March 1839 and began a lengthy inquiry. They interviewed the inspectors, the keepers, the guards, the agent Robert Wiltse and 44 witnesses. Wiltse's two attorneys called 22 witnesses to defend his regime and refute the charges against him. The committee also examined the prison records and account books.

The overwhelming evidence forced them to conclude, "that the objects of our prison system, reformation of the convict, is totally lost sight of in the present management of the Mt. Pleasant prison."²

Their report was such a harsh indictment not only of Wiltse and his autocratic style, but also of the inspectors whose abdication of responsibility encouraged such abuses. Governor Seward felt compelled to remove them because,

instead of taking upon themselves the discharge of the duties required by law have in effect surrendered their principal duties and have committed the entire management and control of the prison, its officers and affairs to

¹. NYSAD (1839),#335, 48.

². Ibid., 49

the agent.³

Wiltse now under attack from the Whigs, appealed to the Democratically controlled Senate to conduct an investigation of its own and not leave the field to the Assembly Committee.⁴

The Assembly charged Wiltse with acting improperly in supplying the prison with provisions, employing convicts as servants, obstructing the coroner's inquests of suicides, mistreating the insane, supplying inferior food, excessive punishment with the lash, accepting kickbacks for jobs, and engaging in gross fraud. These were the most egregious of the 55 charges brought against Wiltse by the Assembly Investigation.⁵

Wiltse's defenders in the Senate, try as they did, could not explain away all of these charges nor disperse the blame to others. The Democratic majority failed to challenge the accusations and could not prevent a dissenting minority from concluding, "that the present officers of every description having had charge over the prisons or prisoners, should be removed, and new men appointed in their place."⁶ Even the Boston Prison Society following the visit of Louis Dwight found the punishment at Sing Sing to be "odious and detestable" and believed there had to be another way to deal with prisoners.⁷

³. Governor Seward to the New York State Senate, 16 April 1839. Boston Prison Discipline Society (1839) #14, 40-41.

⁴. The battle of investigations is representative of the politicization of Sing Sing and the penitentiary in New York State. Appointments to office lacked criteria and far too numerous to resist the political spoils.

⁵. NYSSD (1840)#37, 47-53

⁶. NYSSD (1840)#38, 11-12

Governor Seward acted quickly to correct the situation at Sing Sing and removed the Inspectors in 1839, ousted Wiltse on April 24, 1840 and replaced him with David Seymour, a Peekskill stove manufacturer and a Whig.⁸ The differences between Seymour and Wiltse were not only political but over ideology as well.⁹

Seymour was committed to rehabilitation and "a new order of things." He introduced a humane attitude toward the inmates and required his assistants to exercise forbearance and restraint.¹⁰ His first administrative action was to reduce the use of corporal punishment, an essential step in the transition from the regime of terror to moral control. He organized a Sabbath School, distributed religious tracts and permitted convicts to teach.¹¹ During one epidemic, his sympathy for the lives of prisoners drew him to the hospital, where he spent the night comforting the suffering inmates.

Seymour's commitment to rehabilitation extended to the release and reintegration of the inmate into society. What could be done to smooth the way and enable ex-con to stand independently? The key was work. While Seymour accepted the financial necessity of inmate labor he also believed that work involved the health of the prisoner's body and mind and provided the means which, "will enable them to earn an

⁷. Lewis, Newgate, 206

⁸. Ibid., 210

⁹. For a fuller discussion of the differences between Whigs and Democrats on the character of reform see Lawrence Kohl, The Politics of Individualism: Parties and the American Character In the Jacksonian Era. Kohl argues that the Whigs rejected coercion and brutality as a means of achieving order and control of the deviant. Kohl's Whigs are convinced that the penitentiary and the asylum enabled Americans to adapt themselves to the world of individualism. Kohl , 74-78

¹⁰. John Luckey, Life in Sing Sing State Prison as Seen In a Twelve Years Chaplaincy (New York: Tibbals & Co., 1860), 26-27

¹¹. Ibid., 26

honest living when they are at liberty."¹² His desire to prepare prisoners for life on the outside informed his proposal to employ 40 men on the State prison farm where they could "learn husbandry and gardening in a well regulated family under religious and moral instruction, establish a character that will recommend them to such as are in want of help".¹³

Seymour's proposals not only moved Sing Sing toward reformation but extended the scope of penal reform beyond the walls of the prison. He recognized not only the humanity of the prisoner but the sociological nature of his predicament. If the free inmate is shunned and unemployed he will quickly and inevitably return to crime and to Sing Sing. Reformers, like Seymour were beginning to link the two worlds of the inmate; their responsibility was not limited to the institutional world.

The new outlook, a reformulation of the old reform ideas about humanitarian treatment, was supported by the Principal Keeper Angus Mc Duffie, who under the reorganized administrative structure restrained the keepers and their punishment practices. The State legislature had in response to the findings of the investigations of 1839 and 1840 redefined the office of agent and principal keeper making both responsible to the Inspectors. The agent would supervise the financial operations of the prison while the principal keeper daily operations.

Mc Duffie was the right man for the job of P.K. He believed "soft words turn away anger, there is a cord even in the most corrupt heart that vibrates to kindness...."¹⁴ One

¹². NYSSD (1842) #39, 18

¹³. *Ibid.*, 20

¹⁴. *Ibid.*, 29

could not find a more succinct statement of moral treatment. Mc Duffie felt that "much evil emanated from the mode of punishment of my predecessors." ¹⁵ It is not surprising given the attitude of Seymour, Mc Duffie and the new Board of Inspectors that the amount and severity of punishment was reduced by one half within the year. Prisoners liked the new regime. One convict a decade later fondly recalled Agent Seymour,

Giv us Christiens like David L. Semore
 And this prisnen is like heven above
 He is one that used kindness
 And he has the prisners luv. ¹⁶

Seymour's approach was met with disbelief and apprehension by keepers and guards who were distressed at his radical departure from the old methods and aghast as he prayed with the inmates in the chapel and visited them in the hospital. "Where will this end?" a keeper exclaimed. One contractor and former officer in the prison asked Chaplain Luckey to intervene with Seymour and explain how his imprudence was

lowering his dignity, and will so destroy the discipline that in a months time we shall have such a rebellion as no prison ever witnessed; we are already afraid for our lives. ¹⁷

The threat to the old order which this new approach represented created a split within Sing Sing between the hard liners and the reformers and echoed the more fundamental tension between reformation and retribution. This is one of the early signs of institutional inertia. Keepers feared a loss of power and authority and would continue

¹⁵. Ibid., 30

¹⁶. New York Prison Association,

¹⁷. Luckey, 27

to resist these innovations. Thus reformers would have to also contend with inside opposition.

David Seymour's approach to reform was grounded in the tenets of evangelical Protestantism. His participation in worship service, the establishment of the Sabbath School, Sunday visits with the inmates and the distribution of tracts are part of his attempt to exercise moral persuasion opposed to physical control over the inmates using religious education and exhortation. But though Seymour tried to reform the prisoners through religious conversion he was working within a system of coercion; a duality which represented the two basic strains of ante bellum reform.¹⁸

The 1830s and early 1840s constituted the high point of evangelical inspired reform.¹⁹ At Sing Sing this impulse created a moment of harmony in which the governance of the penitentiary and the reform movement shared a common faith that men and women, in their hearts, wanted to behave morally. The job of reformers and institution leaders alike was to help bring the fallen to a consciousness of their sinful past and restore them to the moral life.²⁰

At the center of evangelical reform at Sing Sing was the Rev. John Luckey, a Methodist Episcopal minister who came to Sing Sing in May of 1839. Luckey was in addition to his chaplaincy at Sing Sing, affiliated with the Five Points Mission, an urban based missionary effort to aid the immigrants and the poor who lived in this notorious

¹⁸. Ronald G. Walters, American Reformers 1815-1860 (New York: Hill and Wang, 1978), 16

¹⁹. Ibid.

²⁰. The reform movements of the 1840s are discussed in two general surveys; Ronald Waters, American Reformers: 1815-1860. (New York: Hill and Wang, 1978), 3-37; 123-216 and the more recent work of Steven Mintz,, Moralists and Modernizes: America's Pre-Civil War

section just north of City Hall.²¹ Luckey was part of the "benevolent empire", a loosely connected grouping of Protestant voluntary associations. The central idea in the evangelical movement was perfectionism, the belief that weaknesses in society and the individual could be corrected through moral reform.

Revivalists called ministers and laity out of their churches and into the streets of the city to confront the problems of poverty, alcoholism, prostitution and crime and by extension to the prisons of the City and inevitably to the one State prison filled with city criminals. The moral reformation of these social casualties would be accomplished through a practical Christianity. Luckey applied these techniques to Sing Sing and soon after his arrival in June 1839 introduced similar evangelical programs in the prison.

He recognized at the outset the limited nature of the Chaplain's work-the saving of souls-which confined his activities to spiritual and religious matters. His underpaid and marginal predecessors had been primarily concerned to bring the prisoner to accept the legitimacy of his punishment and his imprisonment. Two months after his appointment Luckey wrote to Governor Seward asking for funds for the establishment of a prison library which, he argued, provided a means of moral and intellectual reflection. Luckey reminded the Governor that in,

solitude the individual is left to commune only with his heart; and what train of reflection is to be expected of those whose minds are under the influence of the most disorderly and corrupt habits. Hence the importance of books for such, to

Reformers. (Baltimore: Johns Hopkins, 1995), 3-116.

²¹ Luckey's work, his objectives and methods at Sing Sing were consistent with his later efforts with the Five Points and the Ladies Home Missionary Society. See Carol Smith R, Religion and the Rise of the American City Mission Movement 1812-1870. (Ithaca: Cornell 1971), 227

give direction to their mind; and of good books to give them right direction....designed to inculcate moral principles.²²

The governor responded by requesting an appropriation from the state legislature for the establishment of the prison library and when that was not forthcoming he donated \$300 to start the library. Luckey acquired "good" books through donations and judicious purchases.²³ He distributed reading materials during his Sunday rounds and in effect became the first prison librarian. The impact of the book distribution program is taken from anecdotal evidence. One inmate told Luckey,

At first I was induced to read them from the kindness of the agent in condescending to give them to us and then change them so as to let us have different ones every Sabbath. Afterwards I began to feel an interest to read them on account of the good things they contain. They have led me to see myself as I am and to long for the coming of the holy Sabbath and to attend worship to love the Bible I once hate. And then I have been induced to send for you, that I might inquire what must 98 do to be saved. ²⁴

Tracts had been available prior to Luckey's appointment. They were published by the Religious Tract Society in New York City and distributed during the Sunday's rounds at Sing Sing in preparation for a religious revival. But the tract society had moved beyond distribution in the 1830s to a more direct involvement in the religious life of the poor through home visits. ²⁵Luckey restored the distribution of the tracts.

²². Luckey to Governor Seward, 8 August 1839 in Luckey, Life in Sing Sing, 21-22

²³. Luckey's work in establishing the library and the connection between books and the chaplain raises issues about his motive and the nature of the reform he was proffering. Eric Cummins has suggested that control of reading is part of what he terms "bibliotherapy" the institutional effort to provide access to reading and writing for the inmate. Eric F.Cummins, "A Chronicle of San Quentin 1950-1980: Book Suppression , Inmate Resistance. And the Rise and Fall of Prison Movement ." (Ph.D. diss., University of Pennsylvania, 1950), 7-35.

²⁴. Chaplain's Report, NYSSD (1841)#42, 17-18.

The Chaplain with the support of Agent Seymour organized a Sabbath school whose attendance jumped from 114 in 1840 to 337 in 1841.²⁶ Classes were divided between reading and bible study. Twenty-five inmates discharged in 1841 had learned to read in the Sabbath school.²⁷ In 1841 the school's growth made it necessary to use prisoners as teachers. Luckey helped in the selection of the, "better sort of convicts to do the teaching."²⁸ There was much apprehension about this experiment. But as a result of careful selection and close supervision Luckey reported "not a solitary impropriety" of the teachers under his charge.²⁹

Sing Sing's Sunday School reflected the belief that criminal behavior represented the failure of the family and the community to develop character through proper moral education. Luckey hoped to duplicate Sunday Schools on the outside where the poor and the delinquent were taught moral values. Literacy, albeit in the service of evangelical Protestantism, was now a possibility for to the inmates. The definition of reform had expanded to include education.

A choir was organized in conjunction with the Sabbath service, an activity which the men enjoyed and which according to Luckey could be made, "to subserve the interests of discipline; in another cause the prevalence of good moral feelings."³⁰

²⁵. Rosenberg, 70-97; Mintz reminds us that The Tract Societies in New York had moved beyond distributing bibles to offering material assistance and had organized to care for the sick and poor. Mintz, 54-58.

²⁶. The Sunday school movement was part of a national movement of Protestants to inculcate Christian values in these "nurseries of piety." Mintz, 58-60.

²⁷. Chaplain's Report, NYSSD (1842)#39, 23-24

²⁸. Chaplain's Report, NYSSD (1843) #10, 19

²⁹. Ibid.

When Luckey attempted to encourage the criminal to reestablish connections with his family he moved from the realm of the moral to the social. He helped inmates prepare letters home.³¹ Luckey described these sessions as opportunities for the prisoner to renew his heart and recall home and the moral obligations connected with it.³² This activity provided Luckey with information about the prisoner's social history and access to the inmates friends and family. He redefined the prisoner as a social being whose ties to community were important to an understanding of his criminal past and preparation for his future.

Luckey followed the letter writing with visits to the prisoners' neighborhoods, mostly in New York City. He used these initial contacts with the convict's local friends and family to instigate an exchange of letters or arrange for an annual visit by the family which according to Luckey could be of great moral benefit to the prisoner. The conversations between inmates and family were restricted to social and moral subjects, and provided the convict with the

most wholesome and salutary advice and admonitions....The same may be said of the scores of letters written and received by them....nine out of ten contain the best moral lecture that these men ever listened to.³³

Luckey's attempt to reconnect the prisoners with their families not only helped conversions but provided moral support to prepare the prisoner for release and return to the outside. He lobbied for an increase in the small release allowance (\$3.00) and an

³⁰. Chaplain's Report, NYSSD (1842) #39, 26

³¹. Cummins included the censoring of letters as part of the effort of the penitentiary to control all communication and the inmates access to and use of language. Cummins, 80.

³². Chaplain's Report, NYSSD (1846)#16, 104

improvement in the quality of the second hand clothes given to men when they were discharged. Luckey was nervous about the dangers posed in this first moment of freedom and social re-entry. He was apprehensive that upon his return to New York City the,

convict when discharged should receive enough money merely to defray expenses back to the place of his conviction, returns to seek employment in that city where resides their former companions in crime and vice, and this, those who have formed resolutions of reform, dread about as much as they dread perdition itself. ³⁴

Luckey was so concerned about the re-entry that he accompanied the discharged inmate on his downriver journey to New York City. Some of the river steamboat captains, aware of Rev. Luckey's work, did not charge him for these innumerable trips. He stayed with the ex-cons to "defend them from the attacks of former associates and also to assist them in procuring employment and a proper boarding house." ³⁵ The moment was so fraught with danger because the criminal underworld was prepared to move in quickly and draw the discharged prisoner into renewed criminal activity. Luckey feared for the men,

How few have the moral courage to withstand such temptations, and especially when their very souls within them are withering under the sad tokens of a misguided public proscription (their clothes and allowance). It is not surprising to me that under the present economy, be so many here for the second and third time. ³⁶

³³. Chaplain's Report, NYSSD (1842) #39, 26

³⁴. Ibid., 27

³⁵. Ibid.

³⁶. Ibid., 28

Luckey felt that even if the ex-con remained in the neighborhood to look for work, as was often the case, every inquiry he made was met with the cold reply, "Ah, ah! you have been in the state prison."³⁷ To deal with this problem of resocialization of the released inmate Luckey proposed the use of the state farm to employ some of the discharged prisoners at a fixed rate and teach them husbandry and gardening along with religious and moral instruction. This would provide an intermediate step, a kind of half-way house, to ease the transition. The Board of Inspectors never acted on Luckey's proposal.

One additional attempt to prepare the men for the temptations of free society was to encourage them to take the temperance pledge. In 1842 Sing Sing was visited by a temperance delegation led by Messrs. Brown and Woodruff. The visit, along with Luckey's strong prompting, led many men to sign a temperance pledge. At the time of their release Luckey gave them each a certificate of membership in the Temperance Society. He observed that most men kept the pledge except for half a dozen or so and most of whom acknowledged that their "relapse into criminality was solely chargeable to their having failed to keep the pledge."³⁸

The use of temperance pledges connected Sing Sing with the national temperance movement and the assumption of a causal relationship between intemperance and immorality.³⁹ The connection between drink and crime was not only an article of faith in temperance circles but often appeared as a concern in the reports of

³⁷. Ibid., 20

³⁸. Luckey, Life in Sing Sing, 236

³⁹. Mintz,, 72-73

prison officials and state legislatures. Questions related to temperance were added to the intake interviews and prison registries at Sing Sing in the 1840s an acknowledgment of power of the temperance crusade.

Even death could be a weapon for the conversion of the inmates. Luckey advocated allowing the men to attend funerals of family members and fellow inmates. In a letter to the Inspectors he outlined a plan for making effective moral use of deaths which occurred in the prison. He wrote,

Let the body be taken to the chapel and after a brief history of the deceased by the chaplain, the necessity of repentance and preparation for death be urged. It will be as voice from the grave- the dread reasoning with the living 'of righteousness and a judgment to come.'⁴⁰

In interviews with the prisoners Luckey used death to create feelings of remorse and a desire for renewal. This was especially true if the death of the family member was attributed to the financial exigency or the social embarrassment created by imprisonment.⁴¹

At the center of Luckey's outlook was one primary question; "what was to be the moral character of the convict when discharged from prison?"⁴² For Luckey this question was the measure of the effectiveness of the penitentiary. He believed that in many ways the penal system corrupted the inmates. To reverse this course and lead the

⁴⁰ NYSSD (1842) #39 Chaplain's Report, 34

⁴¹ See especially the accounts of "A Desperado Tamed" and "An Unfortunate Marriage" in Luckey, Life in Sing Sing, chps. XII and XV.

⁴² NYSSD (1843)# 39 Chaplain's Report, 39.

prisoner to moral reformation Luckey had a three pronged approach; a mild, but firm discipline, education and religious instruction. ⁴³

Luckey used the word discipline to describe the rules and regulations of prison life and affixed the adjective mild to connote his charitable view of erring humanity. Discipline should be tempered by knowledge of the conditions which contributed to the criminal behavior. In Luckey's classification system the novice should not be treated like the experienced criminal, and "abandoned to a class of men who have no feeling for him." Rather he should feel he is being watched over and instructed by prison officers who are acquainted with human failure and have hearts and feelings. ⁴⁴ He wrote,

One thing is certain, however, that much more depends upon the sound judgment and humane feelings of the disciplinarian than upon the instrument of punishment which he employs; - hence a *cruel* man should never enter within the walls of a prison except as a convict. ⁴⁵

Luckey's statement recalls Robert Wiltse's admonition to the keepers and guards to harden themselves against identifying with and being sympathetic toward the criminal. While one may wonder where the prisons will find men of this temperament for the wages being offered Luckey's hoped some would see prison work as a calling. Moral treatment, kind and gentle punishment had come to Sing Sing

But we should not lose sight of Luckey's use of the word firm which connoted his acceptance of the possibility that force was a necessary alternative to sustain the rules and restrain the prisoner. But tough punishment should be applied only to the minority of

⁴³. Ibid., 41

⁴⁴. Ibid., 42

prisoners, "who have grown old and hardened in crime, whom no persuasive arguments will materially affect, and who will take a diabolical delight in trampling, when they dare, on law and order".⁴⁶ He wished for a classification system which would not punish all in the same way.

The inmates' world was dictated by the influence of what Luckey referred to as the "master spirits" who, because the majority of the convicts were, according to Luckey, like children with little intellectual independence, could dominate men inside and public opinion on the inside. He recognized the internal opposition to change and the hold of the inmate subculture. He chose to enlist these master spirits on the side of order and renewal by involving them in the reform program. Luckey chose the Sabbath school teachers from among this group; prisoners who had standing among the inmates and, by example, could influence not only the school but general conduct. Luckey believed this was the same principle used by contractors in selecting a shop "boss", a prisoner who would teach the trade to others. While prison officials recognized the need to check the influence of the prison sub-culture Luckey's approach to the "master spirits" offered a new and innovative method to this problem, one which would use their influence for reform. He believed that the men who were given these special responsibilities were less likely to return to a life of crime after their release.⁴⁷

All of Luckey's innovations were designed to provide religious education the requisite for religious conversion. Sabbath school, bible reading, tract distribution,

⁴⁵ Ibid., 17

⁴⁶ Ibid., 43

⁴⁷ Ibid., 47

home visits, family correspondence were devices to help move the prisoner from reflection and repentance to regeneration. Luckey believed he lived in an age of benevolence in which man's suffering should be met with schemes for reform.

"Ignorance, the parent of crime, was about to receive a fatal blow" he said, "from the systems of instruction which enlightened the mind, defends against temptation, and guides us to appropriate action." This work would succeed when we accepted the notion that, "the fear of the Lord is the beginning of wisdom." For Luckey religion was the foundation and the only efficient agent of moral improvement.⁴⁸

But Luckey was no mere revivalist preacher. His reform combined experimental religion with a secular analysis of the social context of the prisoners' lives and the conditions which contributed to criminal behavior. Luckey was beginning to link social analysis to moral reform and expanding the definition of penal reform. The shift in Luckey's approach reflected a general shift in the thirties and forties; a shift toward a more secular explanations of criminal behavior in which environmental factors played an equal part in the formation of moral character. While Luckey and others would continue to urge prayer they had come to recognize that social conditions including work, family, education and community played an essential role.⁴⁹

The second generation of penal reformers, represented by Seymour and Luckey, moved beyond the institutional setting, humane treatment, and personal regeneration. They saw the prisoner as a social being whose time at Sing Sing could not be isolated from his community and family. While they had not abandoned the concerns of the first

⁴⁸. Ibid., 39-40

generation they widened the scope of reform and sought to integrate the social world outside with the life of the prisoner inside.

To that end Luckey became a close and careful observer of the prisoner's life history searching for clues to their criminal actions. He shared with the statisticians of his day a faith in knowledge as the tool for improvement. His daily observations began with the private interviews Luckey conducted from 10am to 2 or 3pm every Sunday immediately following the Chapel service. During the week he also interviewed inmates in the shops. In these interviews Luckey was very purposeful and went beyond the traditional evangelical urgings for repentance.

in my intercourse with the convicts I have taken occasion to inquire respecting their views, habits, and moral and religious feelings and to note the results of my investigation in a book kept for that purpose.⁵⁰

The notebook entries were supplemented with information gained from the meetings and correspondence with the prisoner's family and friends. Contacts continued even after the release from Sing Sing, supported by the New York Prison Association. Luckey recorded the entries by cell number filling fourteen books with his notes.⁵¹ In gathering this data he was searching for an understanding of what he called the propensities or,

the characteristic passions, affections and imbecilities which gave being to their misfortune, furnishes its possessor with that kind of pulpit eloquence which, although it may not suit the refinement of innocence and education, is nevertheless calculated to apply with particular force to the conscious of these men.⁵²

⁴⁹. Rosenberg, 215

⁵⁰. NYSSD, (1841) #42 Chaplain's Report, 21

⁵¹. NYSSD (1846) #16, Chaplain's Report, 104

Luckey referred to the penitentiary as a system which "without a harmonious action of the entire whole no such (reform) results could have been produced. Let but one link in this powerful chain be broken and every other would be comparatively useless."⁵³ A new integrated vision of the criminal as more than a sinner and the penitentiary as more than a place of punishment was needed. He believed that a fuller understanding of the criminal and the context of his crime would enable him to guide the individual toward reformation.

