ABSTRACT

A NECESSARY CRUELTY:
VIOLENCE AND DISCIPLINE IN NORTH CAROLINA’S
POST-CIVIL WAR PRISONS

by Michael Haggerty

In 1868, representatives from across North Carolina ratified a state constitution that would redefine the state’s penal system. This constitution called for the construction of a state penitentiary and asserted that the state assumed responsibility for the health and well-being of prisoners. Despite this progressive stance, state officials would struggle to establish authority and control over prisoners and prison officials. During the next half century, convicts were beaten, whipped and abused in state run facilities. Ultimately, pressure to develop a self-supporting prison system in combination with racial prejudice resulted in institutionalized violence throughout North Carolina.
A NECESSARY CRUELTY:
VIOLENCE AND DISCIPLINE IN NORTH CAROLINA’S
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Introduction: Prisons and Reconstruction

The Thirteenth Amendment did not end slavery. A clause existed within the language of the amendment which allowed for the continuation of forced labor. Neither slavery nor involuntary servitude shall exist “except as a punishment for crime, whereof the party shall have been duly convicted.”¹ Historians of convict labor have relied upon this clause for building an appreciation for the scale of abuse in Southern penal history. The titles of works such as *Slavery by Another Name* and *Worse than Slavery* demonstrate how closely related slavery and convict labor are.² Historians have argued that convict labor “carried forward” the South’s “deepest impulses” including “racism,” “fears of a labor shortage” and “hair-trigger violence.”³ Ultimately, these works serve as a reminder that the Thirteenth Amendment did little to alter access to freedom and independence for thousands of black men and women.

Although convict labor was an enduring manifestation of the economic and social hierarchies of the antebellum South, this system of abuse was prominent in the period known as the New South. Historiographical conceptions of the New South as a modern, industrial period rose with the publication of C. Van Woodward’s *Origins of the New South*.⁴ More recently, Edward Ayers emphasized the complexities of life in the late nineteenth century South in his *Work Promise of the New South*.⁵ This was not only a world of isolated farms and poverty; it was also a world of advertisements, railroads and institutions, such as state prisons. In his book *Twice the Work of Free Labor*, historian Alex Lichtenstein gives the convict laborer a place in this modern political economy, arguing that enterprising, white men in the New South saw convict labor as a means “to expand their enterprises.”⁶

However, Lichtenstein’s approach intentionally avoids recounting “horrific tales of brutality and torture.”⁷ From Lichtenstein’s perspective, emphasis on the visceral, abusive nature of convict labor serves to distance the convict from the modern, industrialized framework of the New South. This thesis is aimed at striking a balance between these two historical perspectives, on which depicts convict labor as modern and industrial, the other as a continuation of antebellum slavery. By focusing on the development of a specific penal system, North Carolina, this work establishes an appreciation for both the political economy that demanded a profitable prison system and the horrors of violence within North Carolina’s justice system.

The development of North Carolina’s prison system poses an inherent clash with the historiographical periodization of the late nineteenth and early twentieth century. In 1849, the citizens of North Carolina openly rejected the construction of a state prison through a public

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¹U.S. Constitution, Amend. 13, sec. 1.
⁸Ibid., xvii.
referendum. Despite this referendum, the state passed a new constitution following the Civil War that included an amendment providing for the construction of a state penitentiary. This 1868 constitution has been recognized as the “legal basis for the development of the modern state-controlled criminal justice system.”

It represented a transition away from local county jails, towards a broad system of state sponsored prison farms and chain gangs that would make up North Carolina’s platform of incarceration for the next half-century. Despite the development of this system, the state government of North Carolina would not gain complete control over prisoners until the county system was abolished in 1933. Therefore, the story of North Carolina developing a state prison system stretches across the periods associated with Reconstruction, the Gilded Age and the Progressive Era.

The permeable nature of these periods has come to light within a variety of recent historical works. After the publication of Eric Foner’s *Reconstruction: America’s Unfinished Revolution* historians began exploring the political and social implications of Reconstruction beyond the removal of Union troops in 1877. Works such as Steven Hahn’s *A Nation Under Our Feet* and Gregory Down’s *Declarations of Dependence* have delved into the twentieth century to build an appreciation for the lasting impact of a revolutionary Civil War. In addition to these Reconstruction narratives, works which focus on the Gilded Age, such as Rebecca Edward’s *New Spirits*, have begun to challenge “historians long-standing division” between the Gilded Age and the Progressive Era. These historiographical patterns suggest that traditional periodization may be of little use to contemporary historians.

The sources in this work reflect this extended period of time. Beginning with the Constitution of 1868, this work relies heavily on government documents that tell a story narrated largely by white men. It references the testimony of doctors in the early twentieth century who sat before legislative committees seeking to understand the nuances of cruel punishment. It also explores print media reports regarding prison abuse and concerns over the management of state institutions following the Civil War. Finally, it relies upon the reports of reforms in the Board of Charity who sought to abolish corporal punishment and created a system invested in reform. These sources tell the story of an evolving disciplinary infrastructure controlled by state officials who valued economic efficacy and dominance over reform and the restoration of prisoners to society.

In the nineteenth century, North Carolina’s penal system operated in an environment of change where traditional forms of discipline, such as use of the whipping post and branding, were challenged by reformers who sought to promote moral and intellectual reformation. As late as 1865, two years after the Emancipation Proclamation, public whipping posts were being constructed in North Carolinian communities. However, increasing political and social pressure for the abolishment of corporal punishment was significant. The State Board of Public Charities viewed the construction of North Carolina’s first state penitentiary as a profound opportunity for reform. They felt it symbolized a moment of progress that moved the state away from a trio of


10 “Whipping Stocks Erected in the Courthouse Yard at Goldsboro, N.C. For the Punishment of Slaves” North Carolina State Archives; Call Number N.2003.5.2 Location: WR2.
punishment it had relied upon for too long. In a published report from 1870, the board argued “the county jail, one of which was usually erected on the creation of a new county, was the completion of the necessary trio, the court house, the whipping post and the jail.” The report carries on, arguing there was not a single element of this system that indicated “any serious attempt to improve the morals or intelligence of any of the numerous unhappy beings who have, for a time, been their tenants.” Support for intellectual and moral reformation grew, and momentum built in support of the development of the state’s first penitentiary.

In 1868, the stated goal of punishment within the North Carolina penal system was “not only to satisfy justice, but also to reform the prisoner and thus prevent crime, murder, arson, burglary and rape.” This emphasis on the moral and intellectual reformation of individuals directly correlated with concerns over prisoner health. The eleventh article of the 1868 constitution stated that “the structure and superintendence of penal institutions of the State, the county jails and the city public prisons secure the health and comfort of prisoners.” In spite of this statement, it is clear from written testimony that the comfort and health of prisoners was often intentionally neglected through the deprivation of food and water, in addition to the consistent use of whippings and beatings as modes of discipline. This discrepancy between the goals of discipline and the reality of prison life leads to the following question: why did physical abuse remain a significant element of institutional discipline in late nineteenth and early twentieth century North Carolina?

