

“To Pave The Way To Penitence”: Prisoners and Discipline At The Eastern State Penitentiary 1829-1835

PENNSYLVANIA'S EXPERIMENT with the “separate” system of prison confinement in the 1830's fueled one of the most protracted and emotional debates in the history of prison reform. Reports, pamphlets, and polemics appeared in profusion to praise or censure the system, particularly between 1830 and 1860, the hottest years of the controversy. To its conscience-driven advocates, separate confinement was a remedy to the employment of barbarous corporal punishments in traditional prisons. They sought to replace resentment and recidivism with docility and moral reclamation.¹ To critics like Charles Dickens, however, the system imposed on the convict a cruel deprivation of human companionship, “which no man has a right to

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¹ The solitary confinement theory was a product of the prison reform movement in England in the third quarter of the eighteenth century. An important early text was Jonas Hanway's *Solitude in Imprisonment* (London, 1776). For many years supporters of the system were a minority in the prison reform movement, with Jeremy Bentham's theories and his “Panopticon” prison design having more adherents. The “separate” theory, with solitude de-emphasized and labor insisted upon, yet the inmates kept entirely segregated from each other, arose in the wake of the criticism that solitude resulted in insanity and death by suicide. For an excellent summary of the development of the separate system philosophy see U.R.Q. Henriques, “The Rise and Decline of the Separate System of Prison Discipline,” *Past and Present* 54 (1972), 61-73.

The excessive optimism of Jacksonian period reformers is treated at length in David R. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston, 1971), 130-133. It was not unusual for wardens and administrators of prisons and asylums to claim near total rates of cure and rehabilitative success.

inflict on his fellow creature."² In his impassioned prose, the solitary prison emerged as a menacing tower of lethe, its inmates consigned to a living oblivion. He was distressed at what we would now term the psychological manipulation inherent in the system, and found "this slow and daily tampering with the mysteries of the brain to be immeasurably worse than any torture of the body."³ The dispute over separate confinement was an international one. Great Britain and France adopted the "Pennsylvania System" in the 1840's and 1850's, only to abandon it a few years later.⁴ The model prison of the reformers was Philadelphia's Eastern State Penitentiary, designed by architect John Haviland specifically to demonstrate the superiority of separate confinement at labor in the rehabilitation of criminals.⁵

While important studies have addressed the prevailing theories of incarceration in Jacksonian America,⁶ and the histories of pioneering institutions and reformers,⁷ less attention has been expended on the experiences of the prisoners and on their encounters with the separate discipline, with disease, with death. The theories of prison reformers are well-known but not the translation of intentions into practices by wardens and keepers who daily confronted the realities of criminal behavior. Studies frequently depend almost exclusively upon published tracts and reports of prison administrators, and while such sources are often illuminating, they are also polemical, and can be statistically and rhetorically misleading. To redress this bias it is necessary to turn to the annals of the penitentiaries themselves, which in the case of the Eastern State Penitentiary, include the records compiled by the wardens, phy-

² Charles Dickens, *American Notes and Pictures From Italy* (New York, 1966), 99. Dickens visited the Eastern State Penitentiary during his first American tour in 1842. His observations were calculated to discourage the adoption of the system in England.

³ *Ibid.*, 99.

⁴ On the implementation of the system in England, see Henriques, "Separate System," 76-93. See also Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (New York, 1978), 193-237. On the vogue for the system in France, see Ignatieff, *Just Measure of Pain*, 239, and Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York, 1977), 237-239.

⁵ On John Haviland's contributions to prison architecture, see Norman B. Johnson, "John Haviland, Jailor to the World," *Journal of the Society of Architectural Historians* 23 (May 1964), 101-105.

⁶ Rothman's *The Discovery of the Asylum* comprehensively treats this period.

⁷ The Eastern State Penitentiary has received a detailed and well-documented history of Negley K. Teeters and John D. Shearer, *The Prison at Cherry Hill: The Separate System of Penal Discipline* (New York, 1957).

sicians, inspectors, and others of the staff. In examining here the first five years of prison operation and the first three hundred inmates, we can observe how closely practice approached the prescribed program and the declared successful results. The records reveal a common occurrence at institutions which hope to embody ideal systems, a widening gulf between theory and reality.⁸

The Philadelphia Society for Alleviating the Miseries of Public Prisons summarized its system as "*solitary confinement at labour, with instruction in labour, in morals, and in religion.*"⁹ Solitude provoked conscience and remorse, labor taught a useful trade and expelled morbidity, and religious instruction produced a reformation of character. The prisoner was not, as critics claimed, to be condemned to utter solitude, but, in theory, he or she encountered prison staff and instructors regularly.

Among the scheme's bitterest assailants were the Reverend Lewis Dwight, of the Boston Prison Reform Society, and the British traveller Captain Basil Hall.¹⁰ The Philadelphia Society countered their attacks with annual reports containing statistics and favorable commentary. The enthusiasm of the Philadelphia Society reformers for the separate system was based upon their opposition to violence in the management of prisoners, and they wished as well to lower the rate of recidivism. This predisposition toward gentleness derived from the fact that many of their number were Quakers, who were convinced that they had discovered a method for bending the will of the criminal without assailing his flesh. They used solitude to erode the prisoner's resentment, or, as physician Franklin Bache phrased it, to "pave the way to penitence."¹¹ and to render him responsive to the promptings of conscience.

⁸ This paper is drawn substantially from the manuscript records of the penitentiary, located at Record Group 15, Records of the Department of Justice, Bureau of Correction, Division of Archives and Manuscripts, Pennsylvania Historical and Museum Commission, Harrisburg, Pa., (hereafter referred to as RG 15, PHMC)

⁹ Inspectors of the Eastern State Penitentiary, *First and Second Annual Reports of the Inspectors of the Eastern State Penitentiary* (Philadelphia, 1831), 9

¹⁰ Dwight's assaults on the solitary confinement theory are contained in, Boston Prison Discipline Society, *Reports of the Prison Discipline Society The Twenty-nine Annual Reports of the Board of Managers, 1829-1854, with a Memoir of Lewis Dwight* (1855, reprinted, Montclair, N.J., 1972). Hall arrived too early to view the Eastern State Penitentiary, but he visited solitary cells in the Walnut Street Prison and commented on the proposed new penitentiary. See Basil Hall, *Travels in North America in the Years 1827 and 1828*, (Edinburgh, 1829), 345-355

¹¹ Physician's Report for April, 1831, ESP Reports, Physicians, 1829-1831, RG 15, PHMC

It was necessary completely to sever corrupting influences. As Warden Samuel Wood wrote, "the first object of the officers of this Institution is, to turn the thoughts of the convict inward upon himself, and to teach him how to think; in this solitude is a powerful aid."¹² The goal was a transfiguration, the renaissance of the criminal as a moral man. Warden Wood described how the system was supposed to work:

No prisoner is seen by another, after he enters the walls. When the years of his confinement have passed, his old associates in crime will be scattered over the earth, or in the grave. . . and the prisoner can go forth into a new and industrious life, where his previous misdeeds are unknown.¹³

Critics understandably feared the toll of so rigorous a regime, which is why the Philadelphia Society was so insistent upon labor. Labor would give the prisoner something with which to occupy his hours, and it would bring him into contact with instructors and keepers who passed out the piece-work. Nevertheless, Boston's Reverend Dwight and other critics still favored the "Auburn System," as practiced at the State Prison at Auburn, New York. Here the prisoners were locked in cells at night, but came together under the silent rule to work in shops during the day. Any breach of discipline was punished with the lash, an instrument forbidden at the Eastern State Penitentiary. William Crawford, the British penal authority sent by the Home Secretary to America in 1833 to investigate both systems, spent five days with Warden Wood and came away a convert.¹⁴ Contrasting Auburn with Philadelphia, he wrote:

The whip inflicts immediate pain, but solitude inspires permanent terror. The former degrades while it humiliates, the latter subdues but does not debase. At Auburn the convict is uniformly treated with harshness, at Philadelphia with civility; the one contributes to harden, the other to soften the affections. Auburn stimulates vindictive feelings; Philadelphia induces habitual submission.¹⁵

¹² *First and Second Annual Reports*, 10.

¹³ *Ibid.*

¹⁴ Crawford's visits are recorded in the Warden's Daily Journal, No. 1, April 15-20, 1833, RG 15, PHMC.

¹⁵ Quoted in Ignatieff, *Just Measure of Pain*, 195.