In 1860 Luckey published Life In Sing Sing which contained twenty-one narrative case histories drawn from his notebooks. Each of these detailed accounts attempted to reconstruct the family history, locate the source of the criminal behavior and describe the inner history of the prisoner while in Sing Sing. Luckey was encouraged in this work early on by Governor Seward who wrote to him in September 1842,

... you will my dear sir, do a great public service, if you will keep a record of the cases of reform of persons discharged from prison, as well as those upon whom mercy as well as punishment produce no effect.⁵⁴

Luckey gave each of the anecdotal portraits a generic title so as to protect the identity of the prisoner and his family.⁵⁵ The titles serve as a quick summary of Luckey's basic view of the criminal, "A Vagrant Boy's Story" and "The Orphan

⁵². NYSSD (1844) #20, Chaplain's Report, 83

⁵³. *Idid.*, 86

⁵⁴. William Seward to Rev. John Luckey, 25 September 1842 in Luckey, Life In Sing Sing, 152-153

⁵⁵. His concern for protecting the identity of the inmates, especially the released convicts, was not shared by the State legislature when they published the names of all inmates paroled or

Reformed"; "A Desperado Tamed" and "A Desperate Convict Girl"; "An Unfortunate Marriage" and "A Family of Forgers"; "Intemperance" and "Escapes."

The Chaplain was attempting to identify the inmate and uncover the root of his criminal behavior. While his biographies served a hortatory function they also contributed to the definition of the criminal. The case studies served as a collective portrait and an outline of the criminal class. The publication of Luckey's Life In Sing Sing contributed to the discourse on crime and strengthened Sing Sing's place and influence in that debate.

Luckey's portraits consistently documented the failure of the criminal's family to prepare him for a moral life. This is the overriding explanation which he repeatedly illustrated in the biographies. For Luckey disabled families began with the failure of the father to lead. A fatherless boy is denied moral and intellectual training. The death or loss of the father, "deprives a boy of the the firm discipline he (the father) was wont to influence at a time when it was most needed"⁵⁶ The downfall of the father upset the family's equilibrium and placed an inordinate burden on the mother

Women bore the brunt of public shame for the crimes of the fathers and the sons; left behind they had to defend the honor and integrity of their broken family. While in some cases mothers responded with heroic action to save the children more often than not economic pressures drove them to crime. The fall of the mother would lead to the final destruction of a family. The image of the forsaken and abandoned women

released from New York State prisons in the legislative record.

⁵⁶. Luckey, Life in Sing Sing, 144

evoked a profound sense of remorse and guilt among the prisoners. One inmate lamented,

My mother, O my dear, dear mother. What will Become of you and my sister now that your erring son and brother is disgraced and confined. ⁵⁷

"R.I." tried to coax her imprisoned husband to accept his condition and submit,

...only with my life will I relinquish my exertions for you....Do you know that I believe that if I should hear that you have been punished, it would either kill me or drive me mad; I therefore entreat of you to quietly submit to everything, however mortifying it may be, for my sake; for you cannot imagine how much mortification I have suffered. I am afraid that someone will try to injure you with those who have the charge over you. I cannot get rid of the idea, it seems to haunt me. ⁵⁸

Her devotion was so compelling that it not only pointed the way back but offered a safe haven where an ex-con could undo the damage of imprisonment. Convict "T" who had suffered physically and mentally at Sing Sing, "from the instant he regained the society, sympathy, and home of his mother, he began to rapidly improve both in mind and manners."⁵⁹ The critical role of the mother in the re-entry of the convict to free society is another example of her special moral place.

In addition to the moral failure of the parents their death or disappearance left the children orphaned. Luckey described this condition as, "the early tomb of a young man's hopes," a moral vacuum which was filled with "bad associations." ⁶⁰

⁵⁷. Ibid., 131

⁵⁸. Ibid., 226

⁵⁹. Ibid., 121

⁶⁰. Ibid., 68

For Luckey the issue of association was magnified by the urban background of most of the inmates he dealt with. New York City which, "affording, necessarily as many facilities for pollution and crime as it does for mercantile and mechanical pursuits" was decisive in Luckey's call to the chaplaincy. ⁶¹ "On ascertaining this fact", he wrote, "an immense missionary field opened before me, and I at once felt deeply impressed with the conviction that it was my duty to occupy it." ⁶² While the urban nature of the prisoners prompted some officials to regard Sing Sing's inmates as more dangerous and corrupt for Luckey it was another field in urban philanthropy and the war on poverty. ⁶³

Luckey's objective was not only to lead the prisoner to moral reform but to prevent imprisonment from further corrupting the convict. He was engaged in a battle to liberate the soul of the prisoner and protect his body and mind. Luckey was concerned by the failure of Sing Sing to classify the prisoners and to separate the newcomer from the hardened criminal.

It frequently happens that the junior and senior in criminality are placed side by side at the work bench. Under these circumstances, not only officers and visitors, but the prisoners themselves -suffering a gradual diminution of self respect - lose all idea of degrees in criminality and consequently are looked upon and regard themselves as being alike degraded, abandoned, and outlawed. The fact that there is one set of rules for all; that they are all dressed in striped garments; their cells, furniture, food, &c. are alike, tends to confound those degrees in crime upon which alone equitable penalties can be awarded, or encouragement to reform can be founded. ⁶⁴

⁶¹. NYSSD (1842) #39, Chaplain's Report, 337.

⁶². Luckey, Life in Sing Sing, 127

⁶³. Rosenberg, Religion and The Rise of the American City, 43

⁶⁴. Luckey, Life in Sing Sing, 198

Luckey felt this indiscriminate mixing forced the inmate to recognize that he was now one of them; abandoned to the prison sub-culture.⁶⁵ This was an example of the way in which the penitentiary established an identity for the prisoner which was new through his imprisonment.

Prison life was, according to Luckey, rendered precarious by the system of harsh punishment which kept men in a state of agitation and eventually broke them. Luckey hoped for a mild but firm discipline which would open the way for reformation and conversion. But the first step in this process was for the prisoner to be reconciled to his fate and to accept his punishment and not resist. Once on this path and with the help of the Sabbath school, religious books and the chaplain a prisoner might come to a true conversion. Luckey recorded the testimony of "Poor Jack The Converted Negro" who was prevailed upon to lead the chapel service on a return visit to Sing Sing in 1842.

Jack told the prisoners,

I have suffered in like manner with you too long, and too deeply, to be indifferent to your painful and trying condition; but my Heavenly Father taught me, as I pray he may teach you, that my sins and crimes were the principal cause of my suffering. He inclined my heart, as I hope he will yours, to seek pardon. Then I was happy, indeed. Then the gloom of my cell was taken away. Then anger, and malice, and envy, were exchanged for love to all mankind. Then, this very room, under the prospect of a speedy dissolution, appeared as the 'house of God and the gate of heaven to my soul.' Now will you pray for yourselves? Pray that your sins may be set before you in their light - that you may see your vileness and weakness, and that you have the spirit of true repentance; then you may hope for pardon and peace. Then you will be prepared to meet the snares of and temptations of the world, should you live to get out.⁶⁶

⁶⁵ . Classification remained a crude affair in New York for most of the nineteenth century.

⁶⁶ . Luckey, Life in Sing Sing, 105. This quote is a good example of the conservative role that religion could play in the life of the penitentiary advocating acceptance and accommodation.

Luckey saw conversion as the essential for a honest pardon, true freedom and a peaceful death.

He helped the prisoners in the preparation of their cases for the Governor's review and regularly interceded on their behalf with letters of support. Luckey kept track of the 60 pardons granted between 1840 and 1843 and noted that only five of the convicts returned to Sing Sing. He believed that, "executive clemency, judiciously exercised results in the cultivation of that peculiar species of gratitude, without which there can be no hope of permanent reformation, but with which the possessor is ever prepared to be benefited."⁶⁷ The possibility of a pardon was an critical incentive for the prisoner to work toward reformation.

But the return to freedom was a moment fraught with so much danger that only the ex-con armed with religion could with withstand temptation. Luckey followed the progress of Sing Sing men on the outside. He noted the difficulty of their finding work, marked as they were by their attire and their status as ex-cons. On former prisoner wrote to Luckey,

I am now almost in a state of starvation, and what on earth to do I know not. I had a visit from a pious gentleman on Sunday last. He encouraged me by the promises of God, and prayed with me before he went away. He gave me little money, recommended me to apply to the churches, and took his leave. May the Lord reward him a hundredfold! I have since applied, but they would do nothing for me. I am despised by the world: there is a mark on me! What on earth to do I know not. I have no friend; am penniless and homeless. I know the Lord has sanctified my affliction: and although I ought not to have been sent to prison, yet I hope it is all for the best. I have lost my character, my property, my wife, and children 'tis true: but my soul is of more value than all that. ⁶⁸

⁶⁷. NYSSD (1843) #10, 20

Such men were an easy prey for the city's criminal class in the first few months after the release; a period described as the "trial months."⁶⁹ Luckey was convinced that the system of punishment had neglected the social predicament of the discharged convict and left him to fend for himself in a hostile environment. In this matter he shared a common concern with many to the reformers in the Prison Association of New York who worked to ease the transition.

Luckey was not unmindful of the penitentiary's danger to life. Long sentences and harsh treatment meant the prisoners had to be prepared for death as well as freedom. The environment of the prison rendered the prisoner's life uncertain.⁷⁰ Thus one of his responsibilities as chaplain was to prepare the prisoners for death.

This kind of preparation is evident in a letter from Luckey to a distraught mother which contains an account of the last days of her son's life. It is an example of the way in which, with his guidance, the prisoner moved toward reconciliation with God and his own mortality. Luckey tells her that her son died a righteous man, "desiring to depart and be with Christ." Luckey's sketchbook notes recount the conversations with the prisoner during the final months of his life.

The prisoner called Luckey to his cell almost a year prior to his death. Luckey found him in great distress and filled with despair over his sinfulness. He asked the chaplain, "Is there hope for such a sinner as I am?" Luckey reassured him that, "with God there is plenteous redemption." In July the prisoner discovered he was ill with

⁶⁹. Luckey, Life In Sing Sing, 250

⁶⁹. *Ibid.*, 98

⁷⁰. *Ibid.*, 199

pulmonary consumption and by November he worsened and was moved to the hospital. Luckey met with him regularly, helped reduce the sense of his wickedness, and encouraged his growing confidence in God. Luckey recorded this transformation in the sketchbook; "death lost its terror; and heaven, his home seems near." In December he told Luckey that his soul was happy in the Savior's pardoning love and that he wished to "be resigned to the will of God in all things." A few days before his death he exhorted all the inmates of the hospital "to seek God with all their hearts."⁷¹

Chaplain Luckey stood like all chaplains at the center of the penal contradiction between retribution and reformation. More than any of his predecessors he found a way to reconcile these conflicting goals by combining care for the soul with deep concern for the life of the prisoner in and out of Sing Sing. Luckey's chaplaincy, which lasted twelve years, longer than any nineteenth century agent/warden, marked a shift in the role of the chaplain from one which provided religious services to a counselor and chronicler and from saving souls to helping the inmate survive.

The reform work of Agent David Seymour came to an abrupt end with the Democratic victory in New York State in 1842. In his short stay Seymour and the Principal Keeper with the support of Chaplain Luckey had attempted to change Sing Sing. In place of the terrors of the Wiltse years they had introduced a more humane treatment, reduced the levels of corporal punishment and developed programs for prisoner reformation. They brought moral treatment to Sing Sing for the first time. Their ideas widened the scope of reform to include the world outside the penitentiary.⁷²

⁷¹. "Two Well Bred Boys" , Luckey, Life In Sing Sing p.232-235.

Chaplain Luckey saw the world of the prison, the inmate's individual will and his outside community as part of the penitentiary system. He suggested again and again that if the penitentiary was to be an agent of renewal it needed to recognize that punishment was only one element in a much broader and more complicated social process.

Seymour and Luckey had built on the legacy of post-revolutionary reform and expanded it to include the social world of the inmate. They carried reform outside the walls.

During Seymour's tenure revenues from contracts fell off requiring successive State appropriations from 1841 to 1843 totaling \$67,000. The reformers were now vulnerable to the charge of poor management. One of the axioms of nineteenth century prisons was that reform penology led to diminishing revenues. Efforts by Seymour and his administration to explain the loss of revenue as a product of the prolonged depression of 1841 and to cut costs by reducing the number and rate of compensation for officers failed to convince the critics. The Committee on State prisons recommended the "introduction of a system of strict and rigid economies and reminded prison officials of the language of the past-"take care of yourselves ... and do not make a draught upon the Treasury." ⁷³

While economic troubles plagued the reform regime Seymour's ouster was primarily a result of the shifting political currents in the State. The Whigs were ardent supporters of the penitentiary and other asylums. The emphasis of the penal reform

⁷² . Christopher Adamson describes Luckey as indifferent to the conditions of housing and sanitation and committed to converting the criminal and not creating a social revolution. Adamson, "Wrath And Redemption,;, Protestant Theology and Penal Practice in the Early American Republic." *Criminal Justice History* (1992) #13, 92

⁷³ . NYSSD (1844) #57,3

movement on individual discipline was congenial with the Whig's belief that American was plagued by the absence of order and limits. Thus unlike the Jacksonian Democrats who lamented restraints on the individual, the Whigs believed in the penitentiary's effort to inculcate order, discipline, and industry.⁷⁴ It is thus no surprise that the Democrats would reverse the reforms of David Seymour.

The newly appointed Democrat Inspectors selected John W. Edmonds, a Barnburner with Regency connections, as president of the Board. Edmonds was a radical lawyer who had argued on behalf of trade unions and in defense of free trade.⁷⁵

Edmonds, did not have to look too far to find fault with the Whig regime at Sing Sing. He quickly discovered the full extent of the debt which had been hidden by poor record keeping. The number of escapes had increased in the last year, many of them attributable, he thought to lax supervision by the keepers, raising more doubts about the efficacy of the reform administration. The new Board immediately launched an internal investigation to determine whether "mildness or severity ought to characterize punishment."⁷⁶ The Committee not surprisingly concluded that,

To talk of the power of moral suasion in a community of felons is to talk nonsense; to prate about the subduing power of kindness and sympathy among men whose very presence here is a proof that they have with ruthless hand torn asunder those ties of sympathy and love which bind together the family and the community, is worse than preposterous. The tiger in his cage may fawn and seem to be subdued under the hand that feeds and applies the lash, but open his prison door and he is again at once the tiger of the jungle.⁷⁷

⁷⁴ . Kohl, 74-75

⁷⁵ . Schlesinger, Arthur. The Age of Jackson (Boston: Little Brown , 1945), 179,197

⁷⁶ . NYSSD (1844)#20, 216

The Board now began turning out reform officers and searching for politically appropriate replacements. Its desire to restore discipline was so strong that the first two candidates who came to mind for agent and Principal Keeper were former agents Elam Lynds and Robert Wiltse. There is no better evidence of the imprint these two men made on New York penal history and their identification in the public mind with discipline than the resurfacing of their somewhat tarnished names in 1843. The board was inundated with job applications. Board President Edmonds reported over 400 applicants for 60 jobs; the "ins" and "outs" were pressing for speedy and favorable decisions."⁷⁸ For local residents appointments were a critical issue. After the board announced its selections an unhappy mob of locals descended on Edmonds home, protested loudly and burned him in effigy. He attributed the protest to disgruntled job-seekers and anger over the appointment of Elam Lynds as Principal Keeper. While Edmonds had left the lesser appointments of the local members of the Board he concurred in the appointment of Lynds as Agent in April 1843.

Lynds immediately began to undo the work of Seymour and Luckey. He pressed the Board to close the Sunday school, eliminate prisoner correspondence, restrict library privileges, and reduce visitations. They deferred to his experience and dropped most of these programs, retaining only prisoner's visitations and correspondence privileges. Lynds also objected to the convicts speaking directly to Inspectors and bypassing the

⁷⁷. Luckey, Life in Sing Sing, 30

⁷⁸. Edmonds, John W. "A Letter From John W. Edmonds, One of the Inspectors of the State Prison At Sing Sing to General Aaron Ward In Regard to the Removal of Captain Elam Lynds as Principal Keeper of That Prison." 4-5.

prison administrators. Direct access to prisoners would remain a bone of contention throughout this decade.

For a while the Board felt satisfied with the Lynds rule; "never forgive an offense but always punish and with the lash."⁷⁹ Order and obedience seemed to return to Sing Sing under what Rev. John Luckey called the "reign of terror."⁸⁰ But the number of punishments began to soar by May and June they averaged 1500 lashes a month. Attempted escapes increased as well, giving the lie to the axiom that it was mild punishment which contributed to more escapes. Luckey distressed by the new toughness conspired with Keepers Banks, Eldridge, and Weeks to conduct a secret experiment to challenge Lynd's "knock down and carry out" methods. These three keepers kept a strict count of the punishments in each of their shops and reported the exact number to the Board's Committee on Discipline of which Edmonds was a member. Their informal study demonstrated that there was no better discipline among the prisoners who had been severely punished than under the mild system. This conclusion raised doubts about the effectiveness of Lynds' approach. In the summer of 1843 local residents, who heard the prison alarm signal far too many escapes, joined with visitors from New York City in calling for Lynd's ouster. Several escapes in the summer and the the Inspector's investigation in September 1843 convinced the Board to dismiss Lynds as Principal Keeper. Lynds had in addition to the standard charges of using prison help for personal needs was also accused of intoxication and slandering the Inspectors. Edmonds was shaken by the whole experience.

⁷⁹. Ibid., 7

Nothing equals the slander I have been subjected to since I became Inspector of Sing Sing; condemned for appointing and dismissing. I am called Robespierre and 'ginger pop.'⁸¹

But the controversy over the Lynds' appointment educated Edmonds and eventually converted him to the reform position. He confided to Luckey that, "we have come to the conclusion that we have neglected the morale of the prison too long." Edmond's change of heart was decisive and led to a return to the policy of mild treatment.⁸² The ouster of Elam Lynds opened the door for a reinstatement of the reform program established by Luckey and David Seymour. The way now seemed clear for the reformers to consolidate their hold on the institution and to at last fulfill the reform ideals of the original penitentiary founders.

The common ground Luckey shared with Edmonds on the goal of a milder punishment covered a profound difference over the causes of crime and the methods for reformation. Only in the evolution of Edmonds' thinking about penal matters and his role in the founding of the Prison Association of New York did these differences become clear.

Edmonds' Quaker roots challenged him to rethink the nature of the criminal and the character of punishment which had been in use at Sing Sing since its founding (with the exception of the Seymour administration). In April of 1843 and again in July of 1843 the Board warned Lynds about excessive corporal punishment. But only after Lynds was

⁸⁰. Luckey, Life in Sing Sing , 31

⁸¹. Edmonds, "A Letter," 27-28.

⁸². Lewis, Newgate, 218-219

replaced by Herman Eldridge did the rate of punishment diminish. However when Eldridge assembled the keepers to explain the decision to eliminate flogging and solicit opinions from them they reacted as violently as "bushmen." His suggestion that they substitute hard labor, solitary confinement, and various other penalties for flogging, was greeted by one keeper who responded, "Oh, give them the cat. Toe them up with the cat. That's the best thing."⁸³

The ensuing debate over the use of the lash and the cat at Sing Sing was not an isolated discussion. By the mid 1840s the critics of corporal punishment in the school, the home, and the navy agreed that punishment was an outdated method of discipline, a "relic of barbarism." The reform movement exposed the punishment practices at Sing Sing and the other state prisons and led to a full review by New York's legislature.

In 1846 a Special Commission on Punishment reviewed the history of prison punishment in New York. The Report reminded New Yorkers that the founding of the penitentiary was a reaction against the whipping post and asked what was the difference between the old practice and present practice of, "whipping inside prison, with no human eye to witness except the punishing subordinates."⁸⁴ They were in fact recalling the humanitarian agenda of the first generation of penal reformers. The Report criticized the past practices at Sing Sing where, in spite of the 39 lash limit which was imposed when flogging was reintroduced in New York in 1819, keepers had administered 12,000 stripes in one month.⁸⁵ They noted the way in which the generally

⁸³ . Georgiana Bruce Kirby. Years of Experience: An Autobiographical Narrative. (New York: AMS Press.) 205

⁸⁴ . NYSSD(1846) # 120, 2

held belief that the Auburn system required terror served to rationalize the heavy reliance on the lash at Sing Sing. The Commission suggested that vigilance and perseverance by the officers will do more than physical redress in maintaining discipline. They pointed to the recent efforts at Sing Sing which over the past two years had reduced the number of lashes from an average of 2,000 a month in 1844 to 250 a month in 1846. Sing Sing under the influence of the reform regime showed a dramatic turn around.⁸⁶ The place of dread and terror seemed to want to shake off its old reputation.

New York State followed the lead of the reformers and enacted laws to restrict prison punishment by keepers to cases of self defense or to suppress a revolt or insurrection. The 1847 reform law ended the most common form of punishment-flogging.⁸⁷ The state and Sing Sing's administration seemed to be of one mind on the use of the lash. But ever resourceful keepers in their quest to maintain control found new ways to punish. While the state recommended the use of solitary and reduced rations the most favored alternative became the shower bath-a cold head bath in which the convict was placed in a sitting position on a frame with his hands and feet restrained. Cold water, released from a bucket suspended above the convict, crashed down on to his head, administering a "severe shock" which in a few instances proved fatal. The punishment could be controlled by the number of buckets which at times

⁸⁵ . *Ibid.*, 3-4

⁸⁶ . Glenn, 132-133

⁸⁷ *Ibid.*, 134

reached a dozen. This new innovation was even favored by reformers like Edmonds, Luckey and Eliza Farnham who deplored the use of the lash.⁸⁸

The innovation of the showerbath was followed by the introduction of yoking-an iron collar stapled around the neck, with three 7-8"prongs extending upward. The convict was required to continuously wear the yoke for several days. The search for alternative punishments continued throughout the nineteenth century. Keepers and prison officials feel compelled to resort to corporal punishment. Even the national debates over corporal punishment in the schools, the navy and other prisons revealed a significant body of support for the harsh punishments.

By the 1850s Americans became disillusioned with the faith of the reformers that moral and voluntary means could perfect human nature.⁸⁹ The belief in corporal punishment as an essential device for control and good order was translated into new forms. This did not bode well for Sing Sing's long term future.

In the midst of the harsh reactionary moment Edmonds, now preoccupied with the plight of the prisoner, published an open letter in New York newspapers calling for the formation of a prison association. In December of 1844 The Prison Association of New York (NYPA) was organized.⁹⁰ The first report announced a series of Association objectives: to attend to the prison discipline, to gather statistics of crime, enlarge the reformatory influence, aid discharged prisoners, monitor released convicts especially

⁸⁸. NYSSD (1846) #121, 7-8; Lewis. Newgate, 268-272.

⁸⁹. Glenn, 145

⁹⁰. The organization of NYPA is discussed in M. J. Heale's "The Formative Years of the New York Prison Association. 1844-1862: A Case Study In Ante Bellum Reform." New York Historical Society Quarterly #59 (October 1975),320-347. Also see Larry E. Sullivan, Prison

those from Sing Sing who returned to New York City and find work for discharged convicts.⁹¹

Indeed in its second Report in 1845, NYPA envisioned the penitentiary as "a moral hospital for the morally infirm," and called upon the responsible citizens to join in their work - the labor of the philanthropist.⁹² They believed that studies of crime and criminals would uncover the causes of their behavior and provide a means for a cure. The medical metaphor and the notion of healing envisioned the criminal as a patient whose life history was an important if not determinative element in his criminal behavior.⁹³ This is one mere step in the identification of the convict as an object of observation and study.⁹⁴

The NYPA was incorporated in 1846 and delegated by the state with official power to visit, inspect and examine "all the prisons of the state and annually report to the legislature their condition."⁹⁵ The State never appropriated sufficient funds and visits were strictly limited. Sing Sing, because of its proximity to New York City became their

Reform: Forlorn Hope. (Boston: Twayne, 1990) 15-16.