There are many perspectives that could provide insight into answering this question. Some historians have written about the radical, political nature of the North Carolina’s 1868 constitution. In her 2011 work, Radical Reform, historian Deborah Beckel sees North Carolina’s post war Republican Party as a venue for “interracial political and economic coalitions” that would fall apart by the end of the nineteenth century. The Constitutional Convention of 1868 included fifteen black delegates. For the first time in North Carolina’s history, black men were engaging with state politics at the highest level. However, by 1870 Conservative party members had once again taken control of the state’s General Assembly. This transition from Republican to Conservative control suggests that the Constitution of 1868 was not an indication of long term political change but merely a momentary ripple that would be fought against for the next half century.

Another approach used by historians to understand penal violence is to interpret violence as a byproduct of industrialization. Historical narratives of convict labor often focus on violence by examining the economic motivations for perpetuating an abusive system of labor practices. These works often highlight the personal interest of specific people and corporations, such as the Pratt Coal Mines outside Birmingham Alabama. Although these approaches have value in

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12 Ibid.
16 See Blackmon, Slavery by Another Name and Lichtenstein, Twice the Work of Free Labor.
understanding what motivates violence, this work seeks to go beyond those narratives by examining how violence was debated within an institution setting. This work is concerned with violence not as a byproduct of industrialization, but as a concept that was discussed, debated and actively utilized to manipulate individuals. Ultimately, this thesis seeks to examine how justifications for violence changed over time.

Although the State Board of Charity and the development of the penitentiary indicate a profound evolution in mentalities toward discipline, many individuals in North Carolina expressed outrage that the state was moving away from corporal punishment. Criminal activity in the Reconstruction South was often viewed as an unstoppable urge that reform would be unable to prevent. One newspaper even went so far as to label criminal theft an “irrepressible desire.”17 Citizens felt that it was illogical to invest in the reformation of prisoners doomed to return to crime. Some newspapers suggested that the accomplishment of the penitentiary was to feed and train lazy individuals, costing honest citizens money. In response, some citizens argued that the state should “whip the lazy rascals and turn them loose to support themselves.”18 Such newspaper accounts indicate that some citizens did not value the reformation and training of criminals. Citizens felt instead that there was “virtue in a good hickory switch well laid on,” suggesting that bodily discipline was often understood as a just and efficient form of discipline.19

Although it is clear that the development of a state prison system represented an organized system of social control, the disciplinary tactics of nineteenth century prison guards often represented a system of visceral, bodily abuse. Despite a movement away from punishments such as the whipping post and branding, prisoners still experienced an immeasurable amount of bodily pain. Prison laborers often worked under threat of the lash with multiple county and state investigations indicating that prisoners were routinely whipped until they bled. In addition, prisoners suffered from severe cases of frost bite resulting in the loss of fingers and toes. The movements of prisoners were restricted by ball and chain and the men who attempted to escape did so under threat of death from the guns of prison overseers. Ultimately, this work argues that popular demand for economic efficiency combined with evolving racial prejudice to foster a system of institutional violence and control.

This thesis will engage with historiographies of the South and American prisons in order to build an appreciation for the complex causes of prison violence. By examining the stated goals and policies of North Carolina’s prison system and contrasting them with county commission investigations and public discourse, this work examines the discrepancies between the physicality of prisoner experiences and the ideals of reformation on which the state prison system was based. It will examine how the disciplinary techniques of North Carolina’s penal system were influenced by evolving racial biases and concerns over economic efficiency.

The development of North Carolina’s first state penitentiary suggests that the state was evolving towards a networked system of discipline similar to that of northeastern states

following the Revolutionary War. Following the American Revolution, social order was seen as an essential component for ensuring the practice of republican governance. Social and political leaders believed the practice of democracy and the rise of self-governance needed to be controlled in order to ensure its development. With the development of a liberal ideology based on the promotion of individual equality, liberty and the pursuit of happiness, white men began to fear the social and political mobility of members within disenfranchised communities.

The American Revolution, similar to the emancipation of slaves, illustrates a profound moment in the evolution of western society when powerful individuals faced a newly free population that they feared would undermine traditional balances of power. Adam Hirsch’s *The Rise of the Penitentiary* focuses directly on the transitional nature of disciplinary ideology as it relates to fear of disenfranchised communities. Hirsch begins his discussion of America’s transition towards the penitentiary by establishing that the early colonies of America utilized visceral, physical forms of punishment. The evolution of discipline that he discusses includes characteristics similar to North Carolina’s transition towards a state penal system. Hirsch notes that originally the colonies developed a system of discipline “that duplicated Old World sanctions.” Included in this system were traditional forms of punishment, such as branding and whipping, similar to slavery. In addition to the use of physical punishments, the disciplinary institutions of early colonial America differed significantly from modern penitentiaries in their construction.

The jails of colonial Massachusetts were similar to the county jails of North Carolina. They were poorly kept, wooden structures. In some cases, houses were even converted to serve as jails. However, in contrast to these buildings, the Massachusetts state penitentiary built in 1805 left “a strong impression” on the individuals who viewed the structure. The construction of the first Massachusetts state penitentiary lasted six years and cost one hundred and seventy thousand dollars. Its high walled, stone design, similar to that of North Carolina’s state prison, represented a new ideological foundation for the absolute control and manipulation of prisoners. The structure indicates a networked system of power that relied upon observation as a basis for coercing behavior.

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21 Ibid., 6.
Hirsch discusses how poverty and idleness resulted in increased rates of theft and violence and maintains that the development of American penitentiaries represented an evolution of demographic trends toward the expansion of impoverished, immigrant communities that had begun to establish roots in America well before the Revolutionary War. As the American population continued to grow, white men began to fear that notions of equality and self-governance would influence the impoverished communities that they associated with sin and vice. A century later, these fears were echoed by the white men of the American South, as they faced a post-slavery world. In order to quell these fears, institutions such as the prison were created to fight against the vices of society, such as idleness, drunkenness and theft. The evolutionary nature of prisons, as manifested in Massachusetts’ and North Carolina’s first state penitentiaries, serves as an example of this changing power dynamic.

In his work *Democracy and Punishment*, Thomas Dumm provides a similar analysis of the rise of prisons in early America. Dumm argues that the rise of American prisons followed the ideology of the American Revolution. He suggests that the development of the penitentiary in America was “constitutive of liberal democracy.”23 This argument stems from the belief that the development of a successful liberal democracy was reliant upon “the internalization of liberal democratic values” including the extension of suffrage and the practice of self-governance.24 This internalization was often the product of a prison system that created “conditions of knowledge of self and other that were to shape the political subject required for liberal and democratic values.”25 By arguing that the successful maintenance of social order was reliant upon the internalization of liberal values, Dumm places American institutions that promote those values within a self-perpetuating framework.26 He sees the American penitentiary as an institution “that gave modern shape and meaning to an older set of political relationships.”27

In *Vengeance and Justice: Crime and Punishment in the 19th Century South*, Edward Ayers notes that “Southerners received a reputation for lawlessness largely because they believed that injured honor could not receive satisfaction through the third party of the state.”28 In his work, Ayers suggests that this sense of honor related directly to Southern interpretations of republicanism. He argues that many southerners relied upon a republican ideology that “meant freedom from the will of anyone: centralized power, even in the name of an activist republican government, promised more evil than good.”29 This interpretation of Southern honor suggests that the development of Southern prisons was based within a Southern understanding of republican idealism which resisted the institutionalization of discipline. However, the

24 Ibid.
25 Ibid.
29 Ibid., 41.
historiography of the South has recently suggested that Reconstruction created an environment of progress in the South, leading one to question the degree to which Southern perceptions of justice were altered by the loss of the Civil War.