If it is difficult to sympathize now with the reasoning which commended one form of coercion over the other, Crawford nonetheless succeeded in making his case, for certainly "habitual submission" was the goal of every prison warden. To reformers on both sides of the Atlantic, committed to stripping prisons of the punitive trappings of a less enlightened age, the blandishments of so passive and seemingly benign a system were irresistible. The advocacy of Crawford and other enthusiasts resulted in the construction of the British model solitary prison at Pentonville.¹⁶

The Philadelphia Society had labored long to produce its situation of pre-eminence in the autumn of 1829. Founded in 1787, the Society was the first important American association dedicated to penal reform.¹⁷ Members worked with skill and diligence to make the separate system the law of the Commonwealth. As early as April 5, 1790, an act had established the system of solitary confinement in Pennsylvania, (without, as yet, a stipulation for labor). Efforts to introduce the system into Philadelphia's Walnut Street Prison, however, had failed through overcrowding and inappropriate facilities. The reformers required a model prison that would be architecturally compatible with their program. To this end they garnered two signal legislative successes, the acts of Assembly of March 3, 1818, and March 20, 1821, which authorized the construction of two state penitentiaries designed for solitary confinement. The earlier act provided for the construction of the Western State Penitentiary, built in Allegheny County and designed by William Strickland on a plan strongly influenced by Jeremy Bentham's Panopticon. Completed in July of 1826, it was acknowledged an architectural failure by 1833, when the cells, which were too small and lacking in light, had to be demolished and rebuilt.¹⁸

The Philadelphia Society's hopes rested upon the Eastern State Penitentiary, built in Philadelphia County's Spring Garden District and wrought upon a different architectural formula. John Haviland's design employed seven radiating wings of cell blocks, each cell having

¹⁶ *Ibid.*, 193-200, and Henriques, "Separate System," 79

¹⁷ For an admiring history of the Philadelphia Society see Negley K. Teeters, *They Were in Prison: A History of the Pennsylvania Prison Society 1787-1937, Formerly the Philadelphia Society for Alleviating the Miseries of Public Prisons* (Philadelphia, 1937).

¹⁸ Harry Elmer Barnes, *The Evolution of Penology in Pennsylvania: A Study in American Social History* (Indianapolis, 1927), 138-140. See also Harry Elmer Barnes, *The Story of Punishment. A Record of Man's Inhumanity to Man* (Boston, 1930), 106-107

an individual exercise yard. Each wing contained thirty-eight of the twelve-by-eight foot cells, with their eighteen-foot exercise yards, the wings converging at a central observation room. To discourage communication between cells, the partitioning walls were eighteen inches thick. The cells were equipped with "feeding drawers," and the double doors of each cell, one of iron and one of wood, had peepholes for observation. The prison was completed in 1835, at the then astronomical cost of \$775,000, six years after it had officially opened. At the time, it was the most expensive and architecturally elaborate prison in the country, and its high cost had occasioned charges of fraud.¹⁹

The Philadelphia Society maneuvered successfully for the passage of an Act of Assembly on April 23, 1829, which made solitary confinement at labor the lawful system in the state penitentiaries. With this act the Society was also granted administrative authority over the Philadelphia prison. From their number they elected a Board of Inspectors, who fulfilled the function of an executive committee overseeing the operation of the institution. They selected one of their own members, Samuel R. Wood, as the first Warden, and the Board chose as well the first prison physician, Franklin Bache. Wood, a Quaker and an enthusiastic supporter of the separate system, had little or no practical experience in the administration of a prison. Franklin Bache evidently held some reservations about the effects of solitary confinement on health and sanity, and a minority on the Board pressed for the selection instead of Dr. William Darrach. By October 1, 1829, however, Bache's supporters had prevailed. He delayed accepting the position, for which he was to receive \$800 per year, until about a month later. Wood's post was considered by the Board to be a full time occupation, but Bache evidently expected to pursue his duties at the penitentiary in addition to his regular practice.²⁰

On October 25, 1829, with one cell block near completion, prisoner No. 1 was entered into the prison Descriptive Register. He was Charles Williams, an eighteen-year-old black convicted of burglary in Delaware County and sentenced to two years of solitary confinement at labor. He was the first of nine prisoners to arrive by the end of the year.²¹

¹⁹ Barnes, *Evolution of Penology*, 141, 144-145.

²⁰ *First and Second Annual Reports*, 9. Minutes of the Board of Inspectors, vol. 1, 1829-1840, entries for 3 June 1829, 29 June 1829, 1 October 1831, RG 15, PHMC.

²¹ Eastern State Penitentiary Descriptive Register, 1829-1857, RG 15, PHMC. Prisoners were numbered consecutively in order of arrival.

It is doubtful if many otherwise unremarkable convicts have been so cosseted as were those first nine prisoners who briefly enjoyed the benefits of having arrived at the nexus of a great penological debate. The attention they received inevitably waned after the prison population increased, but during their first weeks in prison they were examined, observed, and questioned repeatedly by the warden, physician, and inspectors. They began their instruction in a craft, if they had not one already which could be put to use. The inspectors and the prison staff, sensitive to the conspicuity of their experiment, exhausted themselves in anxious solicitude. Far from being relegated to the solitary ravages of conscience, these early prisoners seem hardly to have been left alone.²²

By the end of September, 1835, almost six years after Charles Williams had walked through Haviland's crenelated gates, the Eastern State Penitentiary had received its first three hundred prisoners. On October 5, 1835, fifty-nine men and women arrived from the Walnut Street Prison, and from that autumn the numbers of inmates burgeoned rapidly.²³ By late 1835, the number of prisoners was averaging 360.²⁴ The bloom was off the experiment, and the warden and physician no longer had sufficient time to record in detail the ailments, idiosyncrasies, and minor infractions committed by their charges.

The first three hundred prisoners were the test of the system, in that they received close scrutiny in the first annual reports published by the Philadelphia Society, and these gave the world its first glimpse of what came to be known as the "Pennsylvania System." At the end of 1830, the first full year of operation, the warden declared that, far from being detrimental, the regime had a salutary effect on the mental and physical health of the inmates.²⁵ In the report he presented to the Board of Inspectors, Warden Wood averred that the prisoners were generally industrious and that, in addition, their work was earning their upkeep. "The docile and obedient conduct of the convicts, and the great ease in managing them, have fully realized my highest expectations."²⁶ In Wood's view, the punishment most aptly suited the crime. "The

²² The Warden's Daily Journal, No. 1, PHMC. The warden recorded all visits by the inspectors, visiting committee, physician, and others.

²³ The Warden's Daily Journal, No. 1, 5 October 1835, RG 15, PHMC.

²⁴ Teeters, *They Were In Prison*, 240.

²⁵ *First and Second Annual Reports*, 17.

²⁶ Samuel Wood to the Board of Inspectors, 1 January 1831, in *Minutes of the Board of Inspectors*, vol. 1, 1829-1840, RG 15, PHMC.

majority appear resigned, if not happy, and most of them are industrious. It is to the wicked determined and inveterate villain that the severity of our system of discipline is most apparent."²⁷ Warden Wood's comment in his annual report of January 1, 1836, discloses that in the five intervening years he had not altered his official conclusion on the effectiveness of the system. "The prisoners seldom show anything like violence in their conduct, and a small privation of food is generally sufficient to correct any small indiscretion or misbehavior."²⁸

The complacent tone of Warden Wood's assurances was not entirely warranted. Certainly Wood's regime was not comparable to the undisguised recourse to violent discipline at New York's Sing Sing Prison during the 1830s, where the whip was in constant use. Because Wood and his fellow advocates of the Pennsylvania System believed their program to be the most enlightened form of incarceration on the planet, they were disinclined to admit anything short of total success. The mellifluous assurances published in the annual reports obscured the fact that the prisoners at the Eastern State Penitentiary had begun to behave rather as they might have at any other prison. The Warden's Daily Journal is scattered with numerous incidences of disciplinary infractions, escape attempts, and mental disturbance. The Board of Inspectors and the prison administration evaded, in their published pronouncements, any but the most oblique admission that their charges were not model members of the prison society.²⁹

When confronted with intransigence, with insanity, and sometimes even with milder and apparently temporary forms of what was then called "mental alienation," the non-violent element in the disciplinary system occasionally fell by the wayside. In theory, after arrival the prisoner spent the first few days in contemplation, after which, being cowed and docile, he would be grateful for the favor of being allowed to work and read the Bible.³⁰ When he was not, a "mild course of punishment," such as reduction of rations, was supposed to set matters

²⁷ *Ibid.*

²⁸ Warden's Annual Report, 1 January 1836, in Minutes of the Board of Inspectors, vol. 1, 1829-1840, RG 15, PHMC.

²⁹ On Sing Sing see Rothman, *Discovery of the Asylum*, 100-102. Biographical and ethnic information presented here is derived from the ESP Descriptive Register. Incidents of disciplinary infraction and punishment were often recorded in the Warden's Daily Journal and Physician's Reports, RG 15, PHMC.

³⁰ *First and Second Annual Reports*, 9.

straight. Often, in practice, mildness did not succeed, and the warden, who had full discretion in disciplinary affairs, was thrown back on more primitive forms of persuasion.

The disciplinary infractions noted by the warden in his daily journal fell most often under the headings of escapes and escape attempts, communication with other prisoners, refusal to work, insolence to the staff, and physical violence. Twenty-nine of the first three hundred prisoners were involved in infractions apparently unrelated to mental disturbance.³¹ In dealing with profoundly recalcitrant prisoners, the warden and his staff quickly learned to employ punishments more severe than a brief reduction of food. While most of these methods were not so corporeally damaging as whippings, the warden had fallen back on some time-honored expedients. Often the disciplinary method employed on refractory inmates were used on the mentally disturbed as well, since there was sometimes no very clear distinction made between the two. Doubtless many instances of punishment were unrecorded by the warden, as he was frequently away or occupied with other matters. Wood recorded in his journal sixty-four punishments carried out on the first three hundred prisoners, prior to November, 1838. They are as follows:

Figure 1.