⁹¹ . NYPA 1844 #1 .

⁹² . NYPA 1845 #2, 32-56.

⁹³ . The medical metaphor and the notion of crime as a disease was a way of distinguishing the criminal from the rest of society in a way that maintained responsibility and cure. Disease was contracted by the criminal and he was therefore responsible for his condition. Francis Lieber in his introduction to Beaumont and de Tocqueville's work described "prisons as hospitals for patients laboring under moral diseases." Haney described the penitentiary as "legal laboratory" where empirical data of crime could be collected and studied. Haney, 201; 214-215.

⁹⁴ . Sullivan, 15. NYPA'S first report included a section (the inside back cover) designated "Questions" which listed 108 inquiries which prison officers were asked. Appendix. "Questions" NYPA #1/2 (1845) 117.

⁹⁵ . Heale , "Formative Years." 336

prime object of investigation.⁹⁶ Agent Alexander Wells felt Sing Sing had been unfairly singled out and he refused in 1848 to allow NYPA inspectors into the prison. Access was denied until 1852 and NYPA was compelled to gather information from former inmates. Its criticism of Sing Sing during this period ranged from charges of brutality and mismanagement to more mundane complaints such as poor lighting.⁹⁷

For NYPA reform began with the tactic of the expose which they hoped would make the prison walls permeable. NYPA shadowed the prison administration and publicizing the hidden failures of administration. But these activities depended on access and the inner world of Sing Sing, like many other prisons, was closed to public scrutiny. Agents and the State legislature had worked hard to keep it that way.

Yet while requests from NYPA for access to Sing Sing were denied public visitors came in such large numbers that by the 1860s both the Inspectors and Sing Sing Agent S.H. Johnson were complaining that,

The degradation of imprisonment was made worse by serving as subject of idle curiosity, stared at and commented upon and by the effect of scores of women parading through daily-women who should never be allowed through.⁹⁸

Agent Johnson attributed the desire to visit to a "morbid curiosity-the idle gaze of curiosity-seekers."⁹⁹ The prison officials who controlled the daily visits to the workshops and the State legislature permitted this practice to continue pleased with the additional

⁹⁶. Ibid.

⁹⁷ Ibid., 339

⁹⁸. NYSSD (1847) #5, 8; 1 866, #11, 17, 26;.

⁹⁹. Ibid.

revenue. However they had a vested interest in keeping NYPA officials out of Sing Sing and protecting its inner workings from public scrutiny.

Reformers, like NYPA members, wanted to expose in order to educate and change harsh policies and brutal practices. They, along with Boston Prison Society, established the role of the organized outsider- the watchdog shadowing the inner workings of the prison. They shared with other humanitarian reformers a growing revulsion from pain. Yet they did not advocate the elimination of corporal punishment but only its judicious use. The walls of the penitentiary privatized pain and kept it from the newly sensitized public. When excesses spilled over the public was forced to confront the practice of corporal punishment in the penitentiary where supposedly, "scenes of barbarity were removed from the public eye."¹⁰⁰

While punishment was now privatized in the penitentiary and kept from a public whose curiosity about the hidden world of Sing Sing flooded the institution with visitors. Reformers sought to eradicate the excesses of punishment while the curious public fed by exposes threatened to unleash a new "pornography of pain."¹⁰¹ Dorothea Dix lamented, "all who go to gratify a mere curiosity to see the place" make it a "spectacle for the gratification of the thoughtless and the curious."¹⁰²

¹⁰⁰ . Masur, Rites of Execution . 88-89.

¹⁰¹ . Karen Halttunen, " Humanitarianism and the Pornography of Pain." American Historical Review. April 1995. 332-334. The preceding argument owes much to Halttunen 's article. Also see Peter Gay, The Cultivation of Hatred. 129-210 in the Bourgeois Experience vol. 3;. Thomas Haskell, " Capitalism and Human Sensibility I. 340-361. American Historical Review and Elizabeth B. Clark. " 'The Sacred Rights of the Weak': Pain, Sympathy and the Culture of Individual Rights In Ante-bellum America." Journal Of American History. September 1995 463-494.

¹⁰² . Dix, 10

Thus reform may have been not about the elimination of pain but rather its confinement and management within the walls of the penitentiary. NYPA did not propose alternatives to the penitentiary or recommend substantive institutional change.¹⁰³ Indeed its agenda for Sing Sing was conservative and its energy increasingly directed toward preventing crime and aiding the ex-con's return to the community and insulating the prisoner from the degradation of the penitentiary. They doubted the efficacy of long sentences and became disillusioned with the ability of the penitentiary to discipline and reform.¹⁰⁴

NYPA's conservative posture strengthened the belief that the penitentiary in fact could not reform the inmate it could at least contain and manage physical punishment within its walls. This position helped legitimate the penitentiary and through its extensive statistical publications contributed to the notion of a criminal class. The publication of statistics fed off the penitentiary's own information gathering. NYPA focused on programs for rescue and return. What was initially an effort to change the Sing Sing ended with an affirmation of its utility, necessity and inevitability.

As the issues of punishment moved away from reform of the penitentiary and clustered around the origins of criminal behavior less energy was directed toward Sing Sing and more toward occasions of crime. NYPA saw the criminal as the casualty of an imperfect society; an individual who needed help and support before he committed a criminal act and after he was released from the penitentiary. NYPA's analysis offered environmental explanations for crime. The answer to understanding criminal behavior

¹⁰³. Heale, "Formative Years," 340

may lie not only in the individual but in social and economic factors located outside the criminal. They seemed to agree with Dorothea Dix who concluded about the penitentiary that "we had promised too much." ¹⁰⁵ Reform now encompassed a wider range of issues in which the penitentiary was only one element.

The shift in emphasis from individual culpability to environmental explanations was strengthened by phrenology which made its way from Europe to Philadelphia in the early nineteenth century. Its proponents in the United States, Charles Caldwell and George Combe, argued that anatomical and physiological characteristics influenced human behavior. ¹⁰⁶ The cranium contained thirty-seven organs which determined one's propensities and personality. Weaknesses or excesses in one area of the brain were detected in the shape of the cranium. At first reading phrenology appears to be a form of biological determinism which leads to a kind of positivist notion of criminality. But on closer examination phrenology, while relying on a physiological argument, did not preclude the potential for individuals to overcome their dangerous propensities. Men and women could act to remedy their problems and through diet, exercise, education and other similar reforms check the dangerous propensities revealed in the shape of their cranium. ¹⁰⁷ Thus we can see phrenology along with NYPA and the pioneering work of Chaplin Luckey, as part of a transition from evangelical exhortation to a more scientific and secular explanation of criminal behavior. ¹⁰⁸

¹⁰⁴ . Ibid., 340-341

¹⁰⁵ . Dix, 61

¹⁰⁶ . John Davis, Phrenology Fad and Science: A 19th Century Crusade. (? Archon , 1971) 3-4

¹⁰⁷ . Walters, 157. Lewis, Newgate. 231-232

Phrenology served as a bridge between traditional notions of moral reformation and secularized reforms. One historian has described the controversies over phrenology as a "fundamental undercurrent of the nineteenth century-an official warring ground between old school metaphysics and popular utilitarianism and between orthodox theology and secular morality."¹⁰⁹ The interest in phrenological ideas was part of the new emphasis on hereditary explanations of individual disease and anti-social behavior in the 1840s. The use of hereditary etiologies by prisons, mental hospitals, and schools increased as well.¹¹⁰ Thus phrenology found an audience in the United States where institution-building was an early response of reformers. While this analysis is informed by the example of Victorian England it is nevertheless suggestive about the impact of phrenology on Sing Sing and the controversy surrounding its principal proponent Eliza Farnham, the Superintendent of the female department at Sing Sing.

Phrenologists also had a direct impact on discussions about penal reform in the United States. They opposed cruel punishment as useless given their belief that the root of the criminal's transgression lay in the distorted organization of the brain and moral

¹⁰⁸ . Walters, 146. The distinction between the two varieties of reform is discussed by Robert Abzug who categorizes the phrenologist as body reformers committed to the sacred significance of the body. The duality of phrenology is best described according to Abzug by the term moral physiologist which drew on biblical and scientific laws. Robert H. Abzug, Cosmos Crumbling : American Reform and the Religious Imagination. (New York Oxford 1994) 163-182. British historian W.L. Forsythe distinguished between Evangelists who held a Christian philanthropic view and associationists who emphasized the impact of experience on individuals.. According to Forsythe evangelism "appealed to the spirit soaring upwards towards man's redeemer, the other to the less ethereal and, many argued , more realistic known laws of the psychology of humankind. W.L. Forsyth Prison Reform 13.

¹⁰⁹ . R.J. Cotter, "Phrenology: The Provocation of Progress." History of Science (1976) #14, 214

¹¹⁰ Charles E. Rosenberg. "The Bitter Fruit: Heredity, Disease, and Social Thought In Nineteenth- Century America." Perspectives In American History. Harvard University Press (1974) #86, 201; 214-217.

ignorance.¹¹¹ Thus a penitentiary should be a place of rehabilitation where the "patients" are treated well, educated and given hope for the future. Prisoners should be classified phrenologically and given an indeterminate sentence. Even though they acknowledged the presence of some criminals whose intellect and moral sensibilities were so underdeveloped they could not be reformed their voice was on the side of gentle treatment.¹¹² Corporal punishment was regressive.

Phrenological ideas were brought to Sing Sing by Eliza Farnham the Superintendent of the women's prison. Her work and influence was so profound that by 1847 Sing Sing was being hailed as "a phrenologically conducted institution."¹¹³ The first separate women's prison in the United States had opened at Sing Sing in 1839 and continued to house female inmates until 1877. Within a few years the women's prison s had fallen into the usual pattern of overcrowding and mismanagement which culminated in a riot in the 1843. In the aftermath of this outbreak new questions arose about the most effective way to punish women. One year later Farnham was appointed Superintendent.¹¹⁴

Farnham initiated a series of reforms based on the new ideas of phrenology. Immediately after her appointment by Inspector Edmunds she selected Georgiana

¹¹¹ . Davis, 99

¹¹² . Ibid., 100-101

¹¹³ . Ibid., 101-102

¹¹⁴ . Lewis, Newgate, 157-177. The history of the female prison has not been included in this work and is introduced at this point because it bears directly on the history of the main institution. Women's Prison's have been studied in the work of Estelle B. Freedman, Their Sisters Keepers: Women's Prison Reform in America 1830-1930. (Ann Arbor: University of Michigan Press, 1981)

Bruce, an Englishwoman who had spent time at Brook Farm and was a friend of Margaret Fuller, as one of her matrons. Farnham used Bruce's connections to expand the library to include travel works, fiction and tracts on phrenology. With Bruce's aid she established reading classes, installed large lamps, provided writing slates and arranged to have a friend play the piano for the women inmates. She relaxed the rule of silence and requested Judge Edmonds send each inmate a bouquet of flowers on the fourth of July.¹¹⁵

Bruce's selection was not surprising given her sympathy for phrenological ideas about crime. She noted in her autobiography that,

We knew that they were the products of their circumstances; of their inherited tendencies and the conditions into which they were born. Given ignorance and weaknesses in the blood, and back alleys populated by the degraded and friendless, who can wonder at the outcome.¹¹⁶

While serving as superintendent Farnham edited and wrote an introduction for Marmaduke Sampson's Rationale for Crime, a key work of penal phrenology. In the introduction Farnham acknowledged that phrenology was not yet recognized as a basis for penal reform.¹¹⁷ It was her expressed hope to reach a wider audience especially legislators and other penal reformers. She was in sympathy with Sampson who argued that we lacked a well defined principle of treatment of the criminal and their inherited

¹¹⁵ . Suzanne Case, Eliza Farnham: The Women and Her Era: 1815-1864. Honors Thesis Stanford university 1979. 66-68; Georgiana Barr Kirby, Years of Experience (New York: AMS Press, 1971 Reprint 1887 Edition) 190-199

¹¹⁶ . Kirby, 200

¹¹⁷ . Marmaduke B. Sampson, A Rationale For Crime and Its Appropriate Treatment; Being A Treatise On Criminal Jurisprudence. (New York: D.Appleton & Co. 1846). xiii.

defective endowment. Severity of punishment, which ignored the outward physical manifestation of the behavior, did not alter the criminal. But crime was not inevitable. Dangerous propensities could be blunted if society would direct total attention to the causes instead of the effects of crime.¹¹⁸ What was needed according to Sampson was leadership. She lamented that the untrained officers in charge of prisons who were "utterly ignorant of the constitution of the mind, of the sources of criminal desire and the methods of checking their actions."¹¹⁹ Farnham responded Sampson's call for leadership and embraced the principles of phrenology which became the guiding light for her work at Sing Sing. The proximity of the two institutions, the female prison was on Sing Sing's property a short walk east of the main cellblock, and the joint authority held by the inspectors for both institutions as well as the shared resources and staff would entangle the two prisons in this phrenological experiment.

Farnham attempted to put phrenological principles to the test. She arranged with the consent of John Bigelow one of the State Inspectors and a supporter of reform, to have an artist sketch head formations of selected male prisoners. These were appended to the Sampson text which was published in 1846.¹²⁰ The work and the sketches seemed to confirm the relativist notions of guilt and responsibility of Mrs. Farnham and phrenology. Not surprisingly the sharpest rejoinder came from Chaplain Luckey who had been provoked by Farnham's open disapproval of what she described as his "forcing

¹¹⁸. Sampson, 2-43

¹¹⁹. Ibid., 79

¹²⁰. Sampson, 8-10;121; Appendix VII, 152-155. The sketches of the inmates heads "are presented for the purpose of further illustrating the connexion of criminal desires and acts with peculiar conformations of the brain and also with a view of adding to the mass of

theology" on the prisoners, a response rooted no doubt in her long held aversion to organized and evangelical religion.¹²¹ Chaplain Luckey objected to the relativism of Farnham's ideas, the reorganization of the library and the use of his office to conduct phrenological studies.¹²² Farnham prevailed and with the support of Bigelow and other members of the Board she was able to force Luckey out. He did not go quietly

The Luckey-Farnham dispute was more than a clash of strong willed personalities. Their difference and the ensuing controversy defines the character of prison reform in the 1840s and documents the divisions within the movement. The State Investigating Committee concluded in 1846 that Sing Sing was "under a feeble state of discipline" and concluded there was "nothing masculine in its composition."¹²³ This was a slap at Farnham's influence. The continuation of escapes at Sing Sing during the reform period added to the criticism of phrenological reform which threatened, in the eyes of its critics, to displace free will, individual responsibility and the place of morality.

Religion was at the heart of most phrenological controversies in the nineteenth-century and Sing Sing was no exception.¹²⁴ Luckey recognized phrenology as a kind of secular Methodism, which not only would displace him but offered an alternative way of explaining the world and organizing the penitentiary. Phrenology served here as a mediator between the old and new system of values. The evangelical vision of

evidence already collected...."152

¹²¹ . Case, 66.

¹²² . Lewis, Newgate, 244.

¹²³ . NYSSD (1846) #120, 121.

¹²⁴ . Cooter, 216

punishment was challenged by a more positivist and deterministic notion of criminal behavior. This battle would continue until the end of the century.¹²⁵

We can see this argument played out more explicitly in the dispute over control of the library. Mrs. Luckey, the Chaplain's wife, had charged Farnham with "inculcating a love for novel reading" by including works such as *Nicholas Nickleby* and *Oliver Twist* which she read aloud to the inmates.¹²⁶ Rev. Luckey felt that religious texts such as the Bible were being neglected and replaced by George Combe's *Constitution of Man*, a phrenological primer along with the works of Orson Fowler.¹²⁷ For Luckey the library had a didactic purpose-to aid in the process of conversion. He selected and solicited works which had an evangelical thrust. Farnham sought to use the library to educate the inmates in a broader sense-to help them recognize that a fuller understanding of their criminal behavior could be found in the writings of contemporary phrenologists. She wanted to avoid readings which created a sense of guilt and shame and chose works whose character enhanced the inmate's sense of worth.

¹²⁵ . Craig Haney has argued that psychological individualism was the prevailing explanatory paradigm in the nineteenth century and its imprint was nowhere clearer than in criminal justice policy. Phrenology according to Haney was consistent with psychological individualism. Craig Haney, "Criminal Justice and the Nineteenth Century Paradigm: The Triumph of Psychological Individualism in the Formative Era." *Law and Behavior* #6(1982) 192; 202; 223. Haney's argument suggests that even when using the rhetoric of bio-social causality psychological individualism- accountability and responsibility -are still the dominant explanation. The implication of this idea is a dualistic notion of criminal behavior in which the individual is always responsible for his actions regardless of any contextual deterministic explanation. Psychological individualism which provided the rationale for the penitentiary late into the nineteenth century. Even in the face of new scientific explanations of criminality the individual will be held accountable and punishable. Haney suggests that, " the marriage of individual cause and institutional solution produced a cycle of self justification that was imperious to effective critique and change." Haney, 225.

¹²⁶ . Lewis 245; Case 67

¹²⁷ . Appendix : Catalogues of Male and Female Departments Mount Pleasant t State Prison . August 1846

The battle over the library is symptomatic of the stakes involved in the Luckey-Farnham controversy and raises the issue of control over intellectual material in the penitentiary or what Eric Cummins calls bibliotherapy—the effort of the prison to create a new psyche through the control of language and knowledge. The library, viewed in the context of book therapy, is thus like an intellectual pharmacy distributing healing lessons.¹²⁸ The function of reading in Luckey's schema was conversion and the works would be chosen accordingly. Farnham disparaged the religious goals in favor of the broader civilizing tendencies of reading.

The second reform movement expanded the idea of humane punishment associated with the first reformers, to include education, counseling, restoring family and community ties, support for the discharged prisoner, exposes and institutional monitoring. How did the second penal reform movement fair at Sing Sing what were its lasting contributions, and what does this episode tell us about the character of the penitentiary? John Bigelow the young idealist State Prison Inspector, a supporter of reform and an ally of Superintendent Eliza Farnham, a man who hoped to make his mark at Sing Sing wrote that,

My duties as inspector of the Sing Sing Prison were interesting and instructive. It was in their discharge that I learned how rough is the road any reformer has to travel, and how prone the public generally is to err in its judgment of its executive officers—how like the dragon's teeth obstacles multiply under the feet of anyone who undertakes with singleness of eye to reform manifest abuses.¹²⁹

¹²⁸ . Cummins, Intro., 7-8.

¹²⁹ . John Bigelow, Retrospections of An Active Life. 2 vols. (New York: The Baker and Taylor Co, 1909) I. 67.

The metaphor of a journey which informs this statement owes a great deal to the inside/outside penal dichotomy. Bigelow, the eager reformer, quickly became entangled in the dragon's teeth of institutional arrangements and public opinion. He came to see that it is not enough to want to change Sing Sing but one has to face down a kind of institutional inertia which protects the entrenched interests of administrators and keepers.

Bigelow located the opposition to reform in the minority of local prison inspectors who disagreed with the majority.¹³⁰ The latter shared with Bigelow the hope of ending the "notorious abuses which had for many years been making that prisons more or less a grievous financial burden to the State as well as an impeachment of its humanity."¹³¹ But they quickly found the opposition was tenacious. The view from the outside was much clearer and the hopes much higher.

As insiders Bigelow and the majority of the Inspectors concluded that the prison was organized in the interest of the contractors who were allied with the local inspectors. Efforts to purchase prison necessities in larger quantities at wholesale prices were opposed by the local inspectors. Attempts to improve the pool of keepers and guards by hiring men from other counties were vigorously resisted. Keepers were indignant at the restrictions on punishment which required reporting all inmate

¹³⁰ . The minority consisted of Amzi Dean and John Fisher who warned of the dangers of "converting the penitentiaries into schools for the instructions alone of the inmates-let the principle that punishment is no part of our prison system...then the period will arrive when insurrection, incendiarism, robbery and all the evils most fatal to society and detrimental to law and order will reign supreme. " Lewis, Newgate. 250-251; NY SSD (1848) #17, 2-5

¹³¹ . Bigelow, 67.

infractions in writing to the principle keeper before administering any punishment. This not only limited their actions but assumed the ability to read and write; some keepers would not make the grade. Bigelow noted that the all those whose "prescriptive privilege" was challenged by the reform innovations united in a common purpose to discredit the reformers and to misrepresent to a fickle public events at Sing Sing.¹³²

He lamented that the reformers were charged with having transformed Sing Sing into "a boarding school and an agreeable refuge for those who preferred an idle repose at the expense of the state." The reform regime was also criticized for weakening discipline which in turn contributed to the diminution of revenues. The entrenched local and institutional interests were sufficiently powerful to first complicate the reformer's task and ultimately to undermine their innovations. In the state wide election of 1847 for the new consolidated Board of Inspectors Bigelow was turned out. One year later Farnham resigned. One historian has concluded that, "the great period of reform was coming to an end."¹³³

Reform advocates were internally divided and stymied by the entrenched interests, public opinion and the local community. Neither the evangelical reform of the first half of the decade nor the phrenological inspired ideas of the second half were able to dislodge Sing Sing from its reputation as a place of dread and terror. Reformers proposed few if any alternatives and many of their innovation though based on humane impulses were not supported by workable political strategies appropriate to the penal system. The word system is key here for it suggests not only the growing state

¹³² . Bigelow., 68; NY SSD (1848), #10 4

centralization with the creation in 1846 of a state wide Board of Inspectors but also the way Sing Sing is so imbedded in the social order and the public mind that it reflexively defends itself with dragon's teeth, entangling all who seek change.

The State legislature was according to the State Inspectors prejudiced by, "ignorant and designing persons ...against every effort which has been made by the Board and as well as the philanthropists...to meliorate the discipline of the prison." ¹³⁴ A State Investigation of Sing Sing in 1848 revealed an indebtedness far beyond the amounts reported by the Inspectors. The linking of reform and indebtedness is one of the key axioms of the nineteenth century penitentiary and the latter often serves to undo the former.

While the State acted to reduce corporal punishment and removed the insane from Sing Sing officials persisted in their search for new forms of punishment and self sufficiency. While a few of the reforms of the 1840s endured but Sing Sing remained intact, inured to more fundamental criticism. Most of the dehumanizing routines, including silence, the lockstep, stripes and the solitary cell survived and new varieties of corporal punishment were introduced. ¹³⁵ The conservative reaction was fully articulated by Chaplain Green who in 1849 wrote how he,

visited the convicts to quiet their minds in reconciling them to their situation and in inducing them, in some instances, to a wise and profitable improvement of ...the manners of the convicts and their subordination to the rules of the prison. ¹³⁶

¹³³ Lewis, Newgate, 250

¹³⁴ . NYSSD (1848) #10 4-5 .

¹³⁵ . Lewis, Newgate. 254.

¹³⁶ . NYSSD (1849) #30 , Chaplain's Report . 253

Green was no John Luckey.