Beginning in the early twentieth century, historians of the American South sought to understand the political and social environment of racism and violence that existed throughout the eighteenth, nineteenth, and twentieth centuries. Eventually an entire school of thought, known as the Dunning School, was developed. The Dunning School was named after Columbia University professor William Dunning, whose works, such as *Reconstruction, Political and Economic, 1865-1877*, were critical of Reconstruction.30 The Dunning School viewed Reconstruction as a highly invasive moment in American history, when the federal government needlessly intervened in Southern society and white men, were “subjugated by adversaries of their own race.”31 This intervention destroyed social order and unity in the South by interfering in the racial and economic dichotomies of Southern culture. This school of thought interpreted racism as a component of proper social order that was necessary because of the incapacity of black individuals.

In the mid-twentieth century, historical works such as Kenneth M. Stampp’s *The Peculiar Institution: Slavery in the Antebellum South*, began to challenge traditional, academic approaches to Southern history.32 The revisionist perspectives of the 1950’s, 60’s and 70’s dismissed the work of early twentieth century historians as racially biased. New interpretations of slavery suggested that it was an overtly abusive system based on violence and intimidation. This interpretation was significant, because it challenged the conclusions of the Dunning School and other early historians who suggested that slavery was a system in which slaves were often treated well by their masters. Revisionist historians argued that Reconstruction did not go far enough. They were often critical of Andrew Johnson and the inefficiency of federal institutions such as the Freedman’s Bureau. Some revisionist historians even concluded that Reconstruction reinvigorated the racist, violent environment of antebellum, Southern society.

Although these conclusions established a new perspective within academia, it is important to note that many African American historians, such as W.E.B. Du Bois, produced work in the early 1900’s that had criticized the overtly racist and hypocritical academic work of the Dunning School. In fact, Du Bois would later be regarded as an instrumental contributor to the Southern historiography, who recognized that freedmen and women needed to be valued as actors in their own lives.33 He recognized that black men and women obtained power and influence within Southern communities well before many of his academic peers.

Questions of agency became more prominent as revisionist historians such as Kenneth Stampp highlighted the abusive and tragic nature of slavery. These questions culminated in Eric Foner’s 1988 work, *Reconstruction: America’s Unfinished Revolution*. It directed the focus of Southern historians beyond the experience of the white planter class and toward the lived experiences of freemen and women.

31 Ibid., xv.
experience of black individuals in the American South. Foner’s work firmly established that the experiences of black individuals in the South was not merely passive, but that they were active participants in the changing economic and social realities of nineteenth century America. He acknowledges that emancipation and the development of free labor represented profound accomplishments within American society. For Foner, the abolishment of slavery and Reconstruction signified a moment of reinvigorated revolutionary idealism where an entirely new population of free slaves embraced liberty.

Historians have suggested that the period following emancipation was an “era of cautious optimism” for many African Americans. As emancipated men and women sought to migrate north, many began to debate ideas of racial destiny. This newly freed population faced a new world of freedom and for many their struggle for liberty would result in the rise of a collective consciousness about what it meant to be a black American. For some, this newly found freedom was even seen as an opportunity to escape America permanently and migrate to Africa.

As historians began to appreciate the political and social influence of disenfranchised communities, they began to debate the ways in which this agency manifested itself. In his 2004 work, *A Nation Under Our Feet: Black Political Struggles in the Rural South*, Steven Hahn proposes that the agency of emancipated slaves and their desire to migrate north and establish free lives was based within the traditions and values of black communities. Hahn’s work illustrates that slavery was not merely a “background or prologue” to freedom, but that it was also a foundational community on which freed people were able to establish power. This argument represents a new perspective on emancipation. Hahn recognizes that black communities valued freedom and liberty outside of a western ideological context and he emphasizes the agency of freed people outside of governmental institutions such as the Union Army or the Freedmen’s Bureau. Despite widespread migration, the fact remains that millions of freedmen and women remained in the South and faced institutionalized segregation and prejudice.

An emphasis on the ability of disenfranchised populations to establish independence and power has recently transferred into the subject of convict labor. Historian Mary Curtin’s work, *Black Prisoners and Their World, Alabama, 1865-1900*, argues that the historiography of convict leasing has “produced a distorted conception of power relations.” Her work emphasizes the ability of prisoners to exploit reforms and appeal to new rules. This approach has influenced one of the most recent works on North Carolina’s prisons system. In her 2011 dissertation, *Chain*...
Gangs, Roads and Reform in North Carolina, 1900-1935, Susan Thomas highlights how prisoner “actions shaped and reflected local and state policy initiatives.”40 Despite these recent trends, establishing the voice and agency of prison populations is not the goal of this work. Although it must be recognized that prisoners within convict labor system had power that they exercised through escape, resistance to work and even appeals to the charitable sentiments of reformers, this work seeks to understand how economic and social justifications for violence evolved over time. The goal of this work is not to strip prisoners of their agency. It is to build a better appreciation for the complexities of how that agency was limited during the late nineteenth century.

In order to understand how concerns over economic efficiency and race impacted North Carolina’s penal system, it is necessary to establish a framework for examining the power dynamics of modern disciplinary institutions. In his work Discipline and Punish: The Rise of the Prison, social theorist Michel Foucault argues that the rise of modern institutions, such as the prison, represented a transitional phase in relationships of power.41 By contextualizing scientific observation and knowledge within prison discipline, Foucault opened the door for a critical review of the ways that institutions based in observation and morality can be used to manipulate and control individuals. Discipline and Punish follows the alteration of power as it evolved away from a direct, visceral mode—such as the relationship between a sovereign and his subjects—toward a networked system reliant upon knowledge and observation. Foucault argues that the development of the modern prison embodied a transition towards a system of punishment based on the coercion of the soul. He defines the soul in abstract terms, relating it to “the heart, the thoughts, the will” and “the inclinations” of individuals.42 This focus on the mind and individual will is significant, because Foucault maintains that although bodily pain is no longer the focus of punishment, individuals are still manipulated in the modern world. For Foucault, this knowledge based system of power dynamics would evolve into a system he labeled biopower.

Biopower was the term Foucault used to describe the categorization of individuals through the organization of their biological characteristics. In a series of lectures at the College of France, Foucault discussed his theory of biopower, describing it as “a number of phenomena that seem to me to be quite significant, namely, the set of mechanisms through which the basic biological features of the human species became the object of a political strategy, of a general strategy of power.”43 In his later works on human sexuality, such as The Will To Knowledge, Foucault explored the notion of biopower, arguing that it was a means of labeling the bodies of individuals as an element of social control.44 Despite his focus on this theoretical framework, historians have noted that Foucault analyzed biopower within a discussion of gender and sex, not race. In fact, even historians who have previously utilized Foucauldian theory to examine race

42 Michel Foucault, Discipline and Punish, 16.
have acknowledged that his commentary on the subject is “oblique.” This work delves into that theoretical hole by examining the development of Southern convict labor not as a continuation of slavery but as a neoliberal approach to social order. It demonstrates that state officials were politically and socially invested in the economic efficiency of state institutions as well as the promotion of racial hierarchies through state sponsored institutions.