Punishments, first 300 prisoners, to November 1838

<i>Punishment</i>	<i>no. of instances</i>
Prisoner placed in a "dark cell"	19
Prisoner placed in a "bare cell"	8
Prisoner placed in a straight jacket	8
Prisoner placed in a bare cell on bread and water	7
Prisoner given a cold shower bath	7
Prisoner placed on reduced rations with bread and water	7
Prisoner placed in a "cold cell"	2
Prisoner placed "upstairs"	2
Prisoner placed in a dark cell on reduced rations	1
Prisoner beaten with a stick	1
Prisoner placed in a "tanquilizing chair"	1
Prisoner gagged with an iron gag	1

³¹ Incidents extracted from the Warden's Daily Journal, no. 1. These must be regarded as minimum figures, as the warden was not always present at the prison and may not have recorded all punishments.

We know of the last punishment only because it resulted in the death of the prisoner.³²

While the durations of punishments were seldom recorded, we learn from the warden's journal of one prisoner placed in a bare cell for eleven days, of six left in similar cells on bread and water for eighteen days, (as punishment for devising a means of communication among themselves,) and three put in dark cells for eleven, thirteen, and eight days. One prisoner who refused to work remained in an empty cell on reduced rations for two months and twenty-four days. Another held out for twenty days on a severely restricted diet before hunger drove him back to work. Statistics relative to punishments and recalcitrance were not published in the serene pages of the annual reports.

Some inmates evidently rebelled against the relatively gentle but obviously manipulative form of coercion implicit in the Pennsylvania System. The cannier prisoners must have been aware that from the moment of arrival they were being subjected to a none-too-subtle form of what we might now term psychological persuasion. A circular letter sent by the Board of Inspectors to the Courts of Quarter Session for the Eastern District, in July 1831, certainly gives evidence of this intention. The Board admonished the judges not to let the officers transporting prisoners from county jails to the penitentiary get them drunk along the way, as was apparently the beneficent practice. "The officers thus prevent the effect which the sight of the Prison and the preparatory measures adopted on receiving prisoners are calculated to produce on their minds."³³ Evidently the grim impression of Haviland's battlements was abrogated if the prisoner arrived staggering.

Once he had been led inside he was questioned about his past, and the data was recorded by a clerk in the Descriptive Register. He was examined by the physician, his personal effects were taken from him, and he was dressed in prison uniform. His head was then placed in a hood, so that he could see no other prisoner, and he was led down the corridor of the appropriate block to his cell. Then, as the warden phrased it,

³² *Ibid.*, No. 102, Matthias Maccumsey, whose case is discussed below.

³³ Circular letter of the Board of Inspectors to the Courts of Quarter Sessions of the Eastern District, 2 July 1831, Minutes of the Board of Inspectors to the Courts of Quarter Sessions of the Eastern District, 2 July 1831, Minutes of the Board of Inspectors, vol. 1, 1829-1840, RG 15, PHMC.

he is placed in a cell and left alone, without work and without any book. His mind can only operate on itself; generally but a few hours elapse before he petitions for something to do, and for a Bible. No instance has occurred, in which such a petition has been delayed more than a day or two.³⁴

If the new prisoner were skilled at a trade which could be accomplished in his cell, such a shoemaking, he was set to work. If not, he was given instruction. "Thus work, and moral and religious instruction books, are regarded as favours, and are withheld as a punishment."³⁵

So paternalistic a system sometimes produced rage rather than compliance. When this occurred, withdrawal of work and books was sometimes of little efficacy. The prison administrators appear to have overlooked the fact that 49% of their first three hundred prisoners were partially or wholly illiterate.³⁶ Thus not only would withholding books be for them an inapposite punishment, but little solace as well during their hours of solitude. When faced with a rebellious prisoner the warden was confronted with a stubborn, but usually not an insoluble problem.

One of the recreants he had to deal with early in his administration was No. 4, John Levrow. He was eighteen years of age when, after trial by the Philadelphia Court of Oyer and Terminer for highway robbery, he received a six year sentence. By trade a weaver, Levrow was an experienced criminal as well. This was his fourth conviction. He had lived in the penitentiary a little over five years, when in January of 1835 he was discovered to be devising a plan for escape. The following August he went on strike, refusing to work at his loom. The warden stopped his dinners and suppers, thus leaving him with breakfast, which consisted of coffee. A week later, Levrow still refused to go back to work, and he was placed in a dark cell, where he remained without food for another week. He was then released complaining of colic. Four days later, when he took up his tools once more, he received a full ration.³⁷

³⁴ *First and Second Annual Reports*, 9

³⁵ *Ibid.*

³⁶ Extracted from the Descriptive Register, 1829-1857, RG 15, PHMC. Some prisoners could read but not write, some could read only a little. At the Connecticut State Penitentiary between 1828 and 1840, about half the prisoners were "functionally illiterate," and about the same proportion at Auburn in 1840. See Rothman, *Discovery of the Asylum*, 248.

³⁷ Descriptive Register, and Warden's Daily Journal, 11 January 1835, and 11, 18, and 25 August 1835, RG 15, PHMC.

One of the hardest of the intransigents was Samuel Brewster, No. 145, a forty-year-old cabinet maker from Philadelphia, who on several occasions matched wits and wills with the warden. Brewster had been convicted of a felony by the Philadelphia Mayor's Court in January, 1833. He was permitted to use his carpentry tools outside of his cell, for on February 2, 1834, he escaped over the walls using a ladder he had constructed in what was termed his "workshop." Faring somewhat better than most escapees, he remained at large four days before Warden Wood recaptured him. The incident put an end to Brewster's carpentry, and he was set to work at the less hazardous craft of shoe-making. This occupation was little to the cabinet maker's liking, and on January 2, 1835, he announced his refusal to work. The warden recorded that Brewster stated, "he would never make another shoe—I ordered him removed to a cell without tools."³⁸ A week later, he was still refusing to work, and Wood ordered his dinner, the main meal of the day, stopped until further notice. Brewster then began to display an astonishing capacity for endurance. It was not until April 2, after nearly three months on reduced rations, in a cell with nothing to occupy his hands or mind, that he returned to work. He had agreed to pick wool.³⁹

Samuel Brewster was released on January 12, 1838. The warden gave him ten dollars and expressed very little confidence that this obdurately defiant individual would ever come to any good.⁴⁰ Brewster was clearly a man of considerable, if misplaced, inner fortitude. He was literate, ingenious, incorrigible, and the system was ineffectual in combating his bent of defiance. What of the prisoner, however, who had but slender internal resources to rely upon, and who was ill prepared to cope with the shock of incarceration? Sixty-four, or about 21.33% of the first three hundred prisoners were involved in one or multiple incidents of disciplinary infraction, or displayed some token of mental disturbance. While eight or possibly ten (3 to 3.66%) were identified by the clerk as mentally imbalanced upon arrival, twenty-two to twenty-eight more became sufficiently unstable during the course of their sentences to appear in the reports of the warden and physician.⁴¹

³⁸ Warden's Daily Journal, 2 January 1835, and Prison Descriptive Register, 1829-1857, RG 15, PHMC.

³⁹ Warden's Daily Journal, 2 February 1834, 2 April 1835, RG 15, PHMC.

⁴⁰ *Ibid.*, 12 January 1838.

⁴¹ Descriptive Register, 1829-1857, RG 15, PHMC.

(The higher figures include those who were thought to be faking symptoms.)

No. 210, Michael Trusty, was a black barber from Philadelphia, who had been convicted of manslaughter at the Dauphin County Court of Oyer and Terminer, and sentenced to three years at the penitentiary. He was twenty-one at the time of arrival, orphaned, married, and illiterate. Trusty was quiescent for two years, and did nothing to bring himself to the attention of the warden. Then there was some incident of "misbehavior," following which he scuffled with the warden and was sent to a dark cell for ten days. In July, 1836, he was placed on short food allowance for being "noisy and turbulent," and he became increasingly violent and abusive, finally slashing his bedding with his shoemaker's knife. He was then removed to an empty cell. Trusty was troublesome again in July, 1836, and was again placed in any empty cell, after having been given a cold shower bath. On September 29, but two months short of the expiration of his sentence, he died.⁴² The precise combination of mental and physical ailments which brought about his death will never be known, but the system was unable to deal with Michael Trusty, nor was he capable of coping with it.

The questions posed incoming convicts by warden and physician reveal much about their efforts to probe and define the nature and causes of criminality. In the prison descriptive register were listed the prisoner's age, place or birth, occupation, race, crime, sentence, court of conviction, and number of convictions. There were often other brief notations pertaining to surviving family, physical and mental condition, and when necessary, date of death. Wood and his associates believed that education, proximity of family, and temperance were deterrents to criminal behavior and incentives to reform, thus the emphasis placed on these points. The information they recorded provides profiles of the prison population.

The majority of the first three hundred prisoners, (137, or about 45%), had been born in Pennsylvania. Ninety-three, (or 31%), were from contiguous states; twenty-six, (or about 8%), were from non-contiguous states; and forty-four, (or about 14%), were immigrants. The number of immigrants is rather low compared to the Auburn prison for the same period (1830-1835), where 20% were foreign

⁴² *Ibid.*, and Warden's Daily Journal, 23 January 1835, 2 February 1833, 25-26 July 1836, 10 August 1836, RG 15, PHMC.

born, 50% were native to the state and 30% were from other states.⁴³ This disparity may reflect the quantity of immigrant labor drawn to New York by such construction projects as the Erie Canal.