At no time again in the nineteenth century would Sing Sing be subjected to such a concerted reform effort. The struggle of penal reformers to improve or alter the penitentiary regime at Sing Sing exposed fundamental issues not only about reform but also about the penitentiary. The history of penal reform can best be understood, according to Samuel Pillsbury, as a result of the "confluence, compromise and competition of the influences of moral idealism, the need for order, and institutional interests."¹³⁷

Pillsbury describes four stages in the process of change which is initiated when reform proposals generated by idealists seek to change society's relationship with the offender through penal improvement. This first phase is met by a social concern for order expressed in the call for harsh and efficient punishment. According to Pillsbury during times of limited resources the concern for order eclipses the moral needs of the prisoner. The two principal forces of justice and order, idealism and social control are tied to a third which tends to go unrecognized-the interests and influence of those employed in penal institutions. These three processes or elements interact in a way to blunt reformer's intentions and create a divergence between reformer's goals and penal practice.¹³⁸

¹³⁷ . Samuel Pillsbury, "Understanding Penal Reform: The Dynamic of Change." The Journal Of Criminal Law and Criminology (1989) #80, 728

¹³⁸ . Ibid., 726-729.

These were the forces which operated on the history of Sing Sing and in the 1840s they came together and battled for the future of the institution. The reformers lost in their effort to re-establish and broaden the original goals of the post revolutionary reform. They came to recognize that the penitentiary was a formidable institution not easily changed with many defenders who were vested in the status quo.

At Sing Sing humane treatment had at best only a small constituency --the inmates who lacked political voice and the reformers whose numbers were few. The opponents of change and the supporters of order were a

llied not only with the institutional managers but also with the state legislature and public opinion. Penal reform failed not only because its supporters were weak but because its opponents were strategically placed in and outside the institution to defend the old harsh ways.

Chapter 6

Prison Labor

“Reduce the Inmate to a Silent Working Machine”

In the spring of 1825 when Elam Lynds, the newly appointed agent, marched up the hill from the Hudson River and landed in Ossining with over 100 hundred hand-picked convicts from Auburn prison, he was fulfilling a penal reformer's dream. A new penitentiary was to be built by the prisoners, with a minimum of civilian help, using stone cut from the quarry on the site. New York's historic objective to build a prison on a quarry was finally realized. The cost of the materials and labor required to construct, what was to be the largest penitentiary in the world, would not be at state expense but rather borne on the backs of the inmates. Thomas Eddy, the Quaker prison reformer, smarting from his failure at Newgate, visited the Ossining site twice; each time he marveled at the accomplishment of Lynds and the inmates in constructing a prison he described as the “best in the world.” Eddy observed the inmates toiling “out under a meridian sun, pouring its fierce blaze upon the white marble blocks

around them, with ardor almost sufficient to blind the eyes.”¹ Not only was the new penitentiary a marvel but also its very construction embodied the principle of hard labor.

Work in the quarry was hard. Stonecutting and hauling were demanding tasks, so demanding they defined the meaning of hard labor. The hammering and breaking of stone was quickly identified with “doing time.” Inmates described the work as brutalizing; some of the tasks reduced them to beasts of burden. The physical difficulty and the moneys saved in the prison’s construction represented a culmination of the hopes of penal reformers—a program of hard labor and institutional self-sufficiency. The routine which governed the task of construction also provided the new penitentiary with the order of the day. The building of Sing Sing was an event which reflected the principles of the new punishment and provided a precedent to be followed by other states.

As construction progressed over the next three years one can imagine not only the hard labor involved but also the irony of the inmates building their own prison.² While some of the prisoners were anesthetized by the exhausting work, others must have recognized the deeper meaning of their labor. As the completed shell of the main building was divided into individual cells, the men experienced the sense of building their own tombs. The daily task of construction created ambivalence about the inevitable completion of the

¹. Lewis, Newgate, 137-138

². Levi S.Burr, described the awful working conditions in the quarry which “caused indescribable

structure. Any sense of pride in this work was short-circuited by the knowledge that completion was the beginning of their imprisonment in the cells.

There was also a reaffirmation of the unfree character of prison labor, in which the worker's relationship to his job was skewed by the institutional setting. This was a fundamental difference between free and prison work and should caution us about using the analogy of the factory to understand prison labor. Convicts at Sing Sing were reminded every day of their loss of freedom as the prison wall rose higher and the interior cells multiplied in unprecedented numbers. The construction of Sing Sing compelled the prisoner to feel his punishment.

The completion of the main cell block in 1828, hailed as a moment of penal perfection, masked a complicated past and contained the seeds of a contentious future. Labor was central to the reform character of the penitentiary, indeed because of its widespread use it became the most enduring tenet of penal reform for much of the nineteenth century. The struggle over prison labor provides another window into the inner life of the penitentiary. One historian has even suggested labor was central to the very history of the penitentiary in the nineteenth century.³ The history of convict labor at Sing Sing will not only take us inside the world of the prison but also will connect Sing Sing to the economic life of New York city. The identification of the penitentiary and prison labor led

suffering of hundreds, and the death of many of the unfortunate convicts..." A Voice, 12; 31;35

³ . Glen Albert Gildemeister, "Prison Labor and Convict Competition With Free Workers In Industrializing America, 1840-1890." (Ph.D. diss. Northern Illinois University ,1977) iii.

another observer to conclude that, "the history of the rise of the American prison is the history of the models of prison employment."⁴

Early in New York State's penal history labor was linked to punishment. On March 26, 1796, a new form of institutional punishment was established which called for the erection of two state penitentiaries and provided trial judges with the option of sentencing the convicted to hard labor or solitary confinement. Food, clothing and other services at Newgate, the new state penitentiary in New York City, were to be charged to the prisoner's account, including the cost of materials and the implements he used to labor. He was credited for his labor only after deductions were made for these daily expenses.⁵

Labor was integrated into the new regime at Newgate by Thomas Eddy, who hoped it would inculcate "habits of industry" and produce revenue from the sale of prison-made goods to indemnify the community.⁶ Prison labor and its reform goals will be challenged by other economic interests which sought not reformation but restitution.

One of the key organizing ideas of the new penitentiary was discipline, a value associated with productive work. Prison labor promised to avoid the pitfalls of idleness, which many contemporaries saw as the precondition for criminal behavior. Work would restore an inmate's sense of self-worth which had

⁴ . Melosi and Pavarini, 135.

⁵ . Charles Zebina Lincoln, The Constitutional History of New York From the Beginning of the Colonial Period to the Year 1905. (Rochester: Lawyers Cooperative Publishing Co., 1906) 5vols. III 248-248; Lewis, Newgate. 32-33

⁶ . Lewis, Newgate,33

been damaged by habits of dissipation. Thus the goal of prison labor was to inculcate self-discipline which would be internalized as morals. But outsiders were quick to warn that this transformation was not so simple; Beaumont and Tocqueville noted that leaving the prison, " he [the inmate] is not an honest man but has contracted honest habits....and if he is not more virtuous , he has become at least judicious."⁷

This distinction may be too metaphysical for a society in which good work habits provided the foundation for the public definition of the disciplined person. Thus it will be easy to collapse the two ideas - habits of industry and moral behavior- and see in hard work the essence of both. This linkage was based on the indivisibility of moral and economic welfare which was rooted in mercantilism and Protestant ideology.⁸ Thus productive labor is not only an economic necessity but contains a moral imperative as well.

Hard labor meant demanding work which was productive and profitable and required training and organization.⁹ The selection of certain trades for prison industry which were critical for the work regime, could not be determined by the limited skills of the inmates. The needs of the marketplace and the penitentiary goals came together. In choosing work programs for Newgate Thomas Eddy selected shoemaking, weaving, nailcutting, coopering

⁷ . Beaumont and Tocqueville, 90. Adam Hirsch uses the concept of rehabilitation, which he defines as a superficial form of rehabilitation. Hirsch The Rise of the Penitentiary: Prisoners and Punishment In Early America. (New Haven: Yale University Press. 1992). 13-18.

⁸ . Adamson, "Hard Labor: Form and Function" 41.

⁹ . Ibid., 58; Rosalind P. Petchesky, "At Hard Labor: Penal Confinement and Production in

and iron making.¹⁰ His choices were shaped by the needs of the local mercantile economy where, for example, the demand for nails and the need for shoes was great in a growing city. While most of this work was handicraft production, some machinery including a nail-cutting device was purchased.

¹¹Inmates who learned these handicraft and machine skills were paid a small wage which was distributed at the end of their prison term minus, of course, the usual boarding deductions.

Newgate, in spite of this promising start, failed dismally. It did not turn a profit and was backed up with inventories of inferior goods. Overcrowding and inmate resistance further undermined Eddy's work regime. In addition to these internal problems convict labor was challenged by free workers who in 1801 required the state to label Newgate's products with the words "State Prison" thereby weakening their marketability. In 1804, legislation limited the number of men in shoemaking to one eighth of the prison's population.¹² Newgate sank deeper into debt with annual losses between 1797 and 1821 averaging \$17,000.¹³ An 1817 law ended the state or public account plan which had operated at Newgate and substituted in its place a combination of the piece

Nineteenth-Century America" in Greenberg, Crime and Capitalism. 342-344.

¹⁰ Eddy, An Account. 34; Adamson, "Hard Labor" 53.

¹¹ . Adamson, " Hard Labor" 51-54

¹² .Lincoln, III 250

¹³ .Willam Staples, "In the Interest of the State: Production Politics In the Nineteenth Century Prison." Sociological Perspectives 33(1990) 382

price plan and public works. ¹⁴ This system would last for over decade until it was replaced in the 1830s by the contract system.

The search for new ways to organize the penitentiary led New York in 1820 to experiment with solitary confinement without labor. Even in its initial formulation the Pennsylvania system, the model for solitary confinement, included labor. Eastern's compromise solution was to incorporate cellular work into the silent system . Prisoners worked at handicraft task which could be completed within their cell. This strategy limited productivity and profitability and when linked to the higher construction costs made Pennsylvania's approach to reformation high priced.

The solitary experiment at Auburn had excluded any work. According to Daniel Raymond, a Baltimore lawyer who defended this policy, prison labor was not only unnecessary but wrongheaded. His argument offers clues for the subsequent attitudes of free workers to convict labor. Raymond believed it was unchristian and unfair to provide criminals with work because it distracted prisoners and undermined mental suffering, penitence and reformation. He

¹⁴. Klein, Prison Methods 246-253; Gildmeister, 29-34. The key distinction between the public or state account system and piece price is the source of capital. In the first instance the state must invest in the raw materials and tools in the latter the responsibility rests with the outside contractor. Thus the piece price system reduced the states financial liability for underwriting prison labor. Public account also required a warden or agent with business and management skills able to set and enforce work standards and productivity quotas. Wardens had enough trouble managing the security and discipline of the institution without this additional fiscal burden. The lease system, not widely used in the northeast, involved a contract for either all or part of a state's felons. The lessee had total control and provided clothing, food, medical care and discipline as well as deciding on the kind of work. The contract system can be described as a compromise between the lease and the public account system. A private party contracts with a prison for the labor of a number of inmates on per diem basis for several years. Under the contract system the state provided the workshops and maintained the convicts while the contractor provided the material, the machines and instructors.

argued that "mental suffering and laborious employment are, if not entirely, at least to a very great degree irreconcilable."¹⁵ Raymond's argument raise a semantic question about the very term *penitentiary*; according to his definition work should be excluded; it was more appropriately part to the regiment of the workhouse and not the penitentiary.¹⁶ While Raymond's argument did not prevail even in the solitary model at Eastern it prefigured the thinking of the opposition of free workers to convict labor.

Auburn and Eastern rejected Raymond's argument and solitary confinement by incorporating work into the organization of their institutions in 1819 and 1824 respectively. Sing Sing would build on these early initiatives and arrange contracts with private business to employ inmates in a variety of ways, serving as a model for contract prison labor.

Auburn recovered from the failure of the solitary experiment and quickly instituted a system of congregate work in which inmates would labor in silence in state-built workshops. In 1821 the New York State Legislature temporarily revived the policy of paying convicts an additional one-half of their earnings for overwork and authorized Inspectors to establish contracts for fixed terms and rates with outside businesses.¹⁷ Their mandate was expanded in 1828 with the requirement that it,

¹⁵ Adamson, "Hard Labor and Solitary Confinement : Effects of the Business Cycle and Labor Supply On Prison Discipline In The United States 1790-1835." Law, Deviance and Social Control, (1984), #6, 40-41

¹⁶ Ibid., 32

¹⁷ Promises of wages were honored in the breach. When it did occur it usually was the result not

shall be the duty of the agent of such prison to make contracts... for the labor of convicts....to defray all the expenses of the said prisons.¹⁸

A clear mandate for the self-sustaining prison. The economic recovery from the War of 1812 supported the development of the congregate-contract system. Convicts were, in Adamson's terms, in the 1820s and 30s a resource open to exploitation for the fiscal interests of the state. Prison labor promised to make a profit, reduce costs and provide relief from taxation, what Governor Throop called that "hitherto most oppressive burden."¹⁹

Auburn prison officials successfully negotiated contracts with small businesses and soon, according to English traveler William Crawford the American penitentiary was a "great manufacturing plant."²⁰ Flush with quick and early success congregate labor became the key organizing principle for the new prison to be built at Sing Sing, New York. Here, blessed with its own natural resource – stone - and a ready proximate market in the expanding economy of New York City, congregate labor would flourish. The new penitentiary and its labor system appeared to have the answer to costs, discipline and productivity. Philosophical support came from Francis Gray, a Massachusetts reformer, who

of regular work but of overwork which was reimbursed by the contractor at the time of the inmates release. Foucault has pointed out that prison work and wages are incompatible because there is no remuneration in a penal setting. Work he argues is a principle of order and regularity and it forces bodies into a regular movement. Penal labor must be seen as the machinery which transforms the violent unreflective convict . It is he suggests not an activity of production. Michel Foucault , Discipline and Punish, 239-242.

¹⁸ Lincoln, III, 256

¹⁹ Ibid.

²⁰ . Lewis , Development, 89

pointed out that stonecutting required "social labor" i.e. men working not alone but in a more natural group; an activity not possible in the rival Pennsylvania system.²¹ Thus the congregate model, in addition to the promise of a bigger financial payback to the state through large scale industrial activity, had organizational qualities with inherent socially redeeming elements.

State surveys of Sparta, the village south of Sing Sing, several years prior to the construction of the penitentiary, noted the presence of an active quarry. Construction of Sing Sing on this site, a major public works project, stimulated business interest from other municipalities and private builders looking for stone.²² Thus only after the prison organized the quarry did Sing Sing marble gain a wider market. In 1828 and 1829 contracts were drawn for La Grange Terrace and New York University in New York City and for the State Capitol building in Albany. The initial enthusiasm cooled when controversy arose over the quality of the stone. By the mid-1830s geologists were complaining that Sing Sing marble was inconsistent, filled with impurities and coated with a flaking outer layer.²³ But the quality of the marble was not the only visible crack in Sing Sing's new business.

A financially strapped New York University looking for frugal ways to build a campus in fashionable Washington Square turned to Sing Sing as a

²¹ Francis Gray, Prison Discipline In America, 76; Adamson, "Marxian Penology" 444-445, note 4.

²² . Gardner, 103

²³ Gordon Ross Urquhart, " The Architectural History of the Westchester Marble Quarry." M.S. diss., Columbia University, 1986

source of less expensive marble. Indeed the University hoped that by turning to the state penitentiary the marble would be donated through the generosity of New York's taxpayers. Although free stone was not in the offing, contracts were signed with the prison and construction began in June 1833. Within a month New York City journeymen, marble cutters, and the manufacturers of marble mantels publicly protested and petitioned the legislature for redress demanding laws which would prevent a state prison monopoly in marble production. They also called on stonecutters to boycott anyone who contracted for prison marble.

²⁴ In October a protest march was held outside the marble works of Elisha Bloomer, who held the contract with Sing Sing. His shop was attacked and troops had to be summoned to disperse the protesters. ²⁵

The working relationships among stonecutter, journeyman and master was undergoing transformation. Though masters sided with the journeymen on the issue of Sing Sing marble, they saw a growing divergence of interests. They recognized that their profit margins had narrowed, the craft was subdividing and stonemasons were willing to use prison-cut marble. Economic forces were pulling them away from the journeymen stonecutters. ²⁶ In 1833 the General

²⁴ Daniel J. Walkowitz, *The Artisans and Builders of Nineteenth Century New York: The Case of the 1834 Stonecutters Riot.* in Mindy Cantor ed., *Around the Square 1830-1890: Essays In Life, Letters, and Architecture in Greenwich Village.* (New York: New York University Press, 1982), 86

²⁵ *Ibid.*, 87. Also see Carl Prince, *The Great "Riot Year": Jacksonian Democracy and Patterns of Violence In 1834.* *Journal Of The Early Republic* 5 (1985) 1-19

²⁶ Shawn Wilentz, *Chants Democratic: New York City and the Rise of the American Working Class.* (New York: Oxford University Press, 1984), 133, 233,237. Journeymen were increasingly angered by wage differentials and the use of prison labor; this became the basis of a bread-and-butter unionism in the 1830s.

Trades Union of the City of New York, an association which included other groups along with the stonecutters, took up the issue of prison labor.²⁷ This union would continue to agitate against Sing Sing and prison labor through the 1830s and 40s.

In 1831 a Committee of Mechanics petitioned the state legislature asking to be "relieved of evils from the use of convicts in mechanical employment." New York stonecutters were complaining of the low prices of Sing Sing dressed marble fronts, which were being sold in New York City for only 10% of the market price. They also objected to the contract for nine new buildings costing between \$8,000 and \$9,000 dollars, work valued at \$21,000 in the open market. The Committee of Manufacturing called for the abandonment of the new system of prison labor. Although they were not prepared to actively pursue legislative remedies they were clearly provoked by the competition from Sing Sing.²⁸

Agent Robert Wiltse of Sing Sing pressured by the protests and anxious about the quality of the marble aggressively diversified the prison's economy, signing contracts in coopering, shoemaking, and the manufacturing of saddle hardware, locks, hats, and cane seating. The largest of these was coopering which employed almost 200 prisoners. The contracts ranged in payment from 35-40 cents a day. Elisha Bloomer, who was the target of the stonecutters' New York protest, held three of these contracts. Wiltse's program

²⁷. Walkowitz, "Artisans and Builders," 89

not only increased Sing Sing's revenues but also caught the attention of the New York mechanics and the state legislature.

The mechanics of the city responded to Sing Sing's diversification with, "The Memorial of the General Trades Union of City and County of New York" which complained that "articles manufactured by felons at Auburn and Sing Sing are daily vended in this market at from 20-30% less. ...by reason of this odious and unjust monopoly."²⁹ Underselling, they believed, would drive out competitors and secure monopolistic control for prison labor and allied businesses. In the context of changes from craft to factory methods of production additional competitive pressure on the masters, and the journeymen who faced reduced wages was most unwelcome.³⁰ Fears about unfair competition and anxiety over the new methods of production stiffened the protests.

New York City's master coopers reacted quickly as soon as word reached them of the introduction of coopering at Sing Sing. Their small numbers made them especially vulnerable. In 1834 they expressed fear that competition from prison labor might "be carried to such an extent as to prove detrimental."³¹ A second petition to the state legislature asked for "security that those who control Sing Sing may not again place that institution against them." Their real anger was directed at the state, which had become a rival in the

²⁸. NYSSA (1832) #279, Committee on Trade and Manufacturing, 2-3

²⁹. "Memorial of Delegates of General Trades Union, of the City and County of New York." NYSAD (1835), #288, 35

³⁰. Adamson, "Form and Function," 89-90.

³¹. "Memorial of the Coopers of the City of New York and Brooklyn." NYSAD (1835), #288, 35-36

market and erected for its exclusive use, " a labor saving machine," (for it is in this light that prison manufactory must be viewed) which was "... an engine of oppression." ³²

The stonecutters', and the coopers', charges of monopolistic practices and price cutting were echoed by other mechanics including New York City's locksmiths, marble manufacturers and silver platters. They pleaded with the legislature for redress making the same essential argument outlined above. What is again evident in these petitions is the importance of the connection of New York City and Sing Sing. Ease of transportation made the New York market accessible to Sing Sing products. Not surprisingly city contractors like Elisha Bloomer recognized the opportunity at Sing Sing and thus confirmed the perception of New York City workingmen that prison labor was a real danger.

The memorials and petitions have been read only as class or economic documents. They contain social and cultural messages which locate the criminal in the landscape of Jacksonian America and posit an argument whose power and durability endures for most of the century. The General Trade Union memorial claimed that contract labor was an insult to honest men because it forced them to compete with felons and convicts. The coppers complained that the law-abiding mechanic who spent years acquiring knowledge is suddenly deprived of its benefits. The locksmiths of New York City chastised the state and Sing Sing for teaching the inmates their sensitive trade. They wanted to know what security was gained by this program. The state-wide meeting of mechanics

held in Elmira in February 1834 resolved “that the system [contract labor] is calculated to invite the commission of crime, by prospect of a comfortable support in prison, and a skillful knowledge of business for future life when set free.”³³

The mechanics believed that convicts who work and learn a trade in prison are thus exempted from punishment. Relieved of having to pay the normal expenses for the maintenance of life prisoners are provided, at no cost, with a work skill which they will use for either gain or criminal activity when released. The training of the inmates was according to the mechanics a provocative act which introduced “corruption and immorality... and will work utter ruin.”³⁴ The Silver Platters of New York City raised the specter of competition with prison-trained ex-cons and ultimately being compelled to admit them to their shops.

We ask you as a parent would you be willing to bind your children to a master employer who would without the least remorse put your children in contact and even at the same bench to be taught by the very felon himself.³⁵

This is not only an economic argument but an effort by the mechanics to maintain social space and moral difference between themselves and prison laborers. The frequent use of the term “honest” in juxtaposition to prison labor is a clue that the underlying and fundamental issues here involves questions of identity and well as economics.

³² Ibid. , 37-38.

³³ Mechanics Meeting. Extracts. 1 February 1834. NYSAD (1835), #288. 36-37.

³⁴ . Ibid.

The petitioners were not only angered by the unfair competition but they also bitterly resented the way convict labor blurred the distinction between the free and criminal classes. The notion that criminals would be trained in a trade while supposedly being punished made a mockery of their apprenticeships and challenged the very system of journeymen and master. They had no confidence that the training of a convict would contribute to his reformation. They were fixed on the distinction between the criminal and the free workingman; moral lines which are deeply etched and as vivid as the terms honest and dishonest. Their virtue was confirmed by the disciplined way, over time, they learned their trade and provided for their families. The transformation of the criminal into an honest workingman cheapened their accomplishment and threatened to throw their futures in with Sing Sing felons. Prison labor challenged one of the basic objectives of punishment-- to establish the difference between criminal and honest action. Convict labor undermined this notion and suggested one could with the aid of the state and institutions like Sing Sing move from one world to the other. Prison labor, threatened to place ex-cons and their products in the open market of free goods. At least Newgate stamped its work "prison made."

The defenders of convict labor argued that if a prisoner was not taught a trade there would be no reformation and he would return to idleness and crime. A trade was the ticket to the world of work and a building block for

³⁵ . Letter From the Silver Platters. 25 March 1834. NYSAD1835. 43-44

citizenship.³⁶ Reformation now seemed to decisively hang on prison labor. The mechanics found this scheme misguided. They, who had to maintain their families, were being asked to underwrite the rehabilitation of criminals who undercut their markets and threaten their livelihoods. Not only was their livelihood at stake but their whole sense of worth and justice as well.

The Select Committee of the Assembly warned that when,

honest men associate with rogues the very connection reduces the character of the former down to the standard of the latter: it can never have the effect of raising the reputation of the rogue to that of the honest man ...³⁷

This argument offers new variation on the theme of less eligibility, the notion that standard of living of the prisoner should always be less than that of the poorest of the free. Heretofore we have applied that argument to measure the quality of the living conditions in prison. However the debate over convict labor suggests the concept has applicability to moral and ethical issues as well. Less eligibility is applicable to moral standing in the community where one should be able to distinguish in a public way the free from the criminal. Any scheme which threatens to confuse this distinction will be vigorously challenged.