This thesis relies heavily on government documents. The primary sources are state legislative reports and investigations as well as minutes from the State Prison Board and reports from the Board of Public Charity. In addition, this work relies on a variety of newspaper articles to demonstrate the public face of North Carolina’s evolving justice system. Although these sources are useful because they provide insight into the design of the prison system as well as the motivations for specific prison policy, they are limited in their scope. In particular, the voice of female and religious reformers as well as female prisoners remains starkly absent from these sources. Although issues of gender and religion are left largely uncommented on in this work, both topics represent promising avenues for future research. Records indicate that hundreds of women were imprisoned within state institutions and reformer concerns for Christian charity were influential in the fight for reform.

The chapters of this thesis are organized thematically. Chapter One focuses on the political and economic pressure of developing a penal system in post-Civil War North Carolina. It examines the design and structure of the prison system as well as the post-war political climate of North Carolina’s state government. Chapter Two’s emphasis is on violence. It depicts the nature of violence in North Carolina’s prison system and attempts to complicate our understanding of how prison officials quantified cruel and inhumane punishment. Chapter Three is concentrated on issues of race and bureaucracy. It focuses on the language of prison guards and overseers as well as the segregation of institutional employees and the biases of penal reformers.

This thesis contributes to our understanding of the South because it suggests that white males continued to control economic and social mobility through an institutional system of societal discipline. By combing recent Southern historiographical trends of race and agency with a Foucaudian approach to the penal systems of the New South, we can begin to understand how institutional discipline fits within a larger historiographical context. Although some historians have argued that black men and women gained agency in the late nineteenth century, this work emphasizes that institutional settings throughout the South striped people of agency by manipulating their bodies and perpetuating abusive labor practices

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Chapter 1: Money and Politics in North Carolina

Late nineteenth century North Carolina was a political powder keg. As the integrated Union Republican Party of North Carolina gained political power, white men and women across the state grew restless under the pressure of military occupation. In 1868, Conservative Party governor Jonathan Worth signed over his office to William Holden, under what he deemed “military distress.” Holden believed it was his responsibility to establish law and order in North Carolina, even for black men and women. In an 1868 proclamation, he stated that “force would be met with force” in support of voting rights. He continued, “Every race of men in this state is free. The colored citizen is equally entitled with the white citizen to the right of suffrage.” However, the authority of Holden was quickly subverted as the Union army departed and the Ku Klux Klan began to terrorize freedmen and women across the state.

The federal government faced enormous expenditures following the Civil War and could no longer justify the maintenance of a standing army. Two months after Robert E. Lee surrendered to U.S. Grant there were forty four thousand federal troops in North Carolina. By October of 1866, there were twelve hundred. This decrease in numbers reflected federal concerns over finances. As federal troops dissipated, freedmen and women across the South faced uncertainty about their access to resources and their ability to vote. In his 2011 work Declarations of Dependence, Gregory Downs notes that a “democracy of dependence grew” as state officials, such as Governor Holden, made promises the state often could not keep. The presence of Union forces had provided an environment of physical security. Following their departure, the responsibility to maintain order fell to state officials who were interpreted by many to be a remnant of Northern occupation.

Governor Holden was a radical figure in North Carolina’s politics. He was a former Democrat who had distanced himself from the party and had become a leader in the state’s peace movement before the Civil War. During the war Holden used his role as editor of the Weekly Standard, a newspaper out of Raleigh, to publish articles regarding the prospect of peace.

49 In his work Declarations of Dependence, Gregory Downs conveys a complex understanding of the relationship between state government and individuals. His work emphasizes the expectations of men and women who came to see state government as a venue for protection a support, even when the state did not have the physical resources to make good on its promises. This struggle for protection and support evolved into a system of territorialism, where local communities asked a “distant state government to rectify problem in their narrow geographical era.” Gregory Downs, Declarations of Dependence: The Long Reconstruction of Popular Politics in the South, 1861-1908 (Chapel Hill: University of North Carolina Press, 2011), 103.
Despite being threatened with treason and violence, Holden’s aversion to war continued and in 1864 he ran against Governor Zebulon Vance as a peace party candidate. The *Weekly Standard* published pieces claiming that if Vance was elected “the last chance for peace will have departed.” Holden felt that the people of North Carolina had a right to demand Confederate negotiations for peace. After losses at Gettysburg and Vicksburg, the pressure for peace grew. Holden began to argue that if the Confederacy was unwilling to negotiate for peace, North Carolina should exercise its sovereign right to conduct its own negotiations. However, this stance for peace proved unmarketable. In 1864, Holden lost the gubernatorial election with only twenty percent of the vote.

Despite his failed candidacy, Holden was appointed provisional governor in 1865 by Andrew Johnson. Holden was asked “to restore the state to the Union,” and he immediately set about this task upon his return from Washington. This turn in office was short lived and a few months after his appointment, Conservative Party candidate Jonathan Worth was elected. However, Worth’s tenure as governor was quickly terminated because of North Carolina’s resistance to the 14th Amendment. Following the South’s wide spread rejection of the 14th Amendment, Southern states were divided up into five military districts. North Carolina was once again placed under military occupation and forced to hold a new constitutional convention.

The year 1868 was a transformative year in North Carolina. For the first time, black men played a direct role in the development of North Carolina’s political policy. Fifteen delegates to the 1868 Constitutional Convention were black men. Of the one hundred and twenty delegates, one hundred and seven represented the Republican Party, an unprecedented percentage for a Southern state. Yet, the authority and legitimacy of this convention was swiftly undermined. The murder and assault of freedmen and women continued across the state and North Carolinians remained divided over how the state should address such violence.

Following the murder of Republican State Senator John W. Stephens and the lynching of town commissioner Wyatt Outlaw, Holden faced the stark contrast between his ideals and public opinion. By July of 1870, Holden had declared martial law in Alamance and Caswell Counties. He suspended the writ of habeas corpus and ordered a state militia to arrest suspects who threatened freedmen and women with violence or were suspected members of the Ku Klux Klan. This aggressive stance became known of the Kirk-Holden War, and it marked the end of Holden’s political career. By the end of 1870, the Democratic Party had regained control of state

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55 For more information on Governor Holden see *Dictionary of North Carolina Biography Vol. 3, H-K* (Chapel Hill, 1988).

politics, and Holden became the first state governor in United States history to be impeached and removed from office.

Although many citizens recoiled from the Holden’s supposed “crimes against the Constitution and against civil liberty,” a precedent had been set. The state government had demonstrated its reach as an actor in local communities, beginning a struggle for power that would carry on for decades. In his 1869 message to the North Carolina State Legislature, Governor Holden made a passionate plea for the future of North Carolina’s “great works.” He stood before a legislature comprised of politicians who faced the uncertain future of the post-Civil War South and argued “all our great works must be completed.” These works included the expansion of state roads, railroads, an asylum for the insane and a state penitentiary. Despite this desire, North Carolina’s politicians faced dilemmas of labor and politics. How would the state procure a labor force in a post-slavery world? How could a state crippled with post-war debt afford to make state-wide improvements? As black men and women embraced emancipation, questions arose about who would build the state’s “great works.” For North Carolina, prisoners represented an answer to this problem. By developing a state prison system, North Carolina could utilize the labor of young men at little cost while simultaneously promoting a new age of penal reform that moved beyond the poorly organized county jails of the antebellum South.