Most of the inmates, about 75%, appear to have been serving time for a first conviction, although the clerk seems to have had little more to depend upon than the prisoners' statements on this point. Forty-five, or 15%, were known to be serving for a second conviction, fourteen for a third, four for a fourth, three for a fifth, and two for a sixth. (The information is unrecorded for five prisoners.) It would appear, if these figures can be trusted, that the penitentiary population was admirably suited for moral reclamation, and lacking a substantial contingent of experienced criminals.

Although twelve years was the maximum permissible sentence under the solitary system, very few prisoners received sentences of this duration. The warden complained repeatedly that the courts gave sentences which were too light to effect the radical reformation of character envisioned by the Philadelphia Society. The light sentencing seems to have reflected the prevailing uncertainty of many judges in eastern Pennsylvania concerning long-term effects of separate confinement on the inmates. The vast preponderance of the population, about 83%, received sentences of four years or under, with two or three years being the average. Thirty-nine inmates, or 13%, were pardoned prior to expiration of sentence, the most common reason being insanity, debility, or sentences deemed to be too harsh.⁴⁴

Crimes included larceny, burglary, horse stealing, counterfeiting, passing counterfeit currency, rape, murder, manslaughter, forgery, assault and battery, robbery, highway robbery, perjury, felony, arson,

⁴³ Countries of origin were as follows: Ireland (24), England (11), Scotland (3), France (2), Holland (2), Germany (2), Switzerland (1), Denmark (1). Descriptive Register, 1829-1857, RG 15, PHMC.

The percentage of immigrants at the ESP during this period seems rather low compared to prison population figures of the 1850's and 1860's, and also when compared to Auburn between 1830 and 1835, where 20% of the prisoners were foreign born. (See Rothman, *Discovery of the Asylum*, p. 254.)

⁴⁴ Sentences were as follows: 1-2 years, 69 (23%); 2-3 years 87 (29%); 3 years, 59 (19.66%); 4 years, 27 (9%); 5 years, 19 (6.33%); 6 years, 10 (3.33%); 7 years, 7 (2.33%); 8 years, 5 (1.66%); 9 years, 2 (.66%); 10 years, 6 (2%); 11 years, 1 (.33%); 12 years, 8 (2.66%). See below for racial biases in sentencing. Capital punishment had been abolished in Pennsylvania by a law of 22 April 1794, except in cases of first degree murder. See J. Thorsten Sellin, *Slavery and the Penal System* (New York, 1976), 139.

buggery, receiving stolen goods, and challenging to fight with deadly weapons. By far the largest number of convictions were for larceny, burglary, and horse stealing. Forgery came next, and murder and manslaughter combined to constitute of 8.7% of convictions.⁴⁵

Terms of sentence for larceny averaged about two years. Seven of the fourteen convicted murderers drew the maximum sentence of twelve years, and of these, five received pardons prior to expiration of sentence. The remaining two died in prison. The average sentence for rape was seven and a half years, and of the four men convicted, one was pardoned and one died while under sentence.

The youthful nature of the prison population is evident from the following figure:

Figure 2.

Age of prisoners, first 300 inmates, ESP

Age	No. of prisoners
under 20	38
20-24	90
25-29	63
30-34	36
35-39	22
40-44	21
45-49	11
50-54	12
55-59	1
60-64	3
65-69	1
70 and over	1

⁴⁵ Crimes were as follows: larceny 78 (26.33%), horse stealing 67 (22.33%), burglary 56 (18.66%), forgery 30 (10%), murder 14 (4.66%), manslaughter 12 (4%), robbery 11 (3.66%), counterfeiting 9 (3%), assault and battery 6 (2%), rape 4 (1.33%), perjury 3 (1%), arson 3 (1%), buggery 1 (0.33%), receiving stolen goods 1 (0.33%), challenge to fight with deadly weapons, 1 (0.33%). Descriptive Register, 1829-1857, RG 15, PHMC

Only 10% of the crimes for which the first three hundred at the ESP were imprisoned were for the violent crimes of murder, manslaughter and rape. At the Connecticut State Penitentiary, between 1828 and 1840, murder and rape accounted for 14.3% of the sentences. By the 1850's and 1860's, the percentages of prisoners sentenced to state penitentiaries for violent crimes was increasing dramatically in the eastern states, with lesser offenders being relegated to local jails. This trend abrogated the intentions of those who had founded Auburn and the ESP as prisons for a wide spectrum of offenders. Between 1829 and 1835, the ESP was at least temporarily successful, however, in maintaining a variegated prison population. See Rothman, *Discovery of the Asylum*, 247-248.

With 42.66% of the prisoners under the age of twenty-five, the warden and his staff had an opportunity to reclaim young offenders. The black population, eighty of the first three hundred, averaged even younger, with 53.15% under twenty-five.

In keeping with the optimistic ideal of moral reclamation, there was a disinclination to acknowledge the existence of the individual whom we might call the professional criminal, and occupations were carefully noted in the descriptive register. The largest number of inmates were skilled laborers or artisans, (137, or about 45.66%), followed by farmers, (fifty-two, or about 17.33%). Fifty-one, or 16% were either listed with no occupation or refused to divulge their manner of work. Forty-one, or about 13.88% were laborers, and five were seamen. There was a small scattering of merchants, clerks, manufacturers and professional men.⁴⁶ Of the four women in the first three hundred, all were black and had been convicted of manslaughter. Two drew sentences of two years, one of three, and one of six.

Mortality statistics pertaining to the first three hundred prisoners, digested from the records of the warden and physician, present a lamentable picture. Thirty men, or ten percent of the first three hundred prisoners, died in prison. While eighty or 26.66 percent of the prison population were black, nineteen of the deaths occurred in the black population. This meant that one in every four black prisoners died in the penitentiary. The general death rate cannot be attributed to inordinately long sentences, as fully 71% of the sentences were for three years or less.⁴⁷

Some prisoners arrived with chronic ailments, some sickened after coming to the prison. Bache ascribed many deaths to pulmonary diseases, and to a variety of other ailments. Twenty-two of the deaths in the first three hundred occurred prior to the end of 1835, and were described as follows:

Figure 3.

Causes of death, ESP, prior to January 1, 1836⁴⁸

4 Pulmonary consumption

2 Dropsy of the chest

⁴⁶ There were 11 merchants and clerks, one manufacturer, one physician, and one schoolmaster. Prison Descriptive Register, 1829-1857, RG 15, PHMC.

⁴⁷ Descriptive Register, 1829-1857, RG 15, PHMC.

⁴⁸ Annual Reports, Physicians, 1829-1836, in Reports, Physicians, RG 15, PHMC. The causes of death were also published in the Annual Reports of the ESP.

- 2 Chronic inflammation of the lungs
- 1 Epilepsy
- 1 Disease of the mesenteric glands
- 1 Injury to hip and thigh (prior to arrival)
- 1 Mania
- 1 Hemorrhage
- 1 Consumption
- 1 Suicide
- 1 Apoplexy (No. 102)
- 1 Palsy
- 1 Remittent fever
- 1 Dropsy
- 1 Rheumatism
- 1 Scrofula
- 1 cause unknown ("invalid" upon arrival)

For a number of reasons, the Eastern State Penitentiary was a decidedly unhealthy place to be. One hazard manifested itself immediately upon the opening of the prison. During the winter of 1829-1830, the cells of the one operative cell block were warmed with individual stoves, but by March, central heating apparatus had been installed. The furnace, which burned coal, malfunctioned repeatedly, with near-disastrous consequences. On March 6, Dr. Bache reported that it had caused four inmates to become "indisposed," when it filled their cells with smoke and gas.⁴⁹ By April 1 it had failed again, causing a "general indisposition" among the inmates, and Bache warned the Board of Inspectors that prisoners could easily die as a result of exposure to gases generated by the furnace. Yet another incident had occurred by the 11th, affecting three inmates. No. 16, a twenty-year-old man, was dragged from his cell unconscious, and according to Bache's testimony, nearly died.⁵⁰

The furnace gave further cause for alarm the following winter, and on December 1, 1830, Bache recommended that the Board resolve to improve the system, as the pipes rendered some of the cells unhealthily steamy. This had been the case, he claimed, in the cell occupied by No.

⁴⁹ Physician's Report, 6 March 1830, in Reports, Physicians, 1829-1831, RG 15, PHMC

⁵⁰ *Ibid.*, for 1 April 1830, 11 April 1830.