The state legislature pressured by the workers' memorials conducted public hearings in 1834. Agent Robert Wiltse was summoned to report the details of all the contracts in force at Sing Sing. The assembly inquiry was quite

³⁶ . The confounding of idleness and crime assumed that all vices sprang from the former. Work was seen as the moralizing counter force. See, Patricia O'Brien, The Promise of Punishment: Prisons in Nineteenth Century France. (Princeton: Princeton University Press, 1982), 150-151.

specific asking not only for a listing of the contracts but also for names and residences of the contract superintendents and their wages and the names, ages and trades of convicts working at Sing Sing. The inquiries targeted two crucial areas in the developing controversy-the role of contractor and the trade of the discharged convict.³⁸

Wiltse responded by noting that the contracts he had negotiated for Sing Sing were in response to a state law which required him to furnish employment most beneficial to the public, suited to the prisoners' capacities and able to defray the expenses of the prison. Wiltse had entered into 13 contracts with businesses principally from New York City (8), while the remainder came from Troy (2) and the neighboring communities (3). The contracts lasted from five to seven years and paid between thirty-five and forty cents per diem. Several were piece price arrangements; this was especially true of the five marble contracts which employed between 150 to 300 men. All of the contractor's superintendents resided in Sing Sing, which reinforced the connection between the local economy and the prison and underscored the importance of local politics in the prison's operations. Contractors found in the local community a group of individuals with the requisite inside experience; many former keepers were candidates for contractor's superintendent jobs. Wiltse did not comment on their salaries, noting that they were the subject of direct negotiations between the contractors and the agent. This latter procedure

³⁷. NYAD (1835)#352, 6-7. Select Committee of the Assembly, NYAD (1835)#352, 6-7.

was one of the ways that control of the prison passed into the hands of the contractor, whose man on the inside was at the center of the daily work regime and the associated patterns of discipline and punishment.

Wiltse provided a detailed list of the 92 inmates discharged from September 1, 1833, to March 1, 1834, including their ages, occupations while imprisoned and their mechanical trades, if any, prior to imprisonment. The employment history of the inmates was important to the mechanics, who feared that ex-cons who had learned their trade while in prison, would flood the workplace and demean their profession further reducing the value of their labor. Of the 92 listed, 50 inmates worked as mechanics in Sing Sing, 29 of them had been mechanics prior to imprisonment. These figures confirmed the suspicions of the free workers. Wiltse in an effort to allay their fear suggested that only 19 mechanics were actually added to the labor pool. He arrived at this number by subtracting the 29 who were mechanics when they entered Sing Sing and two recidivists from the 51 who had been mechanics inside. This argument, which minimized the number of inmates who learned a new trade, was repeatedly used by the apologists for contract labor throughout the nineteenth century, glossing over some fundamental issues about the concentration of ex-cons in businesses proximate to the prison, especially in New York City where they were a more visible presence. *Classifying the aggregate number of convicts with prior work as mechanics ignored the variety of their specializations.*³⁹ It was often

³⁸. NYSAD (1835), #288, 1

³⁹. The largest single category of Sing Sing inmates in the pre-Civil War era were laborers.

impossible for prison officials to correlate outside work experience with inside contract labor requirements. Thus many prisoners classified as mechanics were required to learn a new skill while in Sing Sing. Wiltse did want to emphasize this fact.

The controversy over the issue of convict labor prompted Levi Lewis the Agent at Auburn to circulate a questionnaire throughout the State in September 1834 asking for information about the location, residence and work history of convicts including the branch of mechanics in which they were employed. The Circular also asked respondents if businesses and free mechanics were injured by competition from prison manufacturing. The summary of the response confirmed the fears of the GTU and other trade unions about the links between convict labor and the workplace. Of the 288 men in the sample 100 had worked as mechanics in prison while 113 were employed as mechanics on the outside. The latter number represented a modest increase from the ninety-one men in the sample with prior experience as mechanics. But the pattern of employment of ex-cons changed radically. The discharged men employed as mechanics were concentrated in three areas-shoemaker(26), coopers(19) carpenters(11); a concentration in select businesses which was not evident in the profile of the same men prior to their imprisonment. Prison training and work experience also led ex-cons to areas like coopering where the numbers of free workers were small. This pattern justified the fears of New York

City cooperators that State prison labor practices constituted a real danger to their job security.⁴⁰

What is clear from this discussion is the strong apprehension that convict labor at Sing Sing was part of a larger conspiracy to break the workingman's movement and encourage monopoly. This suspicion was one of the most powerful elements in the protest movement.

The debate in the state legislature, while attempting to respond to the memorialists, underscored the persistent belief in the rehabilitative potential of labor. The Committee on Prisons asked the petitioners, "What are they [the prisoners] supposed to do?"⁴¹ How will they learn a means to support themselves if they are not trained while in prison? The committee concluded that convict labor was essential for the successful reformation of criminals and the preservation of the convict's sanity and health.⁴² Common justice demanded they be allowed to work and contribute to the prosperity of the whole country.⁴³ The defenders of prison labor further argued that if convicts were free men they would be competing with other free men for work and contracts. Thus the charge of unfair competition was refuted by the appeals to the open market.⁴⁴ Even in those instances where the legislature accepted the possibility of unfair competition they minimized its scope and dismissed its impact, arguing that the

⁴⁰ . NYSSD (1835) #13, Appendix A.

⁴¹ . NYSSD (1833) #114, 4

⁴² . Ibid., 5

⁴³ NYSAD (1835) #135 14-15.

total number of prisoners trained as mechanics added only a small percentage of new workers to the state and national workforce.

The memorials, circulated throughout the state, were signed by 20,000 citizens, and pressured the State Legislature to act albeit with great hesitancy and caution. This caution grew out of the successive years of profits as well as the fear that to change a going operation risked deficits and public protests. Governor William Marcy expressed the hope that a way would be found " for removing all just grounds for complaints...without abandoning the present system of discipline." ⁴⁵ Marcy hoped to maintain prison profits while responding to charges of unfair competition. Reconciling these two goals preoccupied state and prison officials for most of the nineteenth century. While prison labor generated revenues which had to be protected officials could not ignore the protesting mechanics. The issue was how to placate free workers while preserving the financial gains from convict labor.

In 1835 the legislature responding to workers' pressure and the findings of the State Commission finally acted. It rejected the two most frequently proposed alternatives, transportation and solitary confinement, as impractical and costly. The 1835 law offered modest changes. It called for public bidding on prison labor contracts in an effort to answer the charges of corruption and political favoritism. In a concession to the workingman no mechanical trade could be taught in State prisons except for the production of commodities

⁴⁴ . Ibid., 20-21

⁴⁵ . Lincoln III, 264.

imported into the country. Competition with foreign imports was a permissible substitute for competition with domestic production. Convict employment was limited to trades they had acquired before they entered prison and, where instruction was necessary for the new industries, only foreign teachers would be employed.⁴⁶

The State intended to continue prison labor but in a form, it hoped, compatible with the objections of free labor. The new law introduced silk production which became in the 1830s and 40s the new panacea. Some capital was provided by the State for start up costs. Mulberry trees were planted at Sing Sing in August of 1840 and inmates were instructed in the art of tree cultivation. Silk making machines were purchased. By the summer of 1842 one thousand mulberry trees had yielded 10 bushels of cocoons some of which had been turned into silk thread. The number of machines and the highly skilled nature of the work limited employment to a small number of convicts mostly from the women's prison. The lack of experienced hands and the delicate nature of the work were incompatible with the character of convict labor. In 1842 Governor Seward described the silk manufacturing experiment at Sing Sing as "not altogether unsuccessful," not a ringing endorsement . By 1843 the State Prison Inspectors in a more frank judgement called the silk experiment a failure, the "most unprofitable of any work the prison has engaged in lately."⁴⁷ The silk scheme so highly valued, as a non-competitive alternative in the-mid thirties had

⁴⁶ . Ibid., 269

collapsed within a decade. The one important legacy of the silk experiment was the introduction of a steam engine at Sing Sing. It took little time for prison officials to see the advantage of power driven machine production for all the workshops, They prepared plans for the inmates to build additional machines.⁴⁸

Wiltse had interpreted the 1835 restriction on teaching a new trade to mean that it applied to the general category and not individual specializations. Thus knowledge of any trade was generalized to cover all trades. Comfortable with this liberal interpretation he continued to sign contracts and produced consistent profits for the remainder of the decade. Financial solvency ended with his departure from Sing Sing in 1840.⁴⁹ Wiltse felt justified in loosely interpreting the new law because he recognized that the State and especially the Legislature were reluctant to abandon the profitable system of convict labor in use at Sing Sing; a reluctance which encouraged Wiltse to stay the course.

In his eyes the 1835 law was impracticable and unenforceable given the varied work experience of the inmate population. Wiltse recognized that it was impossible to develop any productive scheme of work without retraining a significant numbers of inmates. Further the allocation of convict labor at Sing Sing was determined by the contract bids. Given the pressure of market forces it is not surprising that at the time of the intake interviews inmates were encouraged to specify mechanical trades for which there were signed contracts.

⁴⁷ . NYSSD (1844) #20, 19

⁴⁸ . Ibid., 204-207

⁴⁹ Lewis, Newgate, 215

Wiltse understood that work was fundamental to the organization of the penitentiary and that idleness represented a threat to the internal order of the penitentiary. Sing Sing was organized around the daily work regime and without this key element congregate prison life would be even more problematic.

Wiltse continued to solicit contracts and managed throughout the decade to keep prisoners fully employed. Arguments which focused exclusively on the economic value of work to the penitentiary undervalued its importance to the life of the prisoner and the organization of the prison. In the daily regimen at Sing Sing labor occupied more time than any other activity; all other routines including eating and sleeping were ancillary to work.

By 1844 Assistant Keepers, located in each of the workshops, were required to keep "Time Books" which logged the work schedule for each inmate and his days output, which was measured against his assigned quota.⁵⁰ In 1850 Sing Sing officials included timetables in their annual reports indicating the monthly and seasonal variations in the daily routine and the length of the average working day which ranged from 9-10 hours.⁵¹ The timetables emphasized the orderly character and precision of the life at Sing Sing and shared with factories and railroads a sense of the new industrial concept of time and its identification with progress and disciplinary value of work.⁵²

⁵⁰ . NYSSD (1844) #20, 63-64

⁵¹ Time studies appeared as part of the official annual report of the Inspectors in 1850. See NYSSD (1850) #16, 17 and Appendix Timetable

⁵² Adamson equates the increased rationalization in economic life with increased regimentation within the penitentiary. Adamson, "Hard Labor: Form and Function," 105.

Convict labor reinforced the prisoners' sense of doing time by compelling him to follow a daily schedule which intensified his time consciousness. Prisons shared with factories the growing rationalization of time. Indeed the similarity between the routines of convict labor and factory work are found in the increased valuation of time and its careful management.⁵³ The inmate is taught two lessons about time; his loss of liberty is counted in days months and years and his daily life is driven by the clock marking his hours of labor.⁵⁴ In a society whose attitude toward time is changing these were thought to be valuable lessons.⁵⁵

The importance of daily work to the organization of Sing Sing was underscored by problem of idle Sundays. Cell confinement which began on Saturday evening and lasted till Monday morning angered prisoners and worried keepers. This long silence was only interrupted by chapel service on Sunday morning which was not attended by a majority of inmates. Throughout the nineteenth century whenever workingmen's protests raised the specter of ending

⁵³ Mellosi and Pavarini suggest that time, " becomes entirely a matter of subjective consciousness ; quite soon the inmate loses any notion of it as an objective reality." The Prison and the Factory, 152

⁵⁴ . The deprivation of liberty according to one neo-marxist argument is an example of "exchange value" in which the convict surrenders his labor as an equivalent retribution for his crime. Mellosi & Pavarini, 185

⁵⁵ . The transformation of time consciousness in the Hudson Valley was proceeding a pace in the first half of the nineteenth century. Values and meanings were being changed by notions of timeliness and punctuality. Indeed the connection between economic imperatives and the interiorization of time discipline led to a search for rational and efficient organization. Steadfast timing and architectural lay out formed part of this quest for a dependable order of things. Martin Bruegel, " 'Time That Can Be Relied Upon.' The Evolution of Time Consciousness in the Mid Hudson Valley, 1790-1860." Journal of Social History (1995),. 548-553.

convict labor prison officials pleaded with the state not to act, convinced the result would be a volatile mob of idle prisoners impossible to manage. Reformers like David Seymour, concerned over labor agitation, hoped that,

in response to the mechanics no one will advocate keeping prisoners in idleness, 'if avails of their labor would in no way relieve the State of the expenses of their maintenance, for in such a situation the health of the both body and mind would soon be deranged if not destroyed.⁵⁶

The idleness here was a concern not only of those reformers who envisioned work as an essential social skill for reformation but of administrators as well who had the daily responsibility of keeping one thousand men under control. For the wardens and keepers of Sing Sing and the prospect of ending contract labor was a nightmare.

The contracts also created economic stability with a contractual guarantee for the employment of a number of inmates, for a specified time and at a fixed rate. This affected both the economic and organizational realms securing a base line income and work for the inmates over the short term. The contract system freed the agent from the management of the central activity in the daily routine of the convicts. The agent's principle responsibility was to provide the work space necessary for each contract. At Sing Sing Wiltse and his successors rationalized the interior open space by building a series of workshops, on an east-west axis and at right angles to the main cellblock. This process had advanced so far that by the 1860s Sing Sing took on the physical

⁵⁶. NYSSD (1842) #39. Agents Report, 18.

character of a small factory town. An 1867 print of the prison shows a highly differentiated interior space with a series of industrial buildings and activities capped by the telltale cluster of smokestacks.⁵⁷ Sing Sing could be easily mistaken for a factory. To appreciate the transformation in the site one should compare this depiction with Bartlett's 1833 print, "Sing Sing Prison And the Tappan Zee" which places the prison in a bucolic setting with the Hudson River as the backdrop.⁵⁸ The impression here is one of peace, a mood consistent with the original rationale for the selection of this site, namely, its salubrious environment.

Under the contract system authority rested with the contractor's agent who with the aid of the keepers controlled the convicts' lives nine to ten hours a day. The delegation of authority, a point of much debate in the legislature and among reform groups like New York Prison Association, helped the agent reduce some of the burdens of his job. The tenure of contractors often extended beyond that of the Agent and the Inspectors and provided institutional continuity in the face of otherwise high turnover rates.⁵⁹

The development of the contract system at Sing Sing under the instigation of Agent Robert Wiltse differed from the model adopted at Eastern where the solitary system of labor was cellular and confined to handicraft and

⁵⁷. See appendix Print SS 1867

⁵⁸. See appendix Bartlett print. For a somewhat different reading of this print see Kahtleen Burrage, "Deconstructing Solitude: Penitentiary Discourse in Ante- Bellum America." (Ph.D. diss., Washington State University, 1995), 79

artisanal work. Eastern linked cellular confinement with pre-industrial work and looked back to a republic of artisans in which freedom grew out of control over the means of production. When New York turned away from this model and chose the congregate-silent system it designed and built Sing Sing around principles conducive to factory production. Thus the arrangement of work at Sing Sing looked to a different future one aimed at large scale industrial organization.⁶⁰

In addition to the affinity of the Sing Sing model of labor to the factory system it was more conducive to the reality of social life.⁶¹ Critics of the Pennsylvania system pointed to the disorientation of solitary experience to the world outside. This liability was intensified by the handicraft nature of convict labor at Eastern which prepared men for a world that was fast disappearing. While the defenders of Eastern pointed to its effective and painless reformation, New Yorkers boasted of its preparation of the convict for the world of industrial labor. The anger of the mechanics was directed specifically at this latter strategy, which would have the effect, they believed, of adding new mechanics to the work force.

Wiltse and his Sing Sing successors systematically ignored the law of 1835 which attempted to restrict convicts to employment in trades learned before their imprisonment. The State was compelled to enact new legislation. An 1842

⁵⁹ . Gildemeister, "Prison Labor and Convict Competition," 36

⁶⁰ . Melosi & Pavarini 156-158

⁶¹ . Adamson, "Hard Labor: Form and Function," 108

statute empowered the courts to ascertain the trade of a convict previous to his conviction and reiterated the restriction against the retraining of convicts. The legislation also established a committee to examine mining and smelting possibilities for prison labor. This last idea led to the building of the State prison at Dannemora in 1844 an experiment that failed as dismally as silk production. The State responded to complaints and petitions from the mechanics with short-lived panaceas which did not inhibit Sing Sing from negotiating contracts. But the clamor reduced the number of contracts in the 1840s precipitating a decline in revenues which continued until the post war era.

David Seymour, the Democratic reform Agent at Sing Sing, proposed in 1840-41 the establishment of a state farm at Sing Sing as an alternative work scheme and hired discharged inmates to teach husbandry and gardening. The arrangements resembled a "well regulated family" which with the aid of religious and moral instruction would aid the convict in his rehabilitation and job prospects.⁶² However Seymour's agrarian alternative lacked the scale and revenue possibilities to challenge the contract system.

The Inspectors and agents of the 1840s lamented the handicap imposed by the laws of 1835 and 1842 which forced them to reduce the number of men on contract and find contracts in areas not prohibited expressly by state law, such as making files, weaving carpets and cutting furs, which continued to compensate for falling labor rates and subsidize the ongoing work of building the penitentiary. The situation of labor and revenues became so desperate that the

Inspectors called for the repeal of the 1842 law as it applied to stone work and warned the Legislature that the present system would cost the State Treasury dearly.⁶³ They emphasized the connection between the weakened financial condition of Sing Sing and the maintenance of institutional discipline.⁶⁴ As economic conditions at the prison worsened the convicts became balky and troublesome. Diminished revenues led to cut backs in staff, heightened disciplinary problems and to the inevitable decline.

One of the central issues contractors faced was sufficient incentives to motivate prisoners to work. Inmates at Sing Sing were never paid a wage and several attempts to reform this practice failed. In the initial pre-commutation days prison officials used force to compel reticent prisoners to work-an approach which did not always lead to increased productivity. The contractors developed a series of new incentives as an alternative to physical punishment.

By the late 1840s the over-stint system was in place. The stint, the minimum task assigned to each worker, was often completed by the mid day leaving several hours of "free time." Contractors were quick to fill this vacuum with pay incentives for work done above the assigned task. Cash payments were made to and set aside for the inmate until his discharge. Other rewards, such as

⁶² . NYSSD (1842) #39, Agents Report, 20

⁶³ . NYSSD (1846), #16, Inspectors Report, 6

⁶⁴ . NYSAD (1848), #10, Inspector's Report, 19

food, drink, books and tobacco, were used by the contractors to increase productivity.⁶⁵

Tobacco, readily available at Sing Sing, was a work incentive and valued contraband. Controversy about its use and availability pushed the state to launch an inquiry in 1846 which concluded that the principal source of the tobacco was the contractor. But contractors were not alone in supplying the tobacco trade. Ex-cons returned at night to deposit caches in the prison yard at prearranged locations.⁶⁶ Tobacco was in such demand that it became the principal mediums of exchange for keepers and guards in their illicit trade with convicts.⁶⁷

The opponents of the prisoner's use of tobacco argued that this practice was contradictory to the goals of reformation because it kept alive "depraved propensities acquired before imprisonment."⁶⁸ They further suggested that reformation demanded regularity and temperance-qualities which were undermined by the abnormal condition of the nervous system over stimulated by the use of tobacco. How could an inmate in this physical condition make any progress toward renewal.

⁶⁵ . NYSAD (1851), #20, 34

⁶⁶ . NYSSD (1847) #15. Committee on the Use of Tobacco, 16

⁶⁷ . Gildemeister, "Prison Labor and Convict Competition," 112

⁶⁸ NYSSD (1847) #15, Committee on the Use of Tobacco, 16

The committee survey of Sing Sing's population in 1846 noted that 574 of the 744 inmates questioned were "addicted."⁶⁹ This drove the men to practice any form of deceit to obtain a "plug." The strong argument about tobacco's threat to health and morals was minimized by the more temperate and practical-minded members of the committee who suggested that the "convicts whole system was deranged by the penitentiary" creating the need for a compensating indulgence which "we do violence to in refusing it." To deny the use of tobacco would intensify the injury to the moral and physical health from imprisonment and reduce the inmate's productivity. Indeed the majority of the committee opposed restrictions and recognized tobacco's utility as a stimulant and sedative which calmed the convict's mind and made him manageable.⁷⁰

The dependence on tobacco provided prison officials with a tool for controlling inmate behavior. Privation proved a most severe form of punishment, one which left no tell-tale signs. Good order and productive work would be rewarded with one plug of tobacco a week. This modest allocation could be supplemented by the contractor who used tobacco to increase productivity. The committee accepted this double use of tobacco as a reward and punishment and placed no restriction on the contractor's use and distribution.

The role of tobacco in the Sing Sing's work regime must be understood in the context of inmate resistance to contract labor. Prison officials

⁶⁹ . Some inmates reportedly chewed straw, wood and leather trimmings when tobacco was not available.

⁷⁰ . NYSSD (1847) #5, 17-20

initially thought that inmates were hungry for gestures of kindness and would not need the wage incentives of free labor. They looked the other way when in the absence of wage incentives or inducements contractors and keepers resorted to an array of contraband. However neither gestures of kindness nor contraband overcame inmate refusal to work, the destruction of stock, the firing of the workshops, and self- maiming, the latter an extreme attempt to escape certain kinds of work.⁷¹ Given the inmate resistance it is not surprising that contractors frantically searched for incentives and found tobacco to be the most useful.

The convict labor system at Sing Sing, which was according to some Inspectors intended to “convert the subjects in their power into mere machines from whom the greatest amount of possible labor can be most easily extracted,” was riddled with corruption. Contractors’ agents altered the timelogs by charging some of the convicts, who completed a full days stint of required work by noon, at the half day rate. These same men were then employed for additional afternoon hours and paid off the books; labor for which the state received no revenue.

Sing Sing had several sets of books. Contractors were not charged for the construction and essential repairs in their workshops. Schemes of rigged bidding involved contractor’s family members in false bids with the affect of reducing per diem rates.⁷² Contractors also brought suits against the state for

⁷¹ . NYSA (1848) #40. 20-21

⁷² . NYSA (18400 #339 9-10

breach of contract resulting from late payments, inadequate workshops, poor work and damaged materials. The State paid dearly for these supposed failings.