With regard to penal reform 1868 represents a pivotal moment in North Carolina. North Carolina established plans to build a state penitentiary. In addition, North Carolina’s state government established the State Board of Charity. This board of white politicians and reformers was responsible for documenting the conditions of a variety of state and county institutions, including county jails, the state penitentiary and county workhouses. In 1868, the stated goal of punishment in the state’s penal system was “not only to satisfy justice, but also to reform the prisoner and thus prevent crime, murder, arson, burglary and rape.” This emphasis on the moral and intellectual reformation of individuals directly correlated with concerns over prisoner health. Article Eleven of the 1868 constitution stated that “the structure and superintendence of penal institutions of the State, the county jails and the city public prisons secure the health and comfort of prisoners.” For the first time, the criminal justice system of North Carolina was being brought under the umbrella of a state government. Between 1870 and 1934 the number of prisoners under state control would expand from approximately 100 to over 7000. The number admitted to the state system expanded from approximately 100 to approximately 17,000.

From the beginning, the development of a state prison system faced uncertainty. Building the penitentiary was an egregiously slow process that would take sixteen years to complete. As officials debated the location of a state prison facility, they faced not only political but also geographical divides. North Carolina has a unique landscape. In the west, small farms were scattered across the Appalachian Mountains. In the east, coastal plains empty into the Atlantic Ocean. Ultimately, state officials decided to establish the heart of North Carolina’s penal system in the middle of the state, Raleigh. This location would become key, as prisoners were eventually sent to build railroads in the western mountains and farm land in the coastal plains. For many, the central prison would become little more than a way station for wounded or sickly prisoners who could not be utilized for labor in the far reaches of the state.\(^{62}\)

Initially, a site was selected near Lockville, North Carolina, in the Deep River Valley. However, the legislative committee that selected this location soon fell under investigation. In December of 1868, the Deep River Manufacturing Company agreed to sell a twenty-five acre tract of land to the state government. Upon investigation of the land, a journey which legislative committee members labeled “somewhat of an exploring expedition,” it was discovered that the construction of the penitentiary would be too costly.\(^{63}\) A major selling point for the property had been that the river could supply the central prison with water power. But inspection of the property revealed that water would have to be conveyed “about one thousand yards through an aqueduct or flume.”\(^{64}\)

In addition to the “enormously expensive” cost of the aqueduct, the committee noted that additional lands, which had been purchased in the hopes of developing a penal mine, “had no marketable value aside from timber.”\(^{65}\) Land which had been marketed as containing an “abundance of granite, coal and iron” had been found to be devoid of value.\(^{66}\) The investigation revealed that this tract of over six thousand acres, for which the state conferred eighty-three thousand dollars in bonds, had never been visited by the purchasing committee. In the end, it was discerned that the committee had purchased the land based on “hearsay” and were “misled by the information they had received.” The investigation concluded that the state had been “deeply wronged” and that it should “dispose of the eight thousand acres.” Despite this oversight, state officials remained dedicated to the belief that a state prison could be both morally and economically beneficial. The report ends by reasserting the state’s commitment to the 1868 constitution and the completion of a penitentiary. Officials believed the people of North Carolina would “soon forget the trials and wrongs that beset [the penitentiary’s] inception” due to the “beneficent and economical results” that it would eventually produce.\(^{67}\)


\(^{64}\) Ibid., 2.

\(^{65}\) Report of The Committee Appointed By the Senate of North Carolina, 2.


\(^{67}\) Report of The Committee Appointed By the Senate of North Carolina, 9
By 1876 the construction of a wooden stockade outside of Raleigh was complete, but the construction of a stone building with iron cell doors was still under way.\textsuperscript{68} In his report to state legislators, the penitentiary architect noted that the work on a main prison building had not been completed due to “the amount of money available.”\textsuperscript{69} He hoped that by submitting a report demonstrating that the work of prisoners was “very satisfactory,” he could convince legislators to provide “liberal appropriations” for the project.\textsuperscript{70} In his report, the architect noted that although the prison initially hired skilled laborers for the “experiment” of manufacturing iron doors and frames as well as brick and mortar walls, convicts had taken over those responsibilities. The motivation for this transition was clear: “the sooner the prisoners are skilled and kept on remunerative labor, the sooner we may calculate that the people of the state will be relieved of the burden of taxation.”\textsuperscript{71}

In fact, the cost of a state penitentiary was often debated in local newspapers. In Charlotte, North Carolina, articles claimed that the Penitentiary was “not reformatory.” The \textit{Charlotte Democrat} claimed that the penitentiary was “a robber of the gallows and of the rod” as well as an “oppressor of the tax-payer.”\textsuperscript{72} Fears of prisoner idleness and the necessity for convict labor were also espoused in the \textit{Asheville Citizen}. In November of 1886, the paper claimed, “To confine them (convicts) in idleness within the walls of the penitentiary… would be a fearful tax upon the people of the State, without a cent of compensation.”\textsuperscript{73} These articles indicate a prominent, public interest in utilizing prisoners as forced labor. Taxpayers saw idle prisoners as a burden and prison official were faced with meeting a popular desire for productivity.

The slow development of the state penitentiary demonstrates the economic reality of state support for prison labor. Before the penitentiary was even constructed, convicts were being put to work as laborers on other short term projects. Although the permanent structure was yet to be complete, in 1876 the architect emphasized the productivity of prisoners in completing temporary structures. The penitentiary grounds consisted of machine and carpentry shops as well a shoe factory and corn mill. The actual prison building would not take its modern shape until 1884. By this time, state legislators had begun to pass laws giving county commissions the authority to develop their own means of managing convicts. Although the prison would remain active, its productivity would continue to be questioned as the state’s prisoners were set to work on projects outside prison walls, such as railroads and farms.

The economic burden of caring for prisoners was passed over to chain gangs. Laws were passed by the state legislature establishing county authority over prisoners. These laws included an 1873 statute that allowed counties without chain gangs to lease their prisoners to other counties or corporations engaged in public works. In 1875, the state legislature passed a law noting that the penitentiary board of directors “are authorized and directed to farm out to

\textsuperscript{69} Ibid., 7.
\textsuperscript{71} Ibid., Document 8, 9.
railroads or corporations, public and private, or to any individual or individuals… every able bodied convict.”74 For prisoners who were not brought to Raleigh, the legislature granted county commissions authority over “all prisoners who are not admitted into the Penitentiary.” In addition, these commissions were “authorized and directed” to work convicts “on any public enterprise in their counties.”75 By passing these laws, the state legislature was simultaneously granting authority to both state and county penal institutions in an attempt to manage the cost of penal institutions.76

The criminal justice system of late nineteenth-century North Carolina was a patchwork of chain gangs, county jails, a state penitentiary and state prison farms. In his 1996 work, One Dies Get Another, Matthew Mancini notes that “in North Carolina, more than any other state in the nation, criminal justice functions had always devolved to the counties.”77 In fact, for most of the late nineteenth century, the majority of North Carolina’s prisoners were set to work on county road gangs. As the county chain gang system expanded, the state prison population diminished. Between the 1880’s and early 1900’s the state prison’s population diminished. In 1908, the population of state prison facilitates had fallen to 677. In 1887, the total population was over 1,400. While the population of state facilities diminished, county chain gangs experienced a surge in laborers. Between 1901 and 1908, county chain gang populations nearly doubled from 675 to 1,200.78

Although this trend suggests North Carolina’s justice system had failed to escape its antebellum reliance on local authority, this move to county authority was fostered by support from state officials. In his article, “State Versus County: Prison Policy and Conflicts of Interest in North Carolina,” Darnell Hawkins notes that county authority over prison populations was established by state officials. His work emphasizes the “intergovernmental relations” of criminal justice, arguing that “both state and county government first evaded responsibility for the custody of prisoners… eventually devising a system of shared responsibility.”79 For both county and state officials, financial stability became the most essential element for devising an appropriate penal system.