19, who had died two days before of pulmonary consumption.⁵¹ The heating system was a regular worry to Bache, who complained of it again in his annual report for 1831. Some passages of his complaint were edited out of his report prior to its publication.⁵² At this time Wood was irked by Bache's insistence on the matter, and expressed his annoyance in a letter to the Board. Wood claimed to have already taken steps to repair the system.⁵³

There appears to have been no further serious malfunction of the heating apparatus until March of 1835, when leaking gas caused the evacuation of the first cell block. The prisoners had to be sent out into their exercise yards, and several were overcome with gas. Wood reported that numbers 266, 267, and 147 were "quite insensible" and were rescued from their cells with considerable effort.⁵⁴ Numbers 88 and 94 were also affected. Wood told the Board that the prisoners had behaved in exemplary fashion. One, No. 55, had even acted as a temporary guard during the confusion. No. 262, who evidently had some medical skills, was permitted to bleed No. 266 pending the arrival of the physician. Wood had to move all the prisoners into other cell blocks until the furnace was repaired.⁵⁵

Although no deaths resulted directly from the incident, No. 266, Elisha Drew, died the following January, and No. 88 expired from a lung inflammation in October, 1837. In an era in which pulmonary diseases were common, steamy cells and furnace malfunctions can only have aggravated an already unwholesome situation. The heating system seems to have been as inadequate as it was dangerous, for Bache's successor Dr. William Darrach reported that in February, 1837, he found seven prisoners suffering from "Frosted Hands."⁵⁶

Summer brought its own threats to health, with seasonal fevers and dysenteries. The prison staff and inmates were confined to a stifling and noisome environ, and incidences of illness and irrational behavior nearly always increased during the summer months. The health of

⁵¹ *Ibid.*, for 1 December 1830. No. 19 was Jacob Overholt, a miller from Bucks County serving a one year sentence for forgery.

⁵² *Ibid.*, Physician's annual report for 1831.

⁵³ Samuel Wood to the Board of Inspectors, 1 January 1831, in the Minutes of the Board of Inspectors, vol. 1, 1829-1840, RG 15, PHMC.

⁵⁴ Warden's Daily Journal, No. 1, 12 March 1835.

⁵⁵ *Ibid.*

⁵⁶ Reports, Physicians, 1835-1837, 4 February 1837, RG 15, PHMC.

prisoners was threatened more specifically by the proximity of what was known as the Northern Poudrette Lot.

In 1832 the Philadelphia Board of Health, following the practice of other northern cities, had adopted a new method of dealing with privy waste and offal generated in the densely populated sections of the city and its outlying districts. The system involved the periodic emptying of all privies and removal of the contents to two vacant lots, one in Moyamensing and the other in Spring Garden, the latter being a stone's throw from the penitentiary. The six-acre Northern Poudrette Lot was used to dry the material prior to selling it for fertilizer.⁵⁷ In April, 1832, Warden Wood discovered to his horror that laborers were digging poudrette pits a mere thirty feet from the walls of his prison, and he immediately petitioned the Board of Inspectors to bring his complaint to the attention of the Pennsylvania Legislature. The Philadelphia Board of Health, however, who supervised the lots, proved deaf to remonstrances.⁵⁸

The problem became critical in August, 1832, during the cholera epidemic then sweeping the city. With workmen coming into the prison every day to labor on the unfinished cell blocks, Franklin Bache feared that the disease would find its way within the walls, and he framed a detailed set of measures to lessen the possibility of an outbreak.⁵⁹ Wood, however, had additional worries. The workmen, he feared, might not continue, for a reason he was at pains to make clear to the Board. "The Board of Health have commenced burying Cholera subjects on the North side of their Poudrette Lot, there is also a public graveyard to the North East of the Prison."⁶⁰ At this location, he claimed, bodies were fast collecting in uncovered pits. Wood, who lived within the precincts of the prison, railed at the ill effects the noxious effusions would have "on the ninety odd prisoners who have to inhale the putrid air and cannot get away from it."⁶¹

⁵⁷ Information on the operation of the Poudrette Lots is extracted from the Rough Minutes of the Health Office, (Board of Health, City and County of Philadelphia,) Philadelphia City Archives.

⁵⁸ Samuel Wood to the Board of Inspectors, 4 April 1832, in Minutes of the Board of Inspectors, vol. 1, 1829-1840, RG 15, PHMC.

⁵⁹ Reports, Physicians, 1832-1834, 21 July 1832, RG 15, PHMC.

⁶⁰ Samuel Wood to the Board of Inspectors, 4 August 1832, in Minutes of the Board of Inspectors, vol. 1, 1829-1840, RG 15, PHMC.

⁶¹ *Ibid.*

Due to Bache's exacting preventatives and no little luck, the prison population remained free from cholera, yet the *poudrette* lot stayed. In 1833 Wood reported to the Board that the prisoners and workmen complained of it ceaselessly, as with each rain there formed "a pond of as putrid and filthy matter as it is possible to imagine."⁶² For years, carts bearing the waste of the city trundled past the walls of the penitentiary. It is reasonable to assume that the proximity of this sea of putrescence was responsible in part for the yearly surge in summer fevers and complaints recorded by the physician.

Since the prison population was exposed uniformly to these threats to health, they do not help to explain the disparity in the death rates of black and white prisoners. While medical reasons for this are difficult to speculate upon from the available data, there are other differences between the black and white prison population which point to possible causes of demoralization of black prisoners. As a group blacks exhibited a higher rate of illiteracy, higher sentences, and a lower pardon rate than their white counterparts. They also came more conspicuously from the lowest occupational levels, i.e., unskilled laborers and those with no occupation.

Six blacks, or 7.5% of the group of eighty, were pardoned prior to expiration of sentence, as opposed to thirty-four, or 15.45% of the white population.⁶³ Thirty-five, or 44.30% of the black population were entirely illiterate, as opposed to thirty-four, or 15.38% of the white population.⁶⁴ In a system which placed such heavy emphasis on reading improving literature and on books as a solace in solitude, illiteracy was a crippling handicap. Blacks tended as well to receive slightly higher terms of sentence, as is evident from the following tables:

⁶² Samuel Wood to the Board of Inspectors, 8 August 1833, in *Minutes of the Board of Inspectors*, vol. 1, 1829-1840, RG 15, PHMC.

⁶³ Data compiled from the prison Descriptive Register, 1829-1857, RG 15, PHMC.

⁶⁴ *Ibid.*

Figure 4.
Sentences, black and white prisoners, first 300⁶⁵

<i>Blacks</i>			<i>Whites</i>		
<i>yrs.</i>	<i>No.</i>	<i>%</i>	<i>yrs.</i>	<i>No.</i>	<i>%</i>
1 to 2	10	12.5	1 to 2	59	26.81
2	23	28.75	2	64	29.09
3	21	26.75	3	38	17.27
4	4	5.	4	23	10.45
5	7	8.75	5	12	5.45
6	3	3.75	6	7	3.18
7	4	5.	7	3	1.36
8	1	1.25	8	4	1.18
9	2	2.50	9	0	0.
10	3	3.75	10	3	1.36
11	0	0.	11	1	.45
12	2	2.5	12	6	2.27
	80			220	

At the lower end of the spectrum of sentences, blacks tended to receive fewer one-to-two year sentences, and more two-year sentences. This is born out as well in sentences for larceny.

Figure 5.
Sentences for larceny, first 300 prisoners⁶⁶

<i>Blacks</i>			<i>Whites</i>		
<i>yrs.</i>	<i>No.</i>	<i>%</i>	<i>yrs.</i>	<i>No.</i>	<i>%</i>
1 to 2	5	26.31	1-2	25	42.37
2	12	63.15	2	24	40.60
3	2	10.52	3	10	16.94
	19			59	

⁶⁵ *Ibid.* Black's sentences averaged 3.7 years, those of whites 3.13 years.

⁶⁶ *Ibid.* Sentences awarded blacks for larceny averaged 1.97 years, those given whites 1.95 years.

Sentences for burglary, first 300 prisoners⁶⁷

<i>Blacks</i>		<i>Whites</i>	
<i>yrs.</i>	<i>No.</i>	<i>yrs.</i>	<i>No.</i>
1 to 2	0	1 to 2	1
2 to 3	8	2 to 3	6
3	10	3	5
4	3	4	3
5	3	5	6
6	2	6	3
7	1		24
8	0		
9	2		
10	3		
	32		

Sentences for burglary generally ran higher, with blacks receiving more three year sentences than whites.

By the time the Eastern State Penitentiary was under construction, the negro population of Philadelphia, and probably the state as a whole, was on the brink of what Theodore Hershberg has called "a remarkable deterioration in the socio-economic condition of blacks from 1830 to the Civil War."⁶⁸ Certainly a disproportionate number were being imprisoned, as according to the census of 1830 only 2.84% of the population of the state of Pennsylvania were black, while they represented 26.66% of the prison population.⁶⁹ A high proportion of the black prisoners, (23.75%), gave no occupation, while 35% were unskilled laborers. Agriculture accounted for 21.25%, while only 17.5% were skilled laborers or artisans. The occupations of 2.5% of the black

⁶⁷ *Ibid.* Sentences awarded blacks for burglary averaged 4.5 years, those given whites 3.81 years.

⁶⁸ Theodore Hershberg, "Free Blacks in Antebellum Philadelphia: A Study of Ex-Slaves, Freeborn, and Socioeconomic Decline," in Theodore Hershberg, ed., *Philadelphia: Work, Space, Family, and Group Experience in the 19th Century* (New York, 1981), 380.

Unfortunately for our purposes, Hershberg's data in the above article pertains principally to a slightly later period than that addressed here, beginning with the census of the Pennsylvania Abolition Society of black Philadelphians in 1838.

⁶⁹ Clerk of the [U.S.] House of Representatives, ed., *Abstract of the Returns of the Fifth Census*. . . (Washington, 1832), 13.

population are unknown.⁷⁰ One can only speculate that those with no occupation had been pressed out of the labor pool, or had never entered it. How many were ex-slaves cannot be ascertained from the data.