The indictment of the contractors was so widespread and persistent that they were judged principally responsible for the corruption and mismanagement at Sing Sing. The most notorious case of contract abuse was the Storms- Lockwood scandal in 1854. Munson Lockwood, the Agent at Sing Sing, General Storms, one of the Inspectors, and Alfred Walker, a hat contractor were the principal conspirators. In 1851 Walker, with the aid of pliant Westchester judges, falsified the certification of Sing Sing inmates as hatters. Certification was required by the law of 1835 to guarantee inmates would not be taught new trades and would be employed only in trades they practiced on the outside. This restrictive procedure would not have furnished sufficient numbers of men to operate a hatter's workshop and so Walker conspired with local officials and Storms and Lockwood to have these false certifications accepted.⁷³

But the real plum was the exclusive contract Walker obtained in rigged bidding arranged with Lockwood's participation. The contract sold all of Sing Sing's cut and broken marble, tools and property pertaining to the stone department to Walker for \$1,383. To gain the approval of the State Inspectors Lockwood "kept Inspector Storms right." Lockwood had worked with Walker to find a mutually agreeable appraiser who provided a reduced assessment. The contract also granted Walker exclusive control over all the quarries on the prison farm for five years with the right to remove all unfinished marble at no cost. This

was remarkable arrangement given the state ownership of the quarries and its marble.⁷⁴

State officials in addition to investigating this sweetheart deal were forced to buy the property back from Walker at an increase of thousands of dollars over his purchase price. It was determined upon investigation that Lockwood had an interest in Walker's firm and profited from the deal. But Walker was not done. In the course of the removal of marble from Sing Sing earth and debris had to be cleared. Walker's fertile mind saw an opportunity for more gain and he proposed to Lockwood and the Inspectors to deposit the debris as fill in the portion of the Hudson River that lies south of the prison dock at the rate of seven cents per yard. Since Walker's offer did not include the construction of any bulkheads it is difficult to see what gain would accrue to the prison and the State. This contract was successfully challenged by the State.⁷⁵

The sordid character of Lockwood's tenure culminated in a drunken fight with State Prison Inspector Andrews over notes Lockwood held against Andrews. Lockwood was confined at home in town for several days after the fight and when he emerged his face and reputation were severely bruised. The State investigators concluded that "general depravity and absence of all moral and legal restraints have characterized the management of Sing Sing for several years and lent a sanction to the perpetuation of almost any offenses." They

⁷³ . NYSA (1855) #60 140-141

⁷⁴ Ibid., 148-149

concluded that pure mercenary motives of the participants “ involves more moral and legal guilt than the vast majority of the crimes which the inmates at the prison have committed.” ⁷⁶

In addition the revelations about corruption the contract system faced renewed challenges from workers. In 1858 Sing Sing built a foundry and advertised for contractors. I. G. Johnson the owner of a iron foundry at Spuytin Duyvil who was embattled with the newly formed Union of Iron Molders, opened negotiations with the prison in 1862. The organized molders of Local 11 had successfully extracted raises from the frustrated Johnson who deemed their tactics unfair. He sought to counter their advantage by contracting with Sing Sing for the operation of the idle prison foundry.⁷⁷ He would teach the convicts how to operate the foundry and pay the prison 40c a day for each worker. This was considerably less than the \$3.00 a day he paid free union molders. ⁷⁸

Johnson called down on himself and prison superintendent, Charles Gilchrist, the wrath of the Local and the International Union; however other unions were slow to support the Iron Molders. As the winter of 1864 approached Johnson made it clear he intended to use the Sing Sing contract to break the union and he began to lay off molders at Spuytin Duyvil and initiated a lockout of union workers. Union lawyers were unable to use the porous state prison labor

⁷⁵ *Ibid.*, 150-151

⁷⁶ *Ibid.*, 141

⁷⁷ . Iron Smelting appeared first in Clinton prison as a response to mechanics complaints about unfair competition. See Gildemeister, “ Prison Labor and Convict Competition,” 177, note 23

⁷⁸ Johathan Grossman, “ The Molders Struggle Against Contract Prison Labor” New York History

laws to block Johnson who they now called "Sing Sing Johnson." Petitions and lobbying led to challenges to a state law which made the convict, according to union lawyer William Sylvis, a double robber - "first stealing from others and then forced against his will to rob the worker of his livelihood by unfair competition."⁷⁹

The State legislature continued to avoid the issue and passed no new laws and thus Johnson was forced to end his lockout and rehire some of his unionized molders. But he continued to use the prison shop at Sing Sing, for which he had paid \$10,000 by the end of 1869, as a threat to the union. The molders and Johnson were at an impasse. This confrontation confirmed the fears of many of the mechanics that convict labor was a capitalist wedge in the battles over not only wages and hours but craft control as well. Sing Sing labor represented a new weapon in the arsenal of business.⁸⁰

The battle over prison labor had become a state wide issue. In his 1869 address Governor Hoffman criticized the state prisons for their failure to be self-supporting and their ineffective discipline. He attributed both of these difficulties to contract labor. His remedy was to centralize control of the contract system in the hands of a Superintendent charged with directing, employing and selling of the products of prison labor. The State Assembly followed Hoffman's lead and proposed the abolition of the "vicious system of convict labor." The

(1942) #4 450-451

⁷⁹ Grossman, 452-454; Gildemeister, "Prison Labor and Convict Competition." 177

⁸⁰ Grossman 452-457; Gildemeister, "Prison Labor and Convict Competition" 178-179

Senate did not agree. The issues was only resolved with the appointment of an Investigating Committee in 1870.⁸¹

The Commission spent six weeks visiting fourteen penal institutions in the state including Sing Sing. They conducted ninety six interviews and sent a circular letter to prison administrators and businessmen with contracts in and outside the State.

The Commission first interviewed Gaylord Hubbell, former Sing Sing agent, who testified that his experience demonstrated that, " a large proportion of the punishments are due to the contract system" which was "obstructive to the reformation of the convicts."⁸² Hubbell's conclusions were disputed by others who blamed poor management for the failure of the contract system. Commission members expressed concern over the introduction into the prison of a series of outsiders, who although essential to the operation of manufacturing, were unaccountable in matters of institutional discipline. This argument was supported by Sing Sing contractor Keller, who described a system of direct payment to the convicts over and above the per diem paid to the prison. He asserted all "contractors had to do this." This extra payment provided the inmates with the pocket money which fueled the underground economy and encouraged the smuggling of contraband by the contractor's agents and keepers.⁸³

⁸¹. Lincoln III 273-274.

⁸². New York State Senate, Committee on Prison Labor 1870#92 xi.

In September the Commission made its way to Westchester and conducted hearings at Sing Sing. Former Warden Hubbell warned of the political power of the contractor and his ability to control the actions of the agent/warden. He supported teaching prisoners a trade and saw the reformatory potential of work. But the corruption of the contractors, their instructors, and the foreman undercut the reformatory goals of the system. A review of the regime of the incumbent Sing Sing Agent E. McC. Russell exposed sloppy administration, unwritten agreements and the inferior work. Russell argued that the contractor were willing to accept and sell poorly made goods cheaply which, of course, further compromised the quality of prison work. Russell described the widespread use of stints and overwork involving two thirds of the inmates which created an extra-legal schedule of pay. Contractors also used bonuses to encourage over work providing inmates with the cash necessary for the purchase of sundries such as tobacco, soap, combs, brushes in the underground economy.⁸⁴

For the second time in a decade a State Commission recommended a reorganization of the administration of New York's prison system as a solution to the widespread corruption and inefficiency of the contract system. This call for administrative change was more urgent and pressing for the legislature than the issue of unfair competition. For the Commissioner corruption was associated

⁸³ . Ibid., xviii-xix.

⁸⁴ . Ibid., 103-4

with management of contract labor and not union complaints about the competitive danger of prison labor to the state's working men.

The commission's argument pushed New York State to reform the decentralized bureaucratic organization of the prison system. In 1877 a constitutional amendment abolished the Board of Inspectors and consolidated the administrative power in the hands of a Superintendent of Prisons appointed by the Governor.⁸⁵ The consolidation of administrative power was implemented in 1877 with the appointment of Louis D. Pilsbury as first Superintendent. Centralization was opposed by some reformers, like Enoch Wines who equated of the new position of Superintendent with tighter administrative controls and increased profits. The reformers feared the shift toward productivity would come at the expense of the reformatory character of prison labor.⁸⁶

The first Superintendent Louis Pilsbury, the son of Amos Pilsbury a pioneer prison reformer, was charged with the task of reversing the growing prison deficits in New York State and making prison labor "more remunerative."⁸⁷ Deficits at Sing Sing had reached \$258,000 by the year 1876.⁸⁸ The assumption that prison labor could be productive and reduce the institutional deficits through administrative reform and closer supervision would now be tested.

⁸⁵ . Klein, 340-341

⁸⁶ . Mckelvey, Good Intentions. 110

⁸⁷ . Greenberg, Worker and Community. 149

⁸⁸ . NYSAD (1877) #14. 5

Pilsbury identified Sing Sing as the flagship institution where its 1300 inmates represented underutilized source of labor and revenue. Sing Sing's population was an enormous economic resource and a testing ground for administrative reform. In Pilsbury's eyes scale was not a liability but rather provided a unique opportunity. In his first report as Superintendent, he criticized the prison for the underemployment of its inmate population noting that only 589 out of 1381 were earners. Sing Sing's underemployment encouraged "loitering, waste, filth, chronic insubordination" among the inmates. Pilsbury even attributed the decay of the physical plant at Sing Sing to corruption in the prison labor system.

With prodding from Pilsbury Sing Sing negotiated a contract with John S. Perry, an Albany businessman with a successful stove molding business. While the initial agreement called for the employment of only 150 convicts this number would reach nine hundred men with the completion of a foundry at Sing Sing, financed by the state. Within two years Perry controlled eighty percent of the prison's labor force. This new strategy quickly paid dividends and Sing Sing's deficit became a surplus within three years. Centralization of bureaucratic control was thus accompanied by the consolidation of contracts as well. In the 1830s Robert Wiltse in an effort to revive Sing Sing's finances had diversified prison labor with a series of contracts. Now faced with the same problem the new Superintendent chose to depend on one principal contractor.⁸⁹ The magnitude and implications of this new contract did not go unnoticed. The same

economies of scale which made the contract so attractive to Perry and Pilsbury sent a shock wave to free workers especially those in the molder's union.

The Perry contract galvanized union opposition not only because of the scale of the agreement but also because of his vociferous public defense. The Albany Molders, a local of the International, had been fighting since 1864 for recognition and control of the craft. They had waged strikes in 1864, 1866 and 1876 in which the issue of prison labor was central. One of their principal targets was Perry. The molders had succeeded in the early strikes in maintaining control over the hiring and employment of apprentices.⁹⁰ This was the issue which had pushed I.G. Johnson to use the contract with Sing Sing to break the union in 1863-64. After the 1876 strike Perry returned to that strategy with a vengeance.

Perry had a long history of resisting unionization or what he described as the "despotism of the Molders Union." He announced changes in the hiring practices for apprentices and instituted wage cuts . To gain leverage in his war against the Molders he negotiated a new contract with Superintendent Pilsbury which included supervision of the construction of the new foundry inside the prison. Perry's contract with Sing Sing, which made him the largest stove manufacture in the world, destroyed the local union.⁹¹ The identification of prison

⁸⁹ . Greenberg, Worker and Community, 149

⁹⁰ . Gilemeister, "Prison Labor and Convict Competition," 177-180

⁹¹ . *Ibid.*, 182

labor at Sing Sing with union busting rekindled union opposition to contract labor and instilled a special hostility toward Sing Sing.

Perry, who had become an apologist for prison labor and the contract system, exacerbated the situation by a very aggressive public justification of the contract and his actions. In 1882 he appeared before the Senate investigating committee and offered a defense of prison labor.⁹² He began with an appeal to Herbert Spencer's argument that equity requires self maintenance by prisoners. Idleness and solitary confinement according to Perry made the criminal unfit for civilian life. This argument was supported, he said, by the low recidivist rates among men who work and gain a trade in prison. He dismissed alternative work regimes such as public works, leasing, public account as degrading and wasteful. He warned against a state run prison labor system which was by its very nature inefficient and costly.⁹³

Perry defended his contract with Sing Sing by pointing out that only 377 men were directly employed as molders while the remainder of his Sing Sing work force (about 500 men) were involved in assembling the stoves. Sing Sing's molders accounted for only about 10% of the molders in New York State. Thus, according to Perry, the charge of unfair competition was unfounded. He reminded the public that competition from immigrant workers and foreign molders is more extensive and yet not so contested. Perry was convinced that

⁹² . John. S. Perry, " Prison Labor: An Argument Made Before the Senate Committee" (Albany: Weed Parsons & Co, 1882)

⁹³ . Ibid., 5-22

convicts were learning the ways of the virtuous life through the discipline of labor. Can a clique of union molders deny “these unfortunate men the right to practice a trade or gain a livelihood.”⁹⁴

Perry reviewed the conditions at Sing Sing prior to his contract where he found dirty shops, poorly trained men, greedy supervisors. He believed his contract brought “regular systematic labor” to Sing Sing and contributed to institutional order.⁹⁵

The economic revival at Sing Sing was built on Perry’s contract, which was renewed in 1881, and other new contracts. Warden Charles Davis described the transformation of the prison into a “great Industrial Reformatory.” The Reformatory idea came to New York in the 1870s with Zebulon Brockway whose innovative approach at Elmira was designed to instill Christian character in youthful offenders through a program consisting of individualized treatment, indeterminate sentencing, academic and vocational instruction and constructive labor. While Elmira’s reputation dominated the reform movement it was only one of several variations on the theme. In Michigan a different reformatory model appeared, one based on strict punishment, traditional discipline and hard work; a punitive counter point to Elmira’s reform penology. Michigan proponents criticized Elmira’s soft approach which “entertained forgers and educated safe blowers.” Instead they viewed the prisoners as part of the “lumpenproletariat” who needed to be punished with hard work. Otis Folger, Michigan’s first

⁹⁴ . Ibid., 53-62

Superintendent, wrote that, “our main idea here is that productive labor and plenty of it is the best of reforming influences... prisons should be business institutions.”⁹⁶ Thus when Sing Sing Warden Davis used the term Industrial Reformatory he was not using Elmira as his model but rather the labor-business model developed in Michigan.⁹⁷

If there was a moment when the penitentiary could be described as a factory in was the mid-1880s when the contract with Perry was in high gear and the State Superintendent aggressively supported the industrialization of Sing Sing. Superintendent Baker wrote that, “a prison is a manufactory under the conduct of the state.”⁹⁸ By 1880 the Sing Sing produced a profit of \$41,402; a remarkable turnaround. While some took satisfaction in the improvement in the economy at Sing Sing, the moulders were angered by Perry’s contract and his public defense of prison labor.

In March of 1882, the year Sing Sing returned to self-sufficiency, the unions unsuccessfully petitioned the legislature to abolish contract labor.⁹⁹ The State legislature was caught between the politics of frugality on the one hand and union pressure on the other. The financial success of the Perry contract

⁹⁵ . Ibid., 63-69

⁹⁶ . Pisciotta, Benevolent Repression, 81-84

⁹⁷ . Superintendent Isaac Baker called for more industrial education . He felt that literacy was not the issue but rather the lack of industrial knowledge. NYSAD (1883), #12, 7-8.

⁹⁸ Ibid., 11

⁹⁹ . Lincoln III, 276

affirmed the policy of Superintendent Pilsbury and transformed Sing Sing into an industrial reformatory.

On February 23, 1882 an article appeared in the "New York Herald" charging that prison officials compelled inmates to work on Sunday, neglected their moral health, and favored notorious criminals with easy work assignments. The charge of general mismanagement at Sing Sing struck at the Pilsbury scheme.¹⁰⁰ Reaction to the article was prompt; within a month a Special Assembly Investigating Committee held hearings at Sing Sing. The prison labor issue had become politicized with Democrats sympathetic with labor and Republicans favoring the contract system. Thus these hearings would provide a platform for the opponents of contract labor to expose abusive labor practices at Sing Sing and force the state legislature to act.

The 1882 investigation, instigated by the "Herald" article, examined contract practices at Sing Sing and the working relationship between Contractor Perry and the prison. Witnesses testified that some convicts worked Sunday and as a result religious education at Sing Sing was short-changed. This Sunday work involved not only repairs and maintenance but regular stints in the laundry for example. Easier work assignments were specially chosen for certain notorious inmates supported by political connections or bribes.¹⁰¹ III and

¹⁰⁰ . A copy of the article appears as exhibit A in the Committees report. NYSAD (1882), #131, 222-229.

¹⁰¹ Ibid., 76

enfeebled inmates were turned out of the hospital with little treatment and compelled to work¹⁰²

A review of inmates health exposed a series of work related illnesses. In Perry's stove fitting shops inmates breathed in the dust from the emery wheels. Others lost the tips of their fingers from grinding and sizing small objects. Many complained of the lack of ventilation. Former inmate Elihu Campbell asserted that the dust in the stove assembly work caused pulmonary disease. The Physicians' Annual Reports for the period are dominated by deaths from phthisis. Dust settled on the inmates clothes, was carried back to the cells and inhaled during the night. The air in the prison was bad; foul smells permeated the cellblock and emanated from the yards where the night tubs were dumped. Inmates complained that on return to their cell from the Perry's shops their noses were running and when "you went to sleep you are spitting up blood."¹⁰³ This situation was aggravated by seasonal and infrequent bathing; Sing Sing no longer provided any public baths.¹⁰⁴ Men could use the bathing barrel which was filled with four inches of water; the first one in might be clean but by the sixth and seventh man cleanliness was distant memory.¹⁰⁵

¹⁰² . Ibid., 3-17.

¹⁰³ . Ibid., 136

¹⁰⁴ . Ibid., 51, 106-107

¹⁰⁵ . Ibid., 113

Clothing changes were erratic; men were heard to shout from their cells, "lousy shirts, lousy shirts."¹⁰⁶ Health was also affected by the doubling up of almost four hundred men. Men doubled looked careworn. Charges of sodomy were heard in and outside the prison. One doubled inmate complained that he was awakened one morning and "found my penis in his mouth, and I gave him a crack with my knee and asked the keeper to take me out."¹⁰⁷ The doubling up a result of the overcrowding satisfied the contractor who wanted a larger worker force and the state which gained more revenue without having to provide more cells.¹⁰⁸

Keepers complained that inmates were improperly trained by the contractors and often kept at jobs they could not complete in an effort "to avoid the employment of free citizens" at all costs. The poor training of prisoners created a cycle of pressure to produce which led to inferior work and resulted in inevitable punishment. The state received no compensation for citizen workers and saw them as an outside distraction for the prisoners. However they were compelled by the needs of the contractor to employ them.

Not surprisingly inmates preferred state work rather than contract labor; they were not driven as "hard," a word frequently used by inmates to distinguish between the two work regimes.¹⁰⁹ Inmates who refused to work were

¹⁰⁶ . Ibid., 17-19; 144. Complaints were heard when the men went more than a week without a change of shirts.

¹⁰⁷ . Ibid., 114

¹⁰⁸ . Ibid., 22

showered with pressure hoses in their cells or removed from a work station and paddled with up to 300 blows leaving their "skin hung in ribbons."¹¹⁰ Other inmates could hear these men cry out. Punishments were also inflicted for short work--the failure to met the assigned production quotas. In the shoe shop the quota reached one hundred and eighty pairs a day; in the laundry twenty-six shirts a day.¹¹¹ The workbook, kept by the contractor's supervisor, listed the number of tasks completed, crediting the inmate with overruns. Short or inferior work was also recorded and a running total for each prison worker compared the completed tasks with the production goal.¹¹²

In 1882 State investigators judged the prison to be in serious trouble which they attributed to prison corruption and mismanagement of the contract system. They called for a reduction in the number of contracts which they believed were at the center of the difficulty. Sing Sing's institutional health and renewal required a change in the system of labor. Whatever economic appeals were made by the incumbent Superintendent to the committee, the investigation exposed Sing Sing as a institution in need of reform.

In Albany, a surprising coalition of workers and employers joined to attack the Perry contract arguing that it undercut both wages and prices.¹¹³ They were aided by the disclosures of the Assembly which documented the corrupting

¹⁰⁹ . Ibid., 90-91

¹¹⁰ . Ibid., 97

¹¹¹ . Ibid., 122, 128, 132, 154

¹¹² . Ibid., 174. A copy of a page from the task book is in the appendix.

influence of the contractors inside Sing Sing. Perry could undercut prices and wages because he exercised monopolistic power a result of his contract with Sing Sing . To eliminate this threat to workingmen and producers the contract system would have to go.

In 1883 the State legislature offered the public an opportunity to vote on the issue of contract labor. A proposition to abolish contract labor carried 405,882 to 266,966. The strongest anti-convict labor vote came from New York City reminding us again of the relationship between the city and the prison. The vote of New York along with Albany's provided the political base for renewed agitation against contract labor.¹¹⁴ But Governor Cleveland and the State Legislature remained cautious. They were reluctant to surrender the "self-supporting feature of the prisons."¹¹⁵ Superintendent Baker argued that in addition to the revenue surpluses of the contract system it provided prisoners with a trade and transformed the criminal into a "a better prisoner and a better man."¹¹⁶

The defense of the contract labor system by Governor Cleveland, the State Legislature, the Superintendent of Prisons and Warden Brush was supported by the largest profit in Sing Sing's history in 1883 when 1483 inmates generated a surplus of \$54,018. It is not surprising given these financial returns

¹¹³ . Greenberg, Worker and Community, 155-154.

¹¹⁴ . Mckelvey , Good Intentions, 121

¹¹⁵ . Lincoln III, 279

¹¹⁶ . Superintendent of Prisons (SP), Report NYSAD (1884), #11, 12-15.

state officials were reluctant to bow to public opinion and the pressure of New York's Labor movement. But bend they did.

On March 1, 1884 the State legislature finally responded to the political pressure and the public mandate by prohibiting the renewal and extension of all contracts. However the new law offered no alternative it did not disturb the contracts then in force. The specter of thousands of idle prisoners now hung over State penal institutions creating a panic in large prisons like Sing Sing. Superintendent Baker asked the Attorney General if the new law permitted Sing Sing to introduce the piece price system.¹¹⁷ In this arrangement the State would have make a capital investment in machinery, underwrite prison labor and sell the products in the open market. The projected loss of revenues made the New York wary of such expenditures.

Baker bemoaned the loss of the contract system which had produced surpluses for over seven years. He pointed to the idleness which marked the condition of at least one third of Sing Sing's inmates and vainly argued that if labor was to be productive it must be profitable and useful. He asked the legislature to consider a new plan for broader diversification. Fearful of the

¹¹⁷ The piece price system had been in operation since 1817 when the contractor furnished the raw materials and the prisons converted them into finished products at a definite rate per piece. This was followed by a public works approach from 1816 –1820, an alternative to the piece price system. This second scheme involved convicts working on public roads and avenues in and around New York City and the purchase of marble quarries. Klein, Prison Methods, 248-251.

impending idleness and uncertain the state would act Warden Brush introduced a night school at Sing Sing in 1884 to teach inmates to read and write.¹¹⁸

The state now began the search in earnest for alternatives as more contracts expired. The Superintendent recognized that the time had passed when the controlling issue for prison managers was the financial balance; now idleness was the overriding concern. Baker recognized the momentous change which was taking place. The economic foundation of the penitentiary in New York State and the place of work in the rehabilitative scheme was undone. Baker wondered if New Yorkers “would again be taxed heavily” for its prisons?¹¹⁹ The search for alternatives led to a review of the state-use, the piece-price and the state account system.

The State Commission on Prison Labor reported in 1887 that New York should adopt the public or state account system in which the state would manufacture and sell goods in the open market with strict limitations on the kind of manufacturing and the number of men (never to exceed 200) employed in a single prison industry. This latter restriction was clearly a response to the Perry contract with Sing Sing. The commission also recommended that the piece price system should produce items needed by the state institutions, the germ of the state use idea. The effective implementation required an allocation of capital funds to the prisons at the very time deficits were increasing and budget cutting was the order of the day.

¹¹⁸ . SP Report 1885 NYSAD (1885), #11, 17-37. Brush wanted prisoners to be able to read and write as a requirement for discharge.

In 1887 as prison officials nervously contemplated the growing prison deficits and the massive inmate idleness Sing Sing gained some breathing space from the length of its holdover contracts. But as the year ended and more contracts expired Sing Sing Warden Brush pleaded with the State legislature for new appropriations to substitute for the lost revenue and to purchase the necessary machinery for the piece price system. For the first time in ten years Sing Sing ran a deficit. Brush faced with increasing numbers of idle men, exceeding more than half of the population, moved prisoners from exercise and bathing to institutional repairs. He even resorted to a program of transfers to other institutions in an effort to fend off the dangers of idleness.¹²⁰ Never in its history had so many Sing Sing inmates walked so much and washed so frequently.