Both systems, state and county, existed under the purview of state legislators. These men represented counties across the state and sought to strike a balance between state and county authority. Although it was impossible for state officials to oversee all county chain gangs, their creation was a direct result of state action. By allowing individual counties to manage and control prison populations, the state legislature had consciously surrendered authority over the health and well-being of prisoners. However, this transition was not due to a lack of oversight. It was the product of a conscious effort to employ state prisoners. In 1875, state legislators

74 Laws and Resolutions of the State of North Carolina: Passed by the General Assembly at Its Session 1874- 1875 (Raleigh, Authority, 1875), 332.
75 Ibid., 333
76 It is worth noting that by 1889 the state legislature would pass further legislation which allowed for the development of county chain gangs without prior state approval. For more on the legal progression of North Carolina’s chain gang system see Darnell Hawkins, “State Versus County”, 93.
77 Mancicni, One Dies Get Another, 201.
79 Hawkins, “State Versus County”, 92.
“authorized and directed” county officials to utilize convicts as laborers. Although direct authority and control of these populations was the responsibility of local communities, these powers were conferred by state officials. This transition of authority was part of a broader plan to find employment for prisoners across the state.

By the time convict populations began to transition heavily toward county chain gangs in the 1890s, state prisoners had been leased for decades as part of the state’s attempt to circumvent prison cost. The laws passed in 1875 granting authority over prisoners to county commissioners were part of a larger package of legislation that sought to employ prisoners. The board of directors for the state penitentiary was ordered by legislators to advertise the letting of prison labor “once a week for at least four weeks” in newspapers across the state. Advertisements were published in a variety of cities including Raleigh, Asheville, Wilmington, Greensboro, Charlotte and Fayetteville. The board was ordered to approve companies which “will best promote the interest of the state.” The legislature even specified that state convicts “shall labor for contractors an average of ten hours a day” after companies bid on the opportunity to employ them. In total, 794 state prisoners were working in 86 different counties by 1876.

In addition to private companies, the state legislature explicitly ordered that prisoners should be employed by the state run Western North Carolina Railroad Company (WNCRC). Following the sale of the WNCRC in 1875 to the state of North Carolina, legislation was enacted which employed “as many convicts as may be required” to work on the completion of the railroad. The railroad had been charted during the 1854-1855 legislative session, but construction was continuously delayed. Disagreements over routes, lack of funding and the Civil War had all played a part in the dilapidated state of this developing infrastructure. Despite the state’s direct involvement, the railroad continued to face issues for much of the late nineteenth century. By 1880, the railroad was a hot button issue for state politicians. The cost of finishing the road continued to escalate with the clerk of the state senate estimating a twenty two year time frame and three and a half million dollars in expenditures. In 1880, after legislators were informed of the estimated cost, the railroad was sold to the W.J. Best group, who eventually turned it over to the Richmond Terminal Company. Despite this sale, convicts continued to be utilized on the construction of the railroad until 1892, when they were transitioned to prison farms.

The late nineteenth century saw an unprecedented expansion of North American Railroads. Backed by a network of credit and spurred forward by entrepreneurs such as Thomas Scott and Jay Gould, railroads became “corporate containers for financial manipulation and

80 Laws and Resolutions of the State of North Carolina: Passed by the General Assembly at Its Session 1874- 1875 (Raleigh, Authority, 1875), 333.
81 Laws and Resolutions of the State of North Carolina: Passed by the General Assembly at Its Session 1874- 1875 (Raleigh, Authority, 1875), 330.
82 Ibid.,
83 Laws and Resolutions of the State of North Carolina: 1874- 1875 (Raleigh, Authority, 1875), 331.
85 Laws and Resolutions of the State of North Carolina: Passed by the General Assembly at Its Session 1874- 1875 (Raleigh, Authority, 1875), 333.
Although some works have focused on the order and corporate simplification associate with railroads as they expanded west, in the form of time tables, time zones and tariffs for freights, recent work has highlighted the individuals interest within this system. This industrial expansion across the west gave rise to a modern structure that incorporated a level of dysfunction and abuse that was “rife with individualism.” Although the expansion of railroads correlated with the development of industrial America, this industrial expansion was firmly entangled with the emotional, fiscal and political interest of specific individuals.

By 1894, eighty percent of state prisoners were employed throughout the year to work on state farms. These facilities included three farms, Halifax, Northampton and Caledonia as well as Castle Haynes farm and mine, which utilized prisoners for mining phosphates. As this network of facilities developed, the individuals who remained at the penitentiary were largely “feeble men and women utterly unavailable for any earning” as well as “life-sentence and long term convicts” who had been convicted of serious crimes and were not allowed to work for fear of escape. By this time, the state penitentiary had become a house for the unproductive. It was a refuge for sickly and dangerous men and women who could not be utilized for the interest for the state.

In 1894, state prison farms cultivated eight thousand six hundred areas of farm land. The principal crops produced by these farms included cotton, corn, wheat, oats and peanuts. The production of these goods was closely monitored in addition to the cost for running each of the farms. Even supplies were listed, right down to the “15 double barrel shotguns, 18 Springfield rifles” used by guards at Castle Hayne. In total, the state prison system consisted of four prison farms, one penitentiary, and three work camps. These facilities produced over nine hundred thousand pounds of cotton, two million pounds of forage and one hundred thousand bushels of corn. Of all the state run penal institutions, the only facility that posted a net loss in 1894 was the state penitentiary.