That the separate system at the penitentiary failed to conform to the designs of the Philadelphia Society for Alleviating the Miseries of Public Prisons is not a novel observation. The prison records, however, have wide-ranging applications in defining the breadth and depth of the chasm which lay between intent and practice. They divulge as well some sobering statistics concerning death, and particularly deaths of blacks, at the penitentiary.

William Darrach, Bache's successor as prison physician from early 1837, was pointedly racist in his observations on death and disease in the black prison population. He also had an obsessive interest in the subject of onanism, which he believed to be at the root of most, if not all, prison diseases. Bache was relatively free of such biases, or at least he managed, if he had them, to keep them to himself. He did not speculate, in his monthly reports, about the disparity of deaths among the black and white prison inmates.

Darrach was rather more bold, for in 1840 he attempted a crude explanation of the high percentage of death and disease in the black prison population. He claimed that the ratio of deaths in the black and white population outside of prison was then five to two, and the ratio within the walls merely reflected the state of affairs in the parent populations.⁷¹ His figures, presupposing that one can compare them to the mortality statistics derived from the census of 1850, are quite evidently in error, at least for the state of Pennsylvania. In 1850 there were 2,313,786 persons in the commonwealth, of whom 53,626, or about 2.31%, were black. In the year ending June 1, 1850, according to the census figures, 27,739 whites and 812 blacks died in the state, at annual rates of about 1.2% and 1.5% respectively.⁷² The ratio of deaths in that year of blacks to whites was thus about five to four, which even allowing for faulty reportage and statistical change over the intervening

⁷⁰ Prison Descriptive Register, 1829-1857, RG 15, PHMC

⁷¹ *Eleventh Annual Report of the Inspectors of the Eastern State Penitentiary of Pennsylvania* (Philadelphia, 1840), 35. Darrach recommended the segregation of prisoners, and predicted confidently that if given over to whites alone, " . . . the separate system would satisfy every demand of justice, morals, health, and profit." *Ibid.*, p. 36

⁷² J.D.B. DeBow, *Mortality Statistics of the Seventh Census of the United States, 1850* (Washington, 1855), 32, 35

ten years since 1840, is still rather remote from five to two. One must look elsewhere for the reasons why blacks were less prone to survive their prison sentences than whites. One factor, although doubtless not the only operative one, may well have been the demoralization wrought by slightly longer sentences, fewer pardons, and solitude unmitigated by literacy.

Divergences between the intentions of the Philadelphia Society and the actual conditions at the penitentiary were most egregiously evident in prison management and administration during the first five years of operation. The determination of the Society to occupy every prisoner with some form of work, while at the same time maintaining isolation, presented the prison staff with serious organizational difficulties.

The warden had the responsibility to engage suitable artisan instructors, acquire tools, and allot work space. In the early years of the prison, some of the staff, like Chief Overseer Richard Blundin, doubled as instructors, reducing the cost of what otherwise would have been an extremely expensive program. Only some of the skills of the prison population, however, were suitable to the confines of an eight-by-twelve foot cell, and in the early days Wood evidently lacked the staff to retrain some of these men in alternative crafts. While some of the prisoners came to the penitentiary with easily accommodated skills, (there were fifteen shoemakers, fourteen weavers, and six tailors in the first three hundred),⁷³ others had to be retrained or, alternatively, the rules of the system had to be bent to employ them. In Wood's annual report for 1831, he noted having eighty-seven prisoners in custody as of January 16, 1832. Of these, fourteen were engaged in weaving and dyeing, eighteen at shoemaking two at "carving," four at blacksmithing, three at carpentry, one at carriage making, two at locksmithing, one at tailoring, two at woolpicking, one at cooking, and one at washing. Three more were "indisposed," two were "idiots," one was "infirm," and three had just arrived. (Wood neglected to indicate what the other twenty-nine were doing.)⁷⁴

Dyeing, blacksmithing, carriage-making, cooking, and washing

⁷³ Prison Descriptive Register, 1829-1857, RG 15, PHMC.

⁷⁴ Board of Inspectors of the Eastern State Penitentiary, *Report . . . to the Legislature* (Philadelphia, Allen, 1832), p. 6.

were difficult, if not impossible, to accomplish in the cells. Wood was apparently modifying the system to suit the needs of prison administration. In fact, men were working all about the premises, some of them in the doubtless convivial company of men brought in to work on prison construction.

The cook mentioned in Wood's report was No. 94, William Hamilton, a man who made expeditious use of the freedom inherent in his occupation. Born in Virginia, he was a black cook and waiter, and had arrived just prior to Wood's 1831 report. He was serving a two-year sentence for larceny, the comparative brevity of which did little to induce him to become a model prisoner. The bakehouse abutted the front wall of the prison, and on July 27, 1832, Hamilton somehow contrived to get onto the roof of the structure and lower himself outside the walls. He was recaptured on August 16, while engaged in stealing hogs in Norristown.⁷⁵

There was the matter too of Samuel Brewster, who had made his escape ladder in his "workshop," and of John Kennedy, a stone cutter who effected his escape in May, 1833. He was employed with the men working on prison masonry, and at the end of one work day he simply exited through the gate with the workmen. Wood pursued him into the city and had him back by midnight.⁷⁶

In some respects the early years of Warden Wood's regime were almost unbelievably informal. In August, 1833, Wood released prisoners 79 and 80, both of whom were trained in shoemaking. They petitioned him to be allowed to stay and work, and as Wood was unable to find employment for them outside, he assented to the temporary arrangement. In another instance, when a released convict returned after a fruitless day of job searching, Wood made him a gift of his old set of tools, (often required for employment,) and permitted him to spend the night in his old cell. Instances such of these were related by Wood as proof of the fundamental benevolence of the system.⁷⁷

Wood's administration, through 1833, was relaxed to the extent that the separate system was certainly in jeopardy. For instance, a communal

⁷⁵ Descriptive Register, 1829-1857; Warden's Daily Journal, no. 1, 27 July 1832, 16 August 1832, RG 15, PHMC.

⁷⁶ Warden's Daily Journal, No. 1, 19 May 1833, RG 15, PHMC.

⁷⁷ *Ibid.*, 6 August 1833; Samuel Wood to the Board of Inspectors, 7 January 1832, in Minutes of the Board of Inspectors, 1829-1840, RG 15, PHMC.

room, probably equipped with partitions, was used by the weavers. This was certainly the case in 1837, when a prisoner attempting to converse with another inmate over the top of his loom fell and broke his leg.⁷⁸ In 1830, as illustrated by the case of Kennedy, prisoners labored at building the prison facilities. Richard Blundin, who worked with prisoners engaged in bleaching, dyeing, and sizing the cloth produced by the weavers, was hard pressed to employ men in the dye house while attempting to keep them apart.⁷⁹ The Board of Inspectors acknowledged the deterioration of the system in December of 1833, when they ordered that "all the prisoners be confined to the cells in accordance with their sentences and the Warden be directed to employ suitable persons to perform the duties now performed by them."⁸⁰

Part of the difficulty seems to have been that the Board had not imposed its strict definition of "separate confinement" on the warden or his staff. Judging from the published reports of the Board of Inspectors, prisoners were not permitted even a glimpse of other inmates. Clearly, however, Warden Wood accepted a much less stringent application of the principle.

The warden, and particularly the physician, had to devote considerable time to the recurrent problem posed by prisoners who arrived obviously insane. Pennsylvania had then no law prohibiting the incarceration of these men and women in the state penitentiaries, and apparently some judges were loathe to admit the insanity of defendants, as it would have meant their acquittal. Nine, and perhaps eleven of the first three hundred prisoners arrived exhibiting behavior sufficiently abnormal to attract notice, while others developed severe symptoms subsequently. Frequently the prison staff found themselves dealing with violence and irrationality more appropriate to an asylum.⁸¹

No. 19, Seneca Plumly, a nineteen-year old farmer from Bradford County convicted of horse stealing, was defined as a stuttering idiot in the description register. He was pardoned after nine months. No. 196, Eli Kitler, a laborer born in Brunswick, Germany, was judged to be

⁷⁸ Warden's Daily Journal, No. 1, 14 May 1833, RG 15, PHMC.

⁷⁹ Reports, Overseers, 1829-1853, 11 September 1830, 1 January 1831, 2 July 1831, RG 15, PHMC.

⁸⁰ *Ibid.*, 4 December 1833.