Most ominously the Superintendent reported in 1889 that the death rate in state prisons had jumped to sixty-four; twenty five occurred in Sing Sing doubling the yearly average. Superintendent Lathrop attributed this increase to idleness.¹²¹ Hiram Barber, the Sing Sing physician, echoed these sentiments and lamented the general moral and physical deterioration of the inmates caused by the lack of work.¹²²

In 1888, in an action which confounded the State Superintendent and the Sing Sing Warden the legislature prohibited all manufacturing by motive

¹¹⁹ . Ibid., 28.

¹²⁰ . SP Report 1888, NYSAD (1889), #9, 11-14.

¹²¹ . SP Report 1889, NYAD (1890), #17, 10-12

power and restricted production to articles “commonly used in the public institutions of this state such as clothing and other necessary supplies of the inmates thereof.”¹²³ The new legislation, referred to as the Yates law disabled the entire work regime.¹²⁴

One year later in an effort to clarify the implications of the Yates Bill the Legislature passed a more detailed measure, the Fassett law which established the guidelines for New York’s state prison labor policy well into the twentieth century. The Fassett law prohibited all contract labor, limited the piece price system to five percent of those employed in any given industry in the state and strengthened the state account system by requiring state institutions to purchase all provisions from state prisons.

The Fassett law attempted to bring order to the uncertainty of prison labor. It removed the products of prison labor from the public market. Inmates whose daily lives were prescribed by institutional walls would now find their labor tied to the needs of other state institutions deepening the isolation of the inmates from the world outside. Labor in the old contract system had to produce goods and teach skills relevant to the market; the new system was driven by bureaucratic plans in which the prisoner’s labor was channeled to serve the state’s institutional needs. Sing Sing shifted from a producer of goods for the market to a consumer of products of the state use system. For the next half

¹²² . *Ibid.*, 43

¹²³ . Lincoln III, 283

century the state will become the principal funding agent for this new prison economy. Prison expenditures under the Fassett law would become a crucial element in the state's economy.¹²⁵

The Fassett law became the basis for the Constitutional Amendment of 1894 which established the state account system as the new mode of prison labor and placed the regulations beyond legislative tampering. The long battle of the unions to eradicate the contract labor system finally ended. All contracts at Sing Sing ended in 1896.¹²⁶

The legislative history of prison labor cast a shadow over Sing Sing where the Warden in conjunction with the State Superintendent now faced the consequences of the Yates and Fassett laws and the Constitutional amendment of 1894. Warden Sage complained of the growing problem of idleness; at times the number of unemployed inmates at Sing Sing reached over one thousand. Attempts to develop piece price schemes were too modest in scale and under funded for the labor needs of an institution whose population during this period often exceeded one thousand three hundred men. The expanding inmate population put additional pressure on a neglected physical plant. While the loss of contract labor offered an opportunity for men to work on institutional repairs t increased deficits, now exceeding \$1000,000 a year, made funding of such renovations unlikely. Even the restriction of prison labor to state use met with

¹²⁴. Mc Kelvey, Good Intentions, 120

¹²⁵. Gardner, "The New York State Prison System," 106-107

¹²⁶. Klein, Prison Methods. 260-264; Lincoln III, 283-296.

some objections from the American Federation of Labor which complained in 1897 that, the new system "reserves for convicts much of the work of the state that rightfully belongs to the free laborer."¹²⁷

Prison labor which started out as an essential element in the reform regime of the penitentiary had quickly become a revenue generating mechanism in which the reformer's goals were subordinated to institutional budgets. The legislative eradication of the contract labor system marked the turning point in the history of the penitentiary. The idleness of the inmates, the absence of any alternative systems of labor and the pleas of New York's prison officials could not save the contract system.

¹²⁷. Adamson, "Marxian Penology" 453, notes 17, 18.

Chapter 7

“The Burlesque of Reform”

In 1896 Warden Omar Sage asked for the first time, but not the last, whether the moment had come when “we will have a newer Sing Sing?” Overcrowded and unhealthy conditions, an increase in the number of cases of consumption, and the loss of labor called into question the future of the institution. Sing Sing appeared tired and obsolete, worn out—an outdated relic.

The crisis at Sing Sing in the 1890s, which so alarmed Warden Sage, suggested a loss of institutional confidence and purpose. The end of prison labor raised questions not only about the future of Sing Sing but also about the character of penal reform. We suggested early on that the history of the penitentiary and penal reform were in a symbiotic relationship- the latter the shadow of the former. We can not separate conditions at Sing Sing from the larger question of reform.

The crises of the 1890s, which had been brewing for a quarter century, was a watershed in Sing Sing's history and an appropriate moment to evaluate the state of the institution in the light of the historic goals of penal reform. What happened to the ideals of the post revolutionary reformers and the hopes of their nineteenth century heirs? Were any of these notions alive at Sing Sing by century's end. Or had Sing Sing broken free from the shadow of the reform movement and become a Frankensteinian monster.

To evaluate Sing Sing's status at century's end, we need to unpack the constituent elements of the reform movement, which had undergone a dynamic transformation. A leading penal historian concluded that in the nineties,

The curious citizen, as well as the prison authorities, believed loyally, if vaguely, in the equality of men and was confident that most criminals, if given a fair chance, would reform¹

The emphasis here should be on the vagueness. This statement is part of the rhetorical legacy of the reform movement and reveals little about the character and shape of reform. We can not speak of a single reform movement in the 19th century nor can we identify the ideals of the post-revolutionary reformers with those of their early nineteenth century counterparts. Penal reform was an amalgam of two approaches, which taken together constituted the measure for penal institutions.

1. McKelvey, 171

To evaluate Sing Sing at the end of the century it is necessary to understand that penal reform in the nineteenth century was a continuum with moral or kind treatment at one end and the hard line at the other. All reformers attempted to influence the practice of criminal punishment but in different ways. The reform continuum implies not a polarity or opposition of ideas but a sliding scale with positions distinguished by degrees of emphasis and the historical context. Thus any evaluation of Sing Sing must recognize the broad character of the reform movement.

Central to reform ideology is the abiding faith in the potential renewal of the criminal. The adjective "potential" is a caution here for it suggests a tentative commitment to the transformational capacity of punishment. While it stands as one of the first principles later in the century it comes to represent more of a rhetorical commitment. Reformers would agree that if the punishment did not reform at last it should not corrupt the prisoner and further degrade him. Penal reform also seems to be a varied mix of religious, philosophical, and practical ideas, which give the movement an experimental quality--an uncertain and tentative posture.

The movement can be divided into two generations, one the heir of the Revolution and Enlightenment ideas and the other a period of institution builders in the third decade of the century.² A brief summary of the ideas and points of

2. The fullest survey of 19th century penal reform is Robert Lewis Norris, "Prison Reform and Penitential Publicists in France, England and The United States 1774-1847" (Ph.D. diss., American University, 1985). Norris' dissertation provides the framework for my discussion of penal reform.

emphasis for each of these groups is a pre-requisite for an evaluation of Sing Sing's condition at the end of the century.

Enlightenment ideas shaped the first generation of penal reformers, in England and the United States, who hoped to reduce capital and corporal punishment, which they judged as inhumane and cruel. This represented an effort to shift the focus of punishment from the body to the mind and reduce the role of vengeance and retaliation. Inspired by John Howard's late eighteenth century investigations the first generation sought to improve the conditions inside local jails with "sweet air and daily washing."

All of their ideas were informed by a fundamental optimism about the capacity of humans for change and self-renewal. This faith was supported by belief in progress through moral and religious instruction. Reformers were searching for a rational system of proportionate punishment, one which could serve as the engine for rehabilitation. They approached this search with flexibility and openness.

The practical application of these ideas especially in the United States formed what Norris called penitential punishment which in this first phase included cellular confinement and an ordered daily routine. Prisoners would be classified, separated and silenced to prevent contamination of the first offender by the seasoned criminal.³

3. Norris, 3-145

These ideas of the first generation shaped the post-revolutionary response to the problem of punishment and provided the principles for the construction of the first penitentiaries in the young Republic. In 1822, following the failed experiment in solitary at Auburn an investigation into the New York penitentiary system by the Society for the Prevention of Pauperism concluded that the system had been too lenient, too costly, and too reform-minded. Gresham Powers the Agent at Auburn agreed that, "too sanguine expectations were indulged by the founders of the penitentiary system."⁴

Chastened by the disaster at Auburn and the disappointments at Newgate the reform movement, although committed to the penitentiary as the principal form of punishment, attempted to shift the emphasis from reform to deterrence. According to Norris, "the American prison was developed for a second time between 1820 and 1830."⁵

The second generation of reformers was preoccupied with issues of design and construction. They identified the edifices as "factories of reform" believing the right architecture was key to penitential discipline. Their rigidity in matters of design constituted a new orthodoxy. The commitment to building, in the period 1820-1830, added, according to Louis Dwight of the Boston Prison Society, 6,000 cells at a cost of \$5 million.⁶ States took competitive pride in the

4. Ibid., 171

5. Ibid., 172

6. Ibid., 192

race to construct new prisons. Reform became identified with structures designed to last for centuries – American pyramids.

Responding to the charges leveled against the first generation of reformers of lax discipline, the new penitentiary would be a tougher institution. Discipline would be harsh. However reformers did not preclude the possibility that brutal measures could deter and were sometimes necessary. The emphasis was on order and the penitentiary was envisioned as an agency of social control. Reform of the criminal was secondary to deterring crime.

A minority of reformers held on to the first generation's ideal of reform-
-the belief that if properly managed the penitentiary could lead to fundamental spiritual and social transformation of the inmate. They maintained the legacy of reformation but increasingly as something prisons "ought" to do.⁷

Prison management now included salaried keepers and outside inspectors as observation and supervision became central elements in the second generation of penitentiaries. Management and architecture became the twin engines of the new "machinery of progress."⁸

Silence was a key to the new penitentiary. It was at the center of a raging debate between New York and Pennsylvania. While a minority of reformers especially the defenders of the Pennsylvania separate system, identified silence with introspection and self-reflection the new generation saw it

7 Ibid., 372

8 Ibid., 233

as central to preventing corruption of first time offenders and inmate plots to escape or riot.

The change in perception of the role of silence is a good indication of the shift from the first generation to the hard liners. However this shift allowed reformers to retain the hope that silence would also promote renewal and transformation.

Prison labor is another example of a practice that served two masters. For the early reformers it promised to inculcate "habits of industry." In the post 1820s, prison labor was justified as a source of revenue, and the penitentiary was conceived as not a factory of reform but as a virtual factory of profit.

By 1830 the second generation had moved the American penitentiary to a tougher position in which deterrence, order, discipline and work for profit dominated the new penal landscape. Reform and moral treatment were now secondary concerns, present and in tension at times with the hard line. These two approaches, in their various reincarnations, dominated the penal debate for the remainder of the century.

To evaluate Sing Sing prison the full range of possible definitions of reform must be taken into account. For Sing Sing, born in the age of the hard-liners, was also challenged by the hopeful and optimistic ideas of the first generation. To determine Sing Sing's place on the continuum of reform we need to assess its condition at the end of the century. This task is helped by the availability of two first-hand inmate accounts from the last decade of the nineteenth century. Hapgood Hutchins recorded the autobiography of a New

York thief who had served parts of three terms at Sing Sing, and Number 1500, a former journalist who served a four-year sentence at the close of the century, published a detailed and at times prosaic narrative.⁹ Hapgood interviewed the former thief, took careful notes, and organized the material into "an authentic account of his life."¹⁰ Number 1500 drew on his experiences to present an inmate's perspective. The author's account is temperate and balanced and his judgement of Sing Sing though condemnatory are judicious.

Hapgood's thief was reformed in spite of the prison experience at Sing Sing. After three terms he finally got straight once on the outside. But while in Sing Sing he described a growing hopelessness and a loss of faith in the possibility of reform. He asked,

from a man who has spent number of years in such surroundings? He will come out of stir, as a rule, a burden to the tax payers, unable to work and confirmed in a life of crime; desperate and willing to take any chance.¹¹

Number 1500 was equally sharp in his criticism of the prospect of reform which he described as a "burlesque,"

Reform in prison for convicts!
No wonder the officers familiar with the conditions laugh at the idea of reform and that those who are subject to the burlesque influences called reform go forth from their first imprisonment accomplished thieves with dishonesty in every fiber, only to return and return again and again.¹²

Here we see prison as transformative but in ways which recall the gravest fears of reformers—prison as a school for crime, a place, which does not reform but further corrupts the convict. Number 1500 recalled that no one ever talked to him of reform nor took an interest in his personal rehabilitation.¹³ He doubted anyone had been reformed at Sing Sing and suggested that the “any means classified as reformatory are in deference to the public belief that such attempts should be made.”¹⁴ He believed that the official reports and statistics were used to convince the public that an effective and beneficent work was being done. Prisoners understood that the role of reform in prison methods was “to tickle the public ear” and not really to benefit the inmate.¹⁵

If you seek to purge a stream of impure water you go to its source and, according to Number 1500, this should lead prison reformers to Jacob Riis and conditions in New York City. The failure to look to social conditions was a by-product of the over emphasis on the prison as the solution to crime.

His critique of reform ended with a question,

What has the state done for them by sending them prison?
On the contrary it has done much to make reform impossible....
It has not given them new views of life; it has made life harder while
they are in prison and rendered it almost impossible when they have to

9 Hutchins Hapgood, *The Autobiography of A Thief*. Fox, Duffield and Co. New York: 1903.

10 Hapgood, 12

11 Hapgood, 198

12 Number 1500, 49.

13 Number 1500, 22.

14 Number 1500, 46

15 Number 1500, 63

leave it.¹⁶

It is not surprising that given this indictment of the regime at Sing Sing, he concluded reform was a mockery.¹⁷

For Hapgood's thief renewal at Sing Sing was illusory; he confessed that he left prison a happy man believing that all would be "clear sailing" only to discover that he was unaware of the "the actual realities I had to face, inside and outside of me and so all my good resolutions were nothing but a dream." He believed that the unnatural routines of five years at Sing Sing had broken his true human nature.¹⁸

The degradation and humiliation, which came to characterize Sing Sing at the end of the century, began before the criminal even entered the prison. From the moment he left the Tombs, Number 1500 felt a sense of "dread and loathing."

When the van deposited him and other prisoners at Grand Central station a crowd gathered and a newspaper reporter photographed their departure. The public's "morbid interest and unsympathetic regard" provoked Number 1500 to hurl a package of clothes at them. His limbs were numb and he shivered with the cold as the train made its way along the Hudson toward Sing

16. Number 1500, 274

17. Number 1500 178

18. Hapgood, 197-198

Sing. One prisoner led others in a song about going up the river. Hapgood's thief felt people stared at him as if he were a wild animal. ¹⁹

Number 1500 rhetorically asked what he was afraid of--was it the unknown life he was about to enter with its undefined horrors and awful ignominy? He understood that Sing Sing would deaden his sensibility, undermine his individuality and transform him into a number. But "hope whispered her alluring promise" and so he formed a plan to survive his Sing Sing sentence. Before he entered the prison there was one last "touch." Guards leading the convicts from the railroad station took his overcoat from him for "safe keeping."²⁰

A snarling clerk gathered some information, most of it inaccurate, and read the rules during the intake process. There was no mention of reformation; the only advice--"keep you mouth shut." One visit every two months and one letter a month, though meager in the eyes of most men, represented a significant improvement over earlier restrictions. But much of the remaining admission process stayed true to the pattern of seventy years.

When the men entered the prison, " a dark and gruesome place," a fierce looking guard ordered them to strip and bath. The new inmates were issued a stripped suit including a vest, trousers, and a cap, all ill fitting, along

¹⁹ Number 1500, 4-7; Hapgood, 132

²⁰ Number 1500, 7-9

with a pair of shapeless, uncomfortable brogues. The new arrivals had their heads shaved by an inmate barber. There was no more pitiable sight than a freshly dressed convict embarrassed and harassed by other convicts.²¹ At this moment you “felt what it was to be a convicted criminal.”²²

This introduction signaled the indifference to reform and renewal and stressed discipline and control in the name of institutional order. These entry rituals did not mark the beginning of reformation but the start of a war in which the individual would struggle not to be consumed or destroyed by Sing Sing. In place of dreams and hopes of a new beginning, he found himself fighting to survive a living nightmare.

Number 1500 entered the cellblock and felt a “hard bleakness and squalor fall over him.... and he gave way to despair, despair that rages impotently.” His description of the cellblock and the interior space recalls accounts from the 1830s and is a testimony to the permanence of the structure. He now was in battle “with the game of patience.” The prison seemed to

draw closer, pressing upon me physically and asserting its grim terrors in my heart, stout enough till then, but haunted now with such foreboding of nameless horrors as drive men mad.
Oh to be mad, indeed to be able to cast aside the awful consciousness that this was not a dream but an appalling reality!
... those horrible Sing Sing dungeons²³

21 Number 1500 8-13

22 Hapgood, 133

23 Number 1500, 17

Hapgood's thief described the cells at Sing Sing as a "crime against the criminal."²⁴ The cell had become, not a source of reflection and self-examination or an ascetic confinement, but a place of terror providing a punishment, which in its own way was as cruel as the pre-penitential punishment of the body. Any notion of humane imprisonment was a fading memory.

The central governing principle of Sing Sing remained silence—a key element in both reform traditions. Yet convicts could hold private conversations at will. The inmates talked in low tones in the mess hall, in the line and when idle they gathered in groups to discuss every kind of subject. Men were allowed to talk almost without restriction except in a few shops run by old-line keepers.²⁵ The cornerstone of the reform movement was no longer functioning. If we recall the objective of silence—to prevent inmate conspiracies, to avoid corruption of the first offender by the recidivist, and to compel reflection—we have not only lost this key piece of the reform regime but given a clear indication of the shifting in power within the Sing Sing away from the keepers and toward the prisoners. Recalling Tocqueville's early insight that control of a large number of inmates by a few keepers depended on the maintenance of silence, we can appreciate the significance of this change.

²⁴ Hapgood, 197

²⁵ Number 1500. 25, 76, 224.

Oral communication was not the only prohibition breached. Where silence was enforced a system of notes carried by cons who worked the halls was developed. Thieves especially favored this method.

When Number 1500 arrived in February 1897 he described Sing Sing as demoralized.²⁶ He saw thirteen hundred idle men, some parading in the yard and others clustering in the idle shops. While a few convicts were assigned to the new state-use accounts, only a small number were employed, and they appeared "sluggish and abnormal." The new work was costly, the workers were disheartened, and the prison adrift.²⁷

Because the inmates were not on a regular work routine they spent a great deal of time sleeping and "dissipating." The administration was so fearful of exhausting the few available jobs that they unwittingly encouraged a work slowdown. Long termers recalled that under the contract system the prisoners worked hard on assigned tasks, which taxed their energies. While some lamented the loss of the contract system others celebrated the closing of the laundry shop which was described as a hell because of the high and demanding work quota maintained by a regular and harsh punishments.²⁸

The collapse of the contract system and the failure of the state and the prison to find an adequate substitute were considered a "very bad thing for the

26 Number 1500, *Life In Sing Sing*. (Brooklyn: Bobbs-Merrill Co., 1904)

27 *Ibid.*, 71-77.

28 Number 1500, 36, 65-69

health of the convicts." Idleness increased the time in damp and unhealthy cells and had a deleterious affect on the inmate's health. Hapgood's thief recalled not having worked a single day for over a year.²⁹

A key element in the penal experiment had come to an end. Sing Sing, like other penitentiaries in New York, embarked on a search to find a substitute for contract labor. Indeterminate sentences, parole, and work release were programmatic responses to the crises of the unemployed inmate. While prison labor would no longer compete with free workers, a central element in the reform regime of the penitentiary was lost.

It is not surprising that the cracks in the code of silence and the idleness of unemployed inmates would lead to a continuation of physical punishment. Convicts, according to Number 1500, were in spite of state prohibitions, "frequently beaten". These punishments were administered in secret in the punishment cells. The keepers were aware of the public's negative reaction to police methods in New York City and eager not to invite outside scrutiny of their prohibited practices. The beatings, which were described as "vindictive," targeted inmates who offered open resistance to keepers.

Upon the new inmates arrival the admissions clerk provided him with instructions about the rules governing lie at Sing Sing. What impressed Number 1500 however was the lack of clarity in the explanation of the rules. He noted

²⁹ Hapgood, 141-142

that this imprecision was not accidental but part of the very character of the institution.

Sing Sing, like Great Britain, is governed by precedent that has the authority of law. It has no written constitution nor digest of its forms of government, but it has an enormous body of unwritten law which the prisoner can most easily learn by transgressing.³⁰

Thus the prisoner was governed by a set of principles which were hidden from view and public scrutiny, and are an example of extra legal rules. We have here a succinct definition of the punishment within the punishment. While justified in the name of keeping order the unwritten rules put the inmate at the mercy of the keeper. An inmate sent to the "cooler" was released when they (the keepers) were ready to let him out, and he did not know how long he had to stay...." The system of punishment at Sing Sing was described as the "sport of caprice."³¹ The capricious nature of this practice created a kind of institutional terror and allowed no appeal to justice. Thus, in spite of a series of state laws prohibiting corporal punishment and prescribing the alternatives, Sing Sing keepers and wardens found ways around the legislation. The use of secret punishments to control and discipline inmates existed at Sing Sing from the days of Elam Lynds, persisted throughout the nineteenth century, and remained a continuing source of inhumane and brutal treatment.

The governance of the prison persisted as a serious issue in spite of the concentration of authority in the hands of the newly created Superintendent

of Prisons in 1877. In locating the source for the failure of reform at Sing Sing, Number 1500 pointed to the keepers.

In the first place they seek to reform the wrong man and neglect the keeper who is placed in charge of the convict. It is by mere chance that a good man fitted by temperament and other equipment enters and remains in the prison service. Once there, it is a strong and splendid character indeed that can resist the opportunities to go astray.³²

Robert Wiltse's 1834 admonitions to his keepers to exercise rigorous self-discipline and avoid the contagion of criminal corruption went unheeded. After a short period of service keepers seemed to discard the principle of ownership as it applied to property which belonged to the state.

There are old officers in Sing Sing living in rented houses in the village, which they have furnished with tables, chairs, bedsteads, cutlery and tin ware from the prison; the soap with which their weekly washing is done is similarly obtained.³³

So voracious was the appetite of these keepers that Number 1500 concluded, "it doesn't make any difference what it is they will take and do take it." Prison officers talked of their "fair share" and came to see the practice as a prescriptive right.³⁴ This could not occur without the participation of inmates who had access to raw materials and finished goods. Officers often stole materials

30 Number 1500, 223

31 Number 1500, 230

32 Number 46-47

33 Number 1500, 47

34 Number 1500, 47-48

from the shops and had inmates finish items, such as shoes, in their cells. The convict who "got along best" was the one who aided in these schemes. While inmates were implicated in this corruption, it was not without benefit to them.

Convicts would seek and use every advantage or edge they could to counter the awful character of their of their daily life. Damp cells and unemployment, were not the only sources of malaise at Sing Sing. The bells, the first of which awakened a convict at 6:15, regulated the inmate's day. The long "oppressive melancholy" of the 12-hour night lockup was broken when the men emerged from their cells, night bucket in hand and assembled in gallery companies. They marched in lockstep to breakfast and at 7:30 proceeded to the shops if work was available.³⁵ The lockstep gave the men a peculiar gait which, according to Hapgood's thief, marked them through life and prevented them from re-entering society and resuming a normal life.³⁶ Work continued until 4:30 pm only interrupted by the 11:30 am dinner hour. At the end of the day the men marched to their cells, night bucket in hand, and the final count was taken. At a little after 4:30 the "all right "was given and the prisoner began fourteen hours of confinement. Some men adjusted to the cell and made it a sanctuary for privacy.³⁷ Others atrophied and slipped into a dream world.