But we cannot measure the cost of convict labor in the weight of crops or the cost of inventory alone. It was also felt in the pain and suffering of prisoners, whose bodies were destroyed by factors such as disease, weather and dangerous working conditions. Prison laborers suffered from a variety of diseases, including malaria, syphilis and consumption. In 1881, newspapers reported an outbreak of scurvy in camps working the WNCRR. In some cases, the

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89 This paragraph is referring specifically to the distinction between works such as Alfred Chandler, *The Visible Hand: The Managerial Revolution in American Business* (Cambridge, Harvard University Press, 1993) and Robert Wiebe, *The Search for Order 1877-1920* (New York: Hill and Wang, 1967) which highlight the late nineteenth century as a period of increased industrial organization and Richard White’s *Railroaded* which emphasizes the role of individual interest as an inherent element of modernity.
93 Ibid., 6.
94 Ibid., 34.
spread of these diseases grew into epidemics. In 1894, there were 195 cases of malaria on the Castel Hayne prison farm. For many prisoners, the ailments they faced were not only life threatening but also a source of immeasurable discomfort and pain. Hundreds of prisoners suffered from cases of diarrhea and chills. In a single year at Castle Hayne, physicians reported 151 cases of diarrhea and 44 cases of pneumonia.96

In addition to contracting diseases, the toll for working on prison farms was also paid in the loss of fingers and toes. In the legislative investigation of 1900, prisoners testified that convicts were brought to the penitentiary “with frost bitten fingers.”97 In repeated testimony, guards acknowledged the amputation of prisoner appendages. Many guards attributed these ailments to the laziness of prisoners. One guard claimed that “some of them got their fingers cold hurt. But they were too sorry to work, and they just stood around and let their fingers cold bite.”98 Another from the Halifax prison farm testified that the weather was not cold enough to cause frost bite on “anybody that worked.”99 This testimony not only demonstrates that guards were aware that convicts developed frost bite; it also demonstrates that guards believed the supposedly lazy disposition of prisoners to be the cause of their own suffering.

Although the pain and suffering of prisoners who lived in these conditions was immense, the greatest cost for many prisoners was death. For prisoners working in the mountains of North Carolina, the environment and hazardous weather represented a constant threat. In 1882, nineteen prisoners drowned after the flatboat they were riding capsized. Heavy snow stranded workers above Nantahala gorge in 1885. By the time supplies reached the camp, another nineteen men were dead. Overall, historian Homer Carson estimated that 461 prisoners died working the railroads of Western North Carolina.100

Both the WNCRC and the development of state prison farms suggest that the state government was concerned with prioritizing economic efficiency over prisoner health. These examples suggest that although the growth of county chain gangs may have resulted in a loosely organized justice system, by the time this system developed, state officials had firmly established their support for convict labor. Although county chain gangs may not have been closely monitored by state officials, the economic interest of both state and county authorities dictated that prisoners be utilized as forced labor.

The political pressure for legislators to make the state’s prison system cost effective was compounded by the expansion of print media. Nineteenth century newspapers provided a venue for citizens to engage with the cost of state institutions. Immediately following the passage of the 1868 constitution concerns over taxation took hold. In Salisbury North Carolina, The Old North

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99 Ibid., 264.
100 Carson, “Penal Reform and the Construction of the Western North Carolina Railroad 1875-1892,” 215.
State informed its readers that “No question… is more important to us that that of taxation.”

Throughout the late nineteenth century, newspapers reported on administrative plans aimed at “making the penitentiary self-supporting.” Reports were published regarding the “penitentiary swindle” of the late 1860’s. The hiring of prisoners on the W.N.C. R.R. became a controversy when the commissioners of the railroad sued the directors of the penitentiary in an attempt to compel them to redirect convicts away from other projects and force them to work on the railroad. These examples demonstrate that the action of state officials were the topic of public debate. State officials were operating in a political landscape where their ability to establish a productive prison system was displayed for public consumption.

This chapter has demonstrated that the suffering of convicts should not only be understood as a product of local sentiment. The violence they experienced was the product of an institutional setting that debated the merits and cost of prison employment. Although a majority of the state’s convicts were controlled by county authorities at the turn of the century, state legislators were complicit in the creation of a system that prioritized labor over health. With the passage of the 1868 Constitution and the election of William Holden, state government had been irreversibly established as an arbiter of justice. Although officials would attempt to reestablish the authority of local communities, the state was being brought together by the expansion of public works and popular media that demanded a profitable system for managing the reformation of prisoners.

105 For a work the focuses on how newspaper editors constructed a popular image of the New South as industrialized and self-sufficient, see Paul Gatson, The New South Creed: A Study in Southern Mythmaking (New York: Alfred Knopf, 1970).
Chapter 2: Conquering at All Hazards

On March 15, 1900, John Taylor and Robert Fortune were hanged in Nash County, North Carolina for the act of murder. They wore neatly pressed black suits with ties and were surrounded by an “immense crowd” of 10,000 white onlookers.\textsuperscript{106} Two black bags were placed over their heads and their feet and hands were secured tightly with rope. After Taylor and Fortune were “ushered into eternity,” their bodies remained on display.\textsuperscript{107} Local men gathered, dressed in jackets and hats to pose proudly with the dangling bodies of two murderers. The photos of this event convey a violent scene staged as public theater. Two men were killed. They were dressed up and displayed on a stage of damnation before a sea of white faces. Their execution was the formalization of violence. Their clothes displayed modernity and sophistication, but their bodies represented an attachment to violence that had plagued Southern attitudes toward justice for centuries.


On a cold December day in 1878, Julius Davidson was left hanging from a branch. His ragged clothes appear starkly opposed to the black suit and tie worn by Fortune and Taylor. Accused of murder, Davidson’s story echoes many of the elements of Fortune and Taylor’s executions. All three men were called murderers. All three men died at the end of a rope and in all three cases the anger and fear of white men played a key role in their demise. But Davidson’s death was not a state sponsored act, supported by the legal authority of government officials.

John Taylor and Robert Fortune were hanged in front of 10,000 onlookers. The story of their execution was reprinted in newspapers from Indianapolis to Florida. They were taken out of their county jail cells and transported to the newly constructed state penitentiary in Raleigh.


109 Although this work suggest a divide about how executions and lynching are and were perceived as legitimate acts of violence, the reader should not understand the act of lynching to be unorganized. In fact, historians have interpreted the violence of the Ku Klux Klan and the lynchings they carried out to be “the military arm of the Democratic Party” in the Reconstruction South. Bruce E. Baker, This Mob Will Surely Take My Life, (New York: Continuum Books, 2008), 10.

In addition, substantial work has been done on the spectacle of lynching, which often involved massive crowds of white onlookers. The key distinction for this work is the legality and formalization of violence, not merely the size of an audience. Grace Hale, Making Whiteness: The Culture of Segregation in the South 1890-1940 (New York, Pantheon Books, 1998) and Manfred Berg, Popular Justice: A History of Lynching in America (Chicago: Ivan R Dee, 2011).


where they were brought to “prevent lynching.”

Although death by hanging was not new, their execution was printed across the country. They were protected from lynch mobs by a state penitentiary and their bodies were displayed before an audience that traveled on an expanding network of southern railroads. In many ways the spectacle of their execution relied upon industrialization. It was discussed in print media on a national scale and they were protected from local, mob violence by the high walled authority of an expanding state government.

Despite the similarities of their passing, Davidson did not die in the same manner as John Taylor and Robert Fortune. Although the motivations and fears that prompted these acts are similar, their legality makes them inherently distinct. One was an act of the state, the other an act of private citizens. Historians and sociologists have attempted to determine the relationship of executions and lynchings by utilizing statistical analysis to determine if they were substituted for each other. These works sought to understand in an increase in state executions led to a decrease in mob violence. However, their work has remained largely inconclusive with the most thorough statistical analysis of lynching ever completed, A Festival of Violence, concluding that “the intensity of lynching bore little systematic relationship to the legitimate activities of formal justice.”