⁸¹ Descriptive Register, 1829-1857, RG 15, PHMC.

insane when he arrived in November, 1833, to serve a sentence for horse stealing. He was noisy and unruly, and was punished at least once by being placed in a cold cell. Kitler was pardoned after two months. No. 252, Peter Kintzler, an immigrant from Baden, also convicted of horse stealing, had this note appended to his name in the descriptive register: "The sheriff says he is not right in his mind." He served his sentence and was released in April, 1837, still judged to be suffering from insanity.⁸²

Both Wood and Bache revolted against the practice of sending the insane to the penitentiary, chiefly because they did not have the facilities or the personnel to deal with these special cases. Bache petitioned the Board in his monthly report for December, 1832, asking them to press the Legislature for a law forbidding the practice.⁸³ Wood supported Bache in his annual report for 1832, noting: "We take this opportunity to advert to the fact that there seems to be a disposition in the authorities of some of the Counties, to make use of the prison as a substitute for a bedlam."⁸⁴

Wood and the Board were aware that the cases of insanity and aberration which appeared following a period of seeming adjustment had the potential to embarrass the system. Few cases except the most obvious ones found their way into the published statistics. There was considerable room for disagreement, however, on the matter of a prisoner's sanity, as illustrated by the case of No. 10, Ebenezer Lewis. He was convicted in Philadelphia of forgery, and gave his age as thirty-one at the beginning of his two year sentence. In July, 1830, Bache noticed that Lewis had begun to show symptoms of "mental alienation." The prisoner feared for his life, and sought the warden's protection. In April of the following year, he began to collect pebbles and other objects from his exercise yard in his cell. John McLean, an overseer, ordered him to remove them, and when McLean returned to inspect, Lewis attacked him with his shoemaker's knife, stabbing the overseer repeatedly before another overseer intervened and prevented serious injury. Wood took steps to restrain the prisoner, and Bache concluded in his monthly report that No. 10 was unquestionably insane. Lewis was

⁸² *Ibid.*, and Warden's Daily Journal, No. 1, 30 January 1834, and Reports, Physicians, 1835-1837, 30 April 1837, RG 15, PHMC.

⁸³ Reports, Physicians, 1832-1834, December 1832, RG 15, PHMC.

⁸⁴ Warden's Fourth Annual Report, in Minutes of the Board of Inspectors, 1829-1840, RG 15, PHMC.

placed in a dark cell, in a straight jacket, without food or water, for three days, and then was returned to a light cell and a reduced ration. Bache's opinion, however, was that the prisoner should be restrained, but not punished, and the Board supported his position.⁸⁵ Wood, in something of a pique, reported to the Board that in accordance with their resolution, No. 10 had been placed in the physician's care, "although as far as I can percieve [sic] he is as sane as any man in the establishment."⁸⁶ Wood and Bache were usually in agreement on one point, however. In the cases of mental disturbance that appeared at an interval following incarceration, they almost invariably stated their belief that the prisoner had been laboring under a bent toward insanity prior to arrival.

One of the most pathetic cases, one for which the prison facilities were hopelessly ill-suited, was that of No. 48, nineteen-year old Simon Reis. A cabinet-maker's apprentice, he had run away after three years under his master and had become involved in horse stealing. About six months after conviction Reis had, in Bache's words, demonstrated "a very excitable mind, and is disposed to insanity."⁸⁷ He evidently flew into a rage of anyone approached him on the subject of religion. At the beginning of July, 1831, having been in prison about eight months, Reis began to lose his fragile hold on reality. Bache told the Board, "I have just visited No. 48 and find him in a most deplorable situation. His insanity no longer admits of the least doubt—From a misguided impression of his duty, he has battered his head against the wall of his cell in a dreadful manner—"⁸⁸ Bache used this incident to persuade the board to hire a male nurse to prevent self-injury by disturbed inmates and to tend to the chronically ill.

Many disciplinary infractions were, in Wood's estimation, quite unrelated to mental disturbance. No. 16, John Smith, a sailor from Charleston, South Carolina was in Wood's words "one of the most reckless and revengeful men I ever saw; with an intellect extremely

⁸⁵ Prison Descriptive Register, 1829-1857; Reports, Physicians, 1829-1831, 1 September 1830, 1 May 1831; Samuel Wood to the Board of Inspectors, 7 May 1831, 6 April 1831, in Minutes of the Board of Inspectors, 1820-1840; Franklin Bache to the Board of Inspectors, report of April 1831, in Minutes of the Board of Inspectors, 1829-1840, RG 15, PHMC.

⁸⁶ Samuel Wood to the Board of Inspectors, 6 April 1831, in Minutes of the Board of Inspectors, 1829-1840, RG 15, PHMC.

⁸⁷ Reports, Physicians, 1829-1831, 1 June 1831, RG 15, PHMC.

⁸⁸ Reports, Overseers, 1829-1853, 2 July 1831, RG 15, PHMC.

weak—he shewed his wickedness a few days before he was discharged, for which I put him under a course of punishment up to the morning he left us.”⁸⁹ In a fit of rage Smith had broken the water hydrant in his cell and flooded it.⁹⁰

By late 1833, the divergence between theory and practice at the penitentiary threatened to derail the program of the Philadelphia Society and expose it to public censure. The catalyst which brought irregularities at the prison to the attention of the public was Warden Wood’s clash with several dissident overseers and keepers. In November of 1833 they complained directly to the Board of Inspectors of abuses which included the death of a prisoner under punishment, embezzlement of state property by Mrs. Blundin, wife of the Chief Overseer, personal profit on the part of the warden for work done by the prisoners, and a vague hint at sexual improprieties.⁹¹

Warden Wood had, in truth, a great deal to account for. The death alluded to was that of No. 102, Matthias Maccumsey (or Mecumsey), who had arrived at the prison in November, 1831. A forty-two year old laborer, he had been convicted of murder and sentenced to twelve years in prison.⁹² Wood had evidently had some difficulties with the prisoner prior to this notation in his journal of June 27, 1833:

No. 102. having on several occasions got the men next him talking, and being detected in the act last evening I ordered the Straight Jacket on No.

and the gag on No. 102—this I saw put on about 8 O’Clock—I was informed by Wm Griffiths that they had found him in a lifeless state. I immediately went to him and found him warm but with no pulse. We tried to bleed him, and used amonia and many other things but life was extinct. Dr. Bache was to see him but could do nothing.⁹³

⁸⁹ Samuel Wood to the Board of Inspectors, 7 May 1831, in Minutes of the Board of Inspectors, 1829-1840, RG 15, PHMC.

⁹⁰ Reports, Physicians, 1829-1831, c. 1 May 1831, RG 15, PHMC

⁹¹ Testimony and charges resulting from these incidents are included in Charles B. Penrose, *Report of the Joint Committee of the Legislature of Pennsylvania, Relative to the Eastern State Penitentiary at Philadelphia* (Harrisburg, 1835). See specifically pp. 5-27. The minority opinion of the committee was formulated by Thomas B. McElwee, *A Concise History of the Eastern State Penitentiary, Together with a Detailed Statement of the Proceedings of the Committee Appointed by the Legislature, December 6, 1834.* . . . (Philadelphia, 1835). The scandal of 1835 is treated extensively by Teeters and Shearer in *The Prison at Cherry Hill*.

⁹² Prison Descriptive Register, 1829-1857, RG 15, PHMC

⁹³ Warden’s Daily Journal, No. 1, 27 June 1833, RG 15, PHMC

The post-mortem verdict was "apoplexy," and thus the cause of death was reported, without mention of the gag, in the Warden's report to the Board of Inspectors.⁹⁴

Another punishment brought to the Board's attention was carried out on Seneca Plumly, the nineteen-year old horse thief who had arrived mentally disordered. Plumly had been punished for what were later described as "filthy habits" by being tied to a wall during winter after which thirteen buckets of cold water were thrown on him and allowed to freeze. The treatment allegedly resulted in his insanity.⁹⁵

The Board of Inspectors immediately took steps to investigate the various charges, compiling testimony from several keepers who had disagreed with Wood. The warden, when examined, countercharged that the keepers in question had caused disciplinary problems among the prisoners. He described some of the keepers as deists, who had brought profane literature into the prison.⁹⁶ The allegations of his rebellious subordinates had been sufficiently shocking to elicit from Wood the riposte that the charges were nothing more than "low, dirty, bar room village scandal,"⁹⁷ and that he was "surrounded by spies" and men who were actively plotting his removal.

In spite of damning but evidently unproven testimony, the Board not only exonerated Wood, but permitted him to discharge the keepers who did not support him. The Board's implicit acknowledgement, however, that improprieties existed at the prison was conveyed in their order forbidding Wood to "employ any convict or convicts in any work or occupation intended for any manufacturing or other establishment in which he may have a pecuniary interest."⁹⁸ They also ordered Mrs. Blundin, who lived at the prison with her husband, removed from the premises.

At least one important member of the Board of Inspectors found these resolves to be insufficient. Judge Charles Sidney Coxe, who had served as first president of the Board, was outraged by the charges and moved

⁹⁴ Samuel Wood to the Board of Inspectors, 6 July 1833, Minutes of the Board of Inspectors, vol. 1, 1829-1840, RG 15, PHMC.

⁹⁵ Penrose, *Report of the Joint Committee*, 6, 13.

⁹⁶ Warden's Daily Journal, No. 1, 22 December 1833, RG 15, PHMC.

⁹⁷ Samuel Wood to the Board of Inspectors, 3 December 1833, in Minutes of the Board of Inspectors, vol. 1, 1829-1840, RG 15, PHMC.