35 Number 1500, 32-33

36 Hapgood, 139

37 Number 1500 33-34

In language reminiscent of John Howard's expose of the English jails, the air in Sing Sing's cells was described as foul and the conditions as filthy. In summer vermin in the form of bedbugs passed in swarms through the ventilators in each cell and traveled along the galleries. No cell was kept free of these pests and the institution showed little interest in correcting the problem.³⁸ Men were still using night buckets at a time when elsewhere sanitary conditions in prisons were improving and cells were being equipped with toilets and sinks.³⁹ Few of these sanitary reforms reached Sing Sing.

Inmates believed the cells at Sing Sing poisoned them with their foul air. They complained that the air space was insufficient. They countered the administrative argument about the low death rate at Sing Sing by attributing this fact to the robust health of the inmates from New York City. Number 1500 wrote that, "inmates arrived at Sing Sing bubbling over with physical strength.... as the cells act to take it away."

Sickness had a peculiar terror for the prisoners. At a time of illness a convict became acutely aware that he was cut off from the support and sympathy one expects from family and friends. At this moment he felt alone even though the medical care and the nursing care was adequate. Illness in the prison hospital, inspite of the aid of the caring Sisters of Mercy, had a pathetic and fatal

38 Number 1500, 40

39 McKelvey 176-180

quality about it. Inmates around the sick patient were dying and in their passing they were ignored and received little support from fellow inmates.⁴⁰

Convicts believed Sing Sing to be an “appalling source” of tuberculosis, which they attributed to the persistent dampness of the cells. Regular white washing did not have the desired prophylactic effect. In addition to the threat of tuberculosis there was the more mundane challenge to the prisoner’s health.

After he has spent a certain number of years in stir his teeth become decayed; he can not chew his food, which is coarse and ill cooked; his stomach gets bad; and once his stomach becomes deranged it is only a short time before his head is in like condition.⁴¹
The cumulative result of this breakdown of the inmate’s body was that

he began to “borrow trouble” become anemic, grow suspicious of his wife and friends, become reticent, attempt to escape and in some instances slip into insanity. Men desperate to get out of Sing Sing and to transfer to the hospital tried “shooting the bug” or feigning insanity.

Hapgood’s thief commented that “a great deal of dying goes on at Sing Sing” and during his first term it seemed as “if three niggers died for every white man.”

One would ask, Whose dead?
The reply might be “only a nigger”⁴²

40 Number 1500, 132-135

41 Hapgood, 198

42 Hapgood 170

Death at Sing Sing was described as “gone up the escape.” Inmates were buried in a graveyard on the side of the hill overlooking the main cellblock. Convicts were buried without a service or a prayer. The 600 graves were marked with wooden boards, which contained the name and age of the deceased inmate most of whom had died between the ages of 20 and 30 years.⁴³

It is not surprising that prisoners used a variety of means to survive Sing Sing. Both accounts tell of the easy and regular use of opium.

*After a man has had for several years bad food, little air, and exercise, no natural companionship, particularly with another sex, from whom he is entirely cut off, he really needs a stimulant.⁴⁴

Many of the men came with an addiction and found that at Sing Sing opium was “a much-sought dissipation.” Convicts were “slaves to the drug.” On days when they were cut off from the drug the effects were pitiable. Opium along with whiskey and tobacco were the necessities of prison life, and inmates were willing to pay dearly for it.⁴⁵

I found, for my part, that only opium would calm me. It takes only a certain length of time for almost all convicts to become broken in health addicted to one form or another of stimulant which in the long run pulls you down completely.⁴⁶

43 Number 1500, 132

44 Hapgood, 160

45 Number 1500, 37; Hapgood, 135

46 Hapgood, 160

Opium and almost any other item could be bought at Sing Sing through the keeper-run "Underground Tunnel." If you had a keeper or "screw right," paid him around 20% of money you got from home, you could obtain opium and a whole laundry list of other contraband items.⁴⁷ This flourishing underground economy, aided and abetted by the keepers, was an important link in the inmate sub-culture.

Corrupt keepers were a crucial part of the inside network which the prisoners organized. The free and easy communication supported the connections among inmates. Convicts explained the workings of the Underground to new arrivals and mapped Sing Sing's hidden world of capricious rules and brutal keepers, shared packages from home with other inmates, and spread news obtained from new arrivals. Professional thieves had their own special network at Sing Sing, in which, which they swapped tales and talked shop.

One clear sign of Sing Sing's administrative failure was the rich and substantial vocabulary or argot, which constituted inmate slang.⁴⁸ Number 1500 prepared what he described as the most complete list of prison words, based on what he heard at Sing Sing.⁴⁹ His "Dictionary of Thieves and Convicts Slang" contained over 400 words, several colloquial phrases and a selection of

47. Similar underground tunnels operated on most of New York State's prisons. Hapgood, 134-135

48. Number 1500. Life In Sing Sing. 245-265

49. *Ibid.*, 245

translations of passages from argot to everyday language. While many of the words were used exclusively by convicts some keepers understood them as well.

Argot served inmates as a secret code and provided them with “a sense of accomplishment” – pride in their ability to possess and manage such a large vocabulary.⁵⁰ Prison argot signaled communal cohesiveness inside a prison. It is one of the keys to the inmate's quest for identity and suggests not a silenced population but a group able to communicate regularly in its own special language.

Sing Sing argot revealed a vocabulary, which offered another perspective on the inner world in which inmates “are slinging the lingo,” or holding a conversation in slang. Prison is described as the “jungle” and Sing Sing is “up the river” while those inmates sent to Clinton prison went to the “pork dump.” Prisoners were preoccupied with time and length of sentences or “doing a bit.” The phrase “stretch” designated a one-year term while the more fortunate “whop” had less than 30 days to serve. The inmate was “measured” for the bertillon identification card and “mugged,” photographed at the same time. These two events occurred while “he was stood up” or placed in line for identification. The number of words or phrases to describe these aspects of the identification process indicates these were not casual moments in the prisoners' lives.

⁵⁰ Ibid., 244

Ethnic slang, much of it from the street, was well represented in Sing Sing's argot. "Harp," "terrier," or "mick" was an Irishman, "ginny" an Italian, "greased" a Mexican, "honey" a person of color and "sheeny" a Jew. There were "rats" on the inside, prisoners who stole from one another, and some guilty of "rounding" or betrayal and "peaching," informing against another.⁵¹ A prisoner who stayed out of trouble could get a "state," a plug of tobacco. Prisoners caught communicating on the "trolley," a wire or string used to pass notes from cell to cell, might get a "gaff," a mental or physical punishment. Inmates breaking Sing Sing's rules were "chalked," detained in their cell marked with chalk on the door. All inmates hoped to be "making the boast"—released by the parole board.⁵²

Different experiences require a specialized language and prison argot served that purpose. But argot also carried an emotional message documenting the struggle of inmates to forge a distinctive identity for themselves. Gresham Sykes believed that prison argot provided a map of the inmate's social system.⁵³ If silence was the historic guarantee that a small number of keepers and guards could control a much larger prison population, the flourishing prison argot at Sing Sing suggested that the institutional balance had shifted.

51 Gresham Sykes discusses the full import of "rat" as a betrayal of all the inmates one who has gone over to the other side. The Society of Captives. (New York: Atheneum 1966), 87-90.

52 Ibid., 246-259

53. Ibid., 84-86

Nothing more forcefully expressed the voice of the inmates and their resistance than a prison riot, an event which required regular and secret communication among the inmate and a leadership coterie able to bring organization and discipline. The post civil war prison riots at Sing Sing, especially the 1869 occurrence, were covered in detail by local and city newspapers, gained public attention, and led to a state inquiry. Prison riots made the inmate visible, at least for a short time.

The origins of the 1869 riot can be traced to Thursday, March 25, when Montague Dean, a sickly 22-year-old convict just released from the prison hospital, was showered by Keeper Buckingham. Reports indicated that from the moment he was removed from the foundry for disciplining Dean protested and begged the keeper to wait until the doctor arrived. His pleas were ignored and after he was showered, he was beaten and locked in a dark cell. He became seriously ill, was removed to the hospital, and died within two days. State investigators subsequently judged this event the trigger for the violence and riots, which erupted in the spring.⁵⁴

Dean's death followed by a few days the recapture and shooting of escaped prisoner O' Neill, who was killed by Keeper Sullivan in a Tarrytown barn. Newspaper accounts of the recapture described O' Neill, unarmed, with

54 . Eastern Star Journal March 25, 1869; NYSA (1869), #187, 5-7

his hands raised above his head, pleading with Sullivan not to shoot him. The keeper was not dissuaded and shot O' Neill in the stomach at close range. O' Neill died the next day. Sullivan was indicted for murder.

Keeper Sullivan was also involved in an attempted escape in which a keeper was murdered on the morning of the 17th of March 1869. That same afternoon a group of convicts tried to escape by commandeering the sloop *Enterprise* at the prison wharf. The attempt failed and two inmates were shot, one fatally. Thus escapes and the deaths of both keepers and inmates marked the early spring of 1869. Sing Sing was in great tumult .⁵⁵

In early July a telegram appeared on the front page of the *New York Times* announcing, "Rebellion At Sing Sing," and inciting "fears of a general rebellion."⁵⁶ Prisoners in the quarry shop refused to work after the keepers would not provide them with cold water to replace the supply from a contaminated stream. Warden Henry Nelson came to the shop and attempted to persuade the rebellious inmates to return to work. They refused, and he ordered them locked down in their cells. The following day men in the shoe shops joined the protest, swelling the number of resisters to 700. Nelson cut off food, except for bread and water. The 400 who continued to resist, remained locked in their cells and made riotous sounds—hooting and hollering and banging on

55 . *New York Times*, 19 March 1869.

56 *New York Times*, 17 July 1869.

cell doors so loudly that town's folk complained that "any one who passes the jail can hear."⁵⁷ The surrounding community feared a general eruption.

The riot, led by about 30–40 men, whom some accused of using strong-arm tactics to hold the protesters in line, lasted for five days. This was not a spontaneous revolt but rather a coordinated inmate-organized protest, which effectively focused city and local newspapers and public attention on the prison and inmate grievances.

Investigations and debates which followed listed a series of explanations for the revolt. Some accounts blamed the ineffectiveness of the keepers many of whom were newly appointed following the usual post-election turning out.⁵⁸ The rapid change in prison keepers and guards introduced inexperienced personnel into a world always on the edge of violence. There were reports that the keepers were in fact afraid of the inmates and thus reluctant to take any preventive action.⁵⁹

For many commentators the underlying cause was the excessive punishment and especially the shower bath. The Legislature, in response to the death of Montague Dean and the riot, banned the use of the shower bath. Thus the voice of inmates was heard and led to an act, which eliminated a dangerous

⁵⁷ *Ibid.*

⁵⁸ *Eastern Star Journal* 6 August 1869

⁵⁹ *New York Times* 18 July 1869. The political appointments at Sing Sing and the names of the replacement keepers were detailed in the *Eastern Star Journal* 8, 15 January 1869

punishment from their lives. Of course this same ameliorative action was criticized by others who felt it was part of a continuing erosion of discipline and loss of control, instigated by the New York Prison Association's effort to gain unwarranted sympathy for prisoners and eliminate the use of physical punishment.⁶⁰

The 1869 riot represented a shift in institutional power, which, although it was publicly revealed only in the spring and summer, reflected months of instability and internal struggle. Inmates were able to communicate freely and organize a protest, which exposed the weakness of the outnumbered and inexperienced keepers, and further documented the internal shift of power.

While the highly publicized riot of 1869 gained public attention, a less dramatic but even more persistent form of inmate resistance was escapes whose number and frequency in the last half of the century were alarming.⁶¹

After the Hudson River Railroad, which cut through the prison east of the cellblock and west of the farm and the quarry, was completed in 1849, escapes increased. In the post civil war period, attempts reached near epidemic proportions. In addition to proximity to the railroad, the open access to the Hudson River to the west of the prison, the flimsy surrounding walls, and the duplicity of the keepers all contributed to the increase. This last factor was a result of the high turnover among keepers and guards, a function of poor pay,

politics, and lack of professionalism. Sing Sing was described by one observer as the "most insecure" prison ever built.⁶²

Graphic accounts of escapes appeared regularly in the local papers. *The New York Times* announced many of the escapes in banner headlines warning the public that Sing Sing was filled with dangerous and unmanageable prisoners. *The Times* called escapes, which most often involved no more than two to three men, "rampages" or "stampedes." The public was reminded that the escapees were "convicted murders or thieves" and their attempts were "daring" and "clever." The overwhelming number of these stories used the simple bold headline "escape." The impact of the number, frequency, and sensationalist coverage was enhanced by the rapid communication of events from the Sing Sing to New York City by telegraph. A *Times* editorial complained that hardly a day went without some convict attempting to break out.⁶³ Sing Sing was increasingly identified by these newspaper reports as a prison out of control.

But on close examination, the evidence from prison records and newspaper stories suggested that the overwhelming majority of escapees were recaptured within a day of flight. Some of the recaptures involved violence and

60 Eastern Star Journal, 23 July 1869; New York Times 23 July 1869

61 For a smaller revolt but similar in the pattern of grievances, resistance and resolution see New York Times, 21 February 1883.

62 Number 1500, 183

63 New York Times, 28 February 1873

even death. One of the virtual certainties of Sing Sing life was that recapture followed escape. If the prospect of success was so low why did so many persist in trying? One explanation is the powerful lure of New York City.

When he is far away New York calls him,
and even his dreams are filled with alluring pictures of its
irresistible charms⁶⁴

But a more fundamental explanation lies in the prison sub-culture and the value inmates placed on escapes as a way of asserting their own identity. Whenever a prisoner escaped, a bell, which hung over the roof of the Sing Sing cellblock was rung. Inmates asked, "Who was it?" When the name was learned "yells of congratulations and encouragement, whose sincerity was scored by the lurid profanity which mingled with them" were heard everywhere in the prison.⁶⁵ Escapes mattered to the inmates, acquiring an almost mythical quality. They kept alive the hope of freedom, struck a blow at the institution, and created notoriety for the inmate who, for that brief moment, was neither forgotten nor invisible. Escape was rarely the road to freedom but rather a public declaration of resistance. In 1897 Sing Sing replaced the bell with a "mighty whistle" which the Warden reported had a range of twenty miles.

For much of its history reform at Sing Sing was closely allied with religion and the efforts of the chaplain and various missionary groups. But even this balm lost much of its influence.

64 Number 1500, 187

65 Number 1500, 204

It is nor easy to throw the religious con into a convict. Often while we were in chapel the domine would tell us that life was short; but there was hardly one of the six or seven hundred who were listening....⁶⁶

The convicts had become inured to the pleadings of the chaplain and the missionaries and their conversions and religious professions were seen as efforts to curry favor with prison authorities and "to get staked" with a job or housing when they got out.

At century's end we come to appreciate Warden Sage's apprehension about the future of Sing Sing. We discover, with the help of two inside accounts, an unhealthy, corrupt, and undisciplined prison. The key reform elements—silence and work—have all but disappeared. Sanitation and health problems seem insurmountable. The contraband business flourishes and keepers show little inclination to maintain prison discipline. In this institutional vacuum the prisoners have organized a powerful sub-culture. rich in argot, able to organize revolts and encourage escapes.

Sing Sing in 1898 is far removed from the hopes of penal reformers. There is little here that can be labeled reformative. Indeed those inmates who are renewed do so in spite of the institution. Cellular design has been undermined by easy communication. John Howard's requirement that the new prison be sanitary is largely unmet. Indeed living at Sing Sing was a threat to the inmate's life and imposed the most grievous of double punishments. Not only did the convicts at Sing Sing not learn habits of industry and self-discipline but also

they were further corrupted by the availability of opium and the criminal's shop talk, which filled the empty day. There had been a fundamental shift in the balance of power toward the convicts. Sing Sing had become a penal warehouse.

In Mary Shelley's tale Dr. Frankenstein hoped that the work in his laboratory would lead to the creation of new life. He believed that new scientific knowledge provided the process to transform an assemblage of parts into something human. His hopes were dashed when his creation emerged a monster; scarred and marked it was left to wander the earth in search of human understanding. In the end the monster is abandoned on an ice sheet, cut off from all human contact. Had Sing Sing become a monster, no longer recognizable by its creators who despair of its human potential and simply isolate it from society? Why did it fall from its promise of new life based on the application of the ideas of the new science of penology?

Sing Sing never escaped from the shadow of New York City. Indeed "up the river" is the appropriate term because it fundamentally linked the prison to the city. This factor was the most powerful element in shaping the organization of prison life, the treatment of the prisoners and the reputation of the institution. The urban character of Sing Sing's convicts, which intensified as more inmates, came from the city, challenged untrained keepers and undersized staff most of whom came from Westchester. The reputation of Sing Sing's

inmates seemed to call for harsh treatment while their urban experiences enabled them to easily subvert the prison's rules.

For most of the second half of the century Sing Sing's resident population was 200 to 300 men above capacity. This required doubling up and created additional internal pressure on all aspects of the institution's life. In addition to the overcrowding, the population's rapid turnover was creating an institution in flux. This rate of turnover breached the walls of separation by continuously bringing in news from the outside. Sing Sing took on a provisional quality unable to stabilize its institutional life. In such an atmosphere efforts at reform were doomed.

Sing Sing was always bedeviled by budget constraints, which were temporarily ameliorated by the surpluses of the contract system. But with the loss of prison labor the institution found itself poor at the very time it began to show the wear of its 70-year history. The physical deterioration of the prison was evident to all.

As signs of decay of the institution and the failure of its regime of discipline mounted there seemed to be not a viable alternative. Sing Sing was gripped by penological inertia. Punishment had come to be identified with the penitentiary and most reformers accepted it as the given. Sing Sing took on a monster-like shape, there seemed very little on the penological horizon to give it new life.

The public also played a role here. In spite of the large number who visits Sing Sing, almost 8,000 annually, they came not to understand but to objectify the criminal.

To a visitor passing through Sing Sing prison, spending an hour in a hurried observation, a whole method of living will be shown; the cell in which the men sleep, the mess hall and kitchen, a shop or two, and finally, if it is near mealtime he will be escorted to a window to see the men marched into dinner.... the throng of visitors is always largest about the carnivorous cages in the Zoo near feeding time.⁶⁷

These visits engender little understanding of the true life of the convict.

The visitor will not have grasped much of the life presented in some details before him; but if he is an ordinary person he will say: "I just could not live in that cell and I know I should die if I had to eat that food." ⁶⁸

Yet few are moved to compassion or concern by what they see.

Visitors from the Ossining Camp Meeting come and stare with a "hard curiosity" and "a morbid gratification" for an "object lesson" and see "the nether side of the morality they preach"⁶⁹ Number 1500 bore a bitter resentment at being stared at, a resentment he carried with him for the rest of his life.

Sing Sing had become not a place of reformation and renewal but a sideshow in which visitors could view the nether world where the transformation

⁶⁷ Number 1500, 123

⁶⁸ Number 1500, 123

⁶⁹ Number 1500, 131

of the inmate into the "other" was complete. Surely when reformers had spoken of prison as a laboratory this is not the image they had in mind.

Conclusion

On Sunday May 24, 1896 Maud Ballington Booth co-founder of the Volunteers of America brought her movement to "reach and uplift" Americans to Sing Sing prison. Warden Omar Sage had invited her to conduct a chapel service. Fifty convicts stood with Booth in the chapel and promised to remake their lives. She offered them a contract based of personal responsibility for their actions and acceptance of their punishment. At the end of their sentence she promised to support their return to society. Sing Sing inmates would find a place at Hope Hall #1, a half way house, which Booth opened on 189th street in the Bronx. Part of the purchase money came from Sing Sing inmates who donated \$447 earned from prison labor. ¹

For Booth's straightforward philosophy, "right was right and sin was sin" and her emphasis on responsibility recalled the work of other nineteenth century reformers who came to Sign Sing. At the end of the nineteenth century reformers, like Booth, had accepted the penitentiary and its punishment as just deserts. She focused her energies on improving conditions inside and helping the men in their transition to the world outside

¹ Daniel Lombardo, "Maud Billington Booth (1865—1948): Volunteer Pioneer Leaves Legacy of Service." Corrections Today (1996) 58, #7, 28.

Booth's widely successful reform effort offered no alternatives to the penitentiary but only the hope of renewal through the acceptance of individual responsibility. Her reform program could just as easily fit into the 1840's as the end of the century. Little had changed.

Sing Sing had changed very little as well. In spite of the efforts of waves of reformers it remained at the end of the century a brutal and overcrowded institution which warehoused prisoners and did little to rehabilitate them. The efforts of reformers, the protests of inmates and investigations by the state had little impact. Sing Sing endured and become synonymous with hard time and brutal punishment. It is difficult in the face of its history to think of the penitentiary as a humane innovation of the post- revolutionary generation. How did Sing Sing lose its connection to the progressive ideals of the early republic

From its inception Sing Sing's links to post-revolutionary reform were tenuous. The failures at Newgate and the hard line of state legislators created a context in 1820 which emphasized punishment and not reformation. Elam Lynds was selected as the first agent built the prison in 1828 with inmate labor and established a disciplinary regime of silence, the lockstep, and physical punishment.

His successor Robert Wiltse organized the bureaucracy which administered the Lynds program. Wiltse also introduced contract labor to Sing Sing the most important element in the prison's economic life and the key to the hopes for reformation. Under Wiltse the recourse to the lash was so frequent and brutal that Sing Sing was described as a catocracy. At Sing Sing corporal

punishment in its many reincarnations was institutionalized. Fear was an essential weapon for the outnumbered keepers who were required to manage unprecedented numbers of criminals. Sing Sing was a place of dread and terror.

Successive waves of reform were unable to dislodge the Lynds-Wiltse approach, and brought only temporary respite from harsh punishment. Sing Sing always returned to dread and terror. Public attitudes, an anxious legislature and internal resistance undid reform programs and undercut reformers. Sing Sing's experiments with change and renewal were short-lived.

Contract labor dominated Sing Sing's institutional world for almost 50 years. It generated revenue and provided structure for daily life. The battles with unions over unfair competition also revealed a public need to keep the worlds of the criminal and the free discrete. Opposition to prison labor prevailed and by the end of the century Sing Sing was burdened with insufficient funds and idle inmates.

Sing Sing's produced abundant statistics which, though intended to provide the basis for institutional evaluation, ultimately became a means to distinguish the criminal from the free and to identify the criminal body. Sing Sing's place in the popular imagination contributed to its influential role in the creation of the criminal class.

Prisoners were less violent and served shorter sentences than their popular reputation as hardened criminals implied. These men mostly under 25 doing two to three years were candidates for reformation. ~~The tragedy~~ of Sing

Sing's history is its failure to organize an institution for its true population instead of serving the distorted image created by keepers, the public and the press.

New York City cast a long shadow over Sing Sing's history. It gave Sing Sing an urban character which affected the conception of the inmate, the character of punishment, the attitude of the keepers and the public's view of the institution. If the city was a corrupt place its criminals were especially dangerous. And when increasing number of them were sent to Sing Sing they brought their bad reputation with them.

By the end of the nineteenth century Sing Sing seemed impervious to change and reform. It endured in spite of brutality, criticisms, and scandals. Its endurance was not only a result of an insulated bureaucracy but a public that wanted to be walled off and separated from the act of the punishment of the criminal.

In 1896 in the midst of the crises caused by the elimination of contract labor Warden Sage asked when, "we will have a newer Sing Sing?" As he surveyed the deteriorating buildings, the lost inmates and the weak budget Sage doubted this "Bastille on the Hudson," built in 1828, could survive much longer. How surprised he would been to discover it endured for twenty years while penologists, legislators and the public debated the location and design of the new Sing Sing.

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