⁹⁸ Resolution of the Board of Inspectors, 7 January 1834, in Minutes of the Board of Inspectors, vol. 1, 1829-1840, RG 15, PHMC.

to have them brought to the attention of the Pennsylvania Legislature.⁹⁹ Although serving as chairman of the committee which heard the charges and testimony, he was nevertheless overruled. When Wood was permitted to discharge the dissident keepers, Coxe resigned his chairmanship of the committee.¹⁰⁰ The Judge had been one of the most assiduous of the inspectors and had visited the prisoners on forty-one separate occasions during the first year of operation.¹⁰¹ In his letter of resignation he referred to the charges, in which he clearly placed some credence, as "alarming," and voiced his belief that serious abuses had indeed taken place under the Wood administration.¹⁰²

Others shared Coxe's disquietude and would not let the matter rest. By the end of February, 1834, the state Attorney General, George M. Dallas, solicited copies of the notes and findings of the Board's investigative committee. A Joint Committee of the Senate and House of Representatives of the Commonwealth began to investigate the charges in December, 1834, and, after compiling reams of testimony, exonerated Warden Wood.¹⁰³ The Joint Committee's lengthy majority report generally supported Wood and the Board of Inspectors. While the investigators upheld the *status quo*, their opinions and recommendations disclosed their belief that laxities existed at the prison and reforms were in order. To the charge that the water bath to which Plumly had been subjected was "cruel and unusual," they responded that it was, rather, "indiscreet." They determined that Plumly had been insane prior to the punishment, from his arrival at the penitentiary. The treatment of Maccumsey was found to be within the permissible bounds of punishment, although they noted with approval that the warden had discontinued the use of the iron gag.¹⁰⁴

The Joint Committee's qualms are evident in a law they framed altering certain features of prison management. The law transferred the duty of appointing inspectors to the judges of the Supreme Court of the Commonwealth, and it required that the Board of Inspectors approve hiring and dismissal of overseers and keepers by the warden. Wardens

⁹⁹ Minutes of the Board of Inspectors, vol. 1, 1829-1840, December 1833, RG 15, PHMC.

¹⁰⁰ *Ibid.*, 28 January 1834.

¹⁰¹ Recorded in the Warden's Daily Journal, No. 1, 1829 through 1830, RG 15, PHMC.

¹⁰² Minutes of the Board of Inspectors, vol. 1, 1829-1840, March 1834, RG 15, PHMC.

¹⁰³ Penrose, *Report of the Joint Committee*, 5-6.

¹⁰⁴ *Ibid.*, 11-13.

of the state penitentiaries were also forbidden to engage in any other business ventures while in office. The majority report of the Joint Committee, however, was generous in its praise of Wood's qualifications and behavior.¹⁰⁵

Warden Wood kept his appointment, but a minority report of the Joint Committee, harsh in its denunciation of Wood's experience and actions, suggests by how very narrow a margin. The two-volume report, published in Philadelphia in 1835, included some of the negative testimony and grisly illustrations of the punishment devices known to have been in use. Even this document, however, did not arouse sufficient outcry to unseat Wood, who remained as warden until his resignation in 1840.¹⁰⁶ The minority report is, nevertheless, stark evidence of the degree to which prison disciplinary practices had diverged from the sought-after ideal of non-violent coercion.

With the Eastern State Penitentiary competing so contentiously with the Auburn Prison for public approval, it is difficult to assess the success of either system using published reports alone. Auburn was opened in 1817, and in 1828 a summary report by Gersham Powers was published, covering the first ten years of prison operation. Using this source, which includes some statistical statements, it is possible to frame some comparisons.¹⁰⁷

By December 31, 1827, Auburn had received 1,214 prisoners. While in Pennsylvania the maximum sentence in separate confinement was twelve years, at Auburn, which disallowed the solitary system in 1823, a prisoner might be sentenced from three years to life. Prior to the discontinuance of the solitary system, many prisoners were pardoned early in their sentences. In general, pardons were much more frequently had at Auburn than they were at Philadelphia. Of Auburn's first 1,214 inmates, at least 443, or about 36.49%, were pardoned prior to expiration of sentence, compared to thirty-nine, or 13%, of the first three hundred at the Eastern State Penitentiary.¹⁰⁸

¹⁰⁵ *Ibid.*, 27-28, 8-9.

¹⁰⁶ Teeters and Shearer, *The Prison at Cherry Hill*, 88. Teeters and Shearer concluded that if there were any veracity in the charges, the prison was laxly administered.

¹⁰⁷ Gersham Powers, *Report of Gersham Powers, Agent and Keeper of the State Prison, at Auburn* (Albany, 1828).

¹⁰⁸ Powers, *Report*, 75, 82-83.

In one respect, the prisoners' ages, the populations of both institutions were remarkably similar, as Powers' data readily attests. His figures may be compared roughly to Figure 2.

Figure 6.¹⁰⁹

Age of Prisoners, Auburn Prison

<i>Age</i>	<i>No. of Prisoners</i>	<i>%</i>
15-20	122	10.04
20-30	593	48.84
30-40	280	23.06
40-50	139	11.44
50-60	36	4.61
60-80	24	1.97
	1,214	

There were marked disparities between the two groups as well. The Philadelphia population contained a much higher percentage of blacks, 26.66% compared to fifty-two, or 4.28% at Auburn. The most striking contrast, however, was in the matter of prison deaths. Of the first 1,214 Auburn inmates, fifty had died in prison to date, or as Powers estimated, one in about every twenty-eight.¹¹⁰ The death rate at Philadelphia may have been as much as twice that at Auburn. The number of deaths at Auburn dipped, briefly, in 1824, and Powers attributed this directly to the abandonment of solitary confinement. The Auburn physician wrote:

the number of deaths is smaller [in 1824] than in every year preceeding, and. . .the reason is obvious. That there had been an abandonment of solitary confinement. That those in the [solitary] cells who were pardoned last spring and summer, were most of them enfeebled, and sickening with a consumptive diathesis, that would have become incurable.¹¹¹

¹⁰⁹ *Ibid.*, 75.

¹¹⁰ *Ibid.*, 73, 75.

¹¹¹ *Ibid.*, 72.

Deaths, however, seem to have risen again during the following year, an event that was not mentioned. One reason for Auburn's lower death rate may have been that prisoners seem to have been pardoned when their disabilities became severe or their illness terminal, while such a practice did not prevail at Philadelphia.

Gersham Powers believed that solitary confinement induced insanity, but he admitted that even under the communal (but silent) system in use in 1828, "Insanity is no uncommon occurrence."¹¹² On the matter of punishment, Powers strongly advocated lashing as opposed to deprivation of rations, or what he called "starving," an attenuated punishment which he believed drastically affected the health and mental stability of the prisoners.¹¹³

Powers shared with Wood, however, the common sentiment that lack of education, and particularly intemperence, were principal causes of criminal behavior, and both kept records of the education and drinking habits of their charges. The Auburn authorities went to considerable lengths to compile detailed biographical sketches of the prisoners, including information on their reintegration into society following release. Many of the resultant profiles were published in the Auburn prison reports for 1828 and 1829 to demonstrate the salutary effect of the Auburn system on lives disordered by ignorance, intemperence, and crime.¹¹⁴

The Eastern State Penitentiary and the Auburn Prison were closer in attitudes toward criminality held by the proprietors and also in their disciplinary practices than the supporters of either system admitted. Certainly the Philadelphia institution was not, in its earliest years at least, the living tomb dreaded by critics of the system, although there were doubtless persons who suffered severely from being deprived for days, weeks, and months at a time of the company of others.

* * * *

An important assumption underlying Pennsylvania's separate system was the belief that the debilitating effects of solitude would be offset by

¹¹² *Ibid.*, 86.

¹¹³ *Ibid.*, 98-99.

¹¹⁴ *Ibid.*, 43-107.

labor, which fulfilled the additional function of providing a trade which the convict could pursue on release. The related assumption was that most criminals were unskilled in trades which could earn them honest livelihoods. This was clearly not the case with the majority of the first three hundred inmates, many of whom were skilled artisans and workers. Many were trained or retrained in relatively low-paying skills like shoemaking and weaving which, incidentally, helped to support financially not only the institution but also, until 1834, Warden Wood. An engaging question, one for which the prison authorities had a remarkably limited range of explanations, is what were the pressures which drove artisans and farmers in the early 1830's to take up crime for a living. Fully eighty-five percent of the sentences of the first three hundred prisoners were for some form of theft or embezzlement. Many of the prisoners, when pressed by the warden or physician, admitted that they were drunk when they had committed their crime. Wood seldom saw cause to inquire further and laid the blame squarely on intemperance. Auburn's Gersham Powers was, if anything, even more insistent on this point. Rootlessness was also deemed a source of criminal behavior, and the presence of family an inducement to reform. (When in October of 1835, fifty-five men and ten women arrived at the penitentiary from the Walnut Street Prison, Wood noted disconsolately in his journal, "I could not but remark the very few married men among them.")¹¹⁵ Intemperance, absence of family, and ignorance led to crime, and nowhere, in this scheme of explanation, was there a concession to the pressure exerted by economic duress.

In summary, it is clear that in several important respects the designs of the reformers of the Philadelphia Society for Alleviating the Miseries of Public Prisons had succumbed, during the first five years of the Eastern State Penitentiary, to compelling forces which reshaped the separate system in practice. The prison reformers had built a model prison, staffed it with a sympathetic, if rather casual administrator, and had populated it with a group that was young, and composed largely of first offenders presumably unhardened in the ways of crime. Charged with zeal and soaring optimism, the reformers had dared to hope for

¹¹⁵ Warden's Daily Journal, vol. 1, 5 October 1835, RG 15, PHMC.

near complete success, and in their enthusiasm had made insufficient allowance for the intractability of human deviance.

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