Historical discussions of nineteenth-century crime and violence have often depended upon the separation of formalized, government acts of discipline from local, mob based acts of violence. Although it must be recognized that this distinction is porous, in a time where lawmen often assisted and condoned mob violence, this chapter is specifically concerned with how violence was justified within state institutions by examining the discussion and use of violence on prison farms and behind penitentiary walls.

Recent historical work has examined mob violence as the product of a “larger cultural war” waged between supporters of “rough justice” outside the state system and due-process advocates. In his 2004 work, Rough Justice, historian Michael Pfeifer approaches lynching as a reflection on a perspective of law, basing his work on the idea that we “disregard the notion of a monolithic, static, abstract legal system” and instead understand law within the context of a “set of social control mechanism” that compliment and circumvent each other. This argument brings to light the thin line between mob violence and state violence, suggesting that the two acts were part of a larger social structure in which local, white dominance was maintained through

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112 For North Carolina two works have been done comparing the frequency of lynching and executions in the nineteenth and twentieth century. The first article suggested that the political disenfranchisement of North Carolina’s black population resulted in a slightly negative relationship between executions and lynching, demonstrating that perhaps they could be substituted for each other. However, two years later this was debunked by an article utilizing a larger data set.


115 Ibid., 9
violent action. It contrasts with the work of historians who study lynching and emphasize the illegality of mob violence as a key element in defining the act of lynching.  

Although many historians have recognized the injustice of state prison systems, few have sought to understand how violence was justified within state institutions. In *Twice the Work of Free Labor*, Alex Lichtenstein intentionally avoids discussing the “brutality” of southern convict labor. He argues that an approach emphasizing the use of prison whips and shackles “ultimately serves to distance the subject, to banish it to the realm of the benighted South.” Discussions of state violence have often portrayed themes of injustice, with some historians going so far as to claim that nineteenth century prison labor represented something “worse than slavery.” However, these discussions have often been centered on approaching convict labor as an extension of slavery. These works examine how the horrors of slavery remained following the Civil War. What happens when we reframe this analysis? What happens when we look at the development of a state prison system not as the industrialization of forced labor, but as the modernization of violence? This modernization took the form of a bureaucratic structure in which officers of the state attempted to quantify cruelty and pain. In this evolving prison system, a statewide network of communication and dialogue regarding the development, maintenance and management of penal institutions was established. Within this system, violence was investigated by state officials. It was also marginalized by medical professionals and excused as part of the state’s attempt to create a self-sustaining penal network.

This work examines state violence not as acts occurring in spite of local sentiment but as acts that were influenced by popular opinion. It depicts an evolving institutional framework of violence that drew its legitimacy from the legal authority of state officials. In the late nineteenth and early twentieth century, North Carolinian communities were deeply divided over the relationship between government and justice. Popular support for violent punishment can be seen throughout the pages of North Carolina’s nineteenth century newspapers. Articles calling for the “gallows to claim their own” and stating “there is nothing to equal (the whipping post) for the repression of crime” filled the pages of North Carolina’s newspapers.

Although the Civil War and Reconstruction are often seen as transitional moments in Southern history, Southern attitudes about the relationship between violence and discipline did not disappear. Physical violence has often been associated with a Southern sense of honor and justice in the antebellum South. In his work *Vengeance and Justice: Crime and Punishment in the 19th Century American South*, Edward Ayers notes that “a culture of honor… tended to breed

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118 David Oshinsky, *Worse Than Slavery*.
119 In addition to Oshinsky’s *Worse Than Slavery*, see Douglas Blackmon’s *Slavery by Another Name*.
the extremes of behavior for which nineteenth century Southerners were famous.”\textsuperscript{122} These extremes of behavior included violent acts, such as public beatings and whippings. Violence represented a byproduct of southern honor and became a key component of southern culture. This is particularly important because Ayers later notes that the South “maintained into the nineteenth-century a pattern of local and personal power,” suggesting that violence was especially ingrained within Southern sentiments regarding personal freedom and local authority.\textsuperscript{123}

Ayers’ perspective suggests that the state was often seen as a third party in issues of justice. This assertion is supported by newspaper editorials which describe North Carolina’s state penitentiary as a “nuisance” where “thieves and squanders are fed and fattened.”\textsuperscript{124} In the early nineteenth century South, the development of state penitentiaries represented an extension of this conflict. For Ayers, the penitentiary represented the “archetypal institution of dignity” and in the South, “honor overshadowed dignity.”\textsuperscript{125} But violence was not only a means of establishing authority outside of prison walls; violence also existed within the institutions themselves. If honor overshadowed dignity in the antebellum South, then violence could overwhelm the penitentiary walls of the New South.

Newspaper articles appeared in support and in opposition to violent disciplinary acts. The significance of these articles goes beyond the opinion of a few select individuals. Although it is difficult to quantify the scope of influence these articles had, they do suggest that bodily abuse, as it relates to social discipline, was being openly debated. Voters wrote opinion pieces stating that the reestablishment of the whipping post was a “measure of great interest” for the people of North Carolina.\textsuperscript{126} Papers representing the Democratic Party went on the offensive. Following crimes, such as the arson of a barn outside Pioneer Hills, articles acknowledged “what a pity it is that the whipping post and the pillory have been abolished” and replaced with the “rogues’ palace” of a state penitentiary.\textsuperscript{127} Prison officials were influenced by this popular sentiment and debated the publication of reports that prison guards used violence as a motivation for productivity.

In 1877, the State Prison Board of Directors debated the use of corporal punishment within the state penal system. Between 1875 and 1892, over 3,000 state prisoners were sent to work on railroads in Western North Carolina, but North Carolina law ensured that authority of prisoner care remained the responsibility of state officials.\textsuperscript{128} In September of 1877, the board of directors noted that railroad supervisor J.M. Coffin “committed a great wrong” against the state

\textsuperscript{123} Edward Ayers, \textit{Vengeance and Justice}, 23.
\textsuperscript{125} Edward Ayers, \textit{Vengeance and Justice}, 34.
\textsuperscript{128} Carson, “Penal Reform and Construction of the Western North Carolina Railroad 1875-1892”
board when he openly acknowledged to a newspaper that the use of corporal punishment was a means of discipline within the prison system.\textsuperscript{129} According to the state prison board on July 14, 1877 Coffin “caused to be published… in his official character” an article in the Lincoln Progress, which stated that “it was impossible to work convicts without being compelled to use the rod.”\textsuperscript{130} The labeling of this publication as a “great wrong” demonstrates the concern of these state officials about popular media reports regarding the use of corporal punishment.

Despite the directors’ universal acknowledgement of Coffin’s “great wrong,” it is clear that the board was comprised of men who disagreed about the virtue of corporal punishment. Coffin was acquitted at the next meeting, having provided an “explanation satisfactory” for the abuse.\textsuperscript{131} Although is it is unclear what this explanation was, the state board would recant its stance against corporal punishment later that year. In August of 1877, the board of directors attempted to abolish whipping as a means of discipline. However, by November 1877 the board reversed its decision, citing “a change of our views as to the law.”\textsuperscript{132} The board then set specific parameters for the whipping of prisoners. It resolved that the “unrestricted” whipping of prisoners be allowed for “no more than 10 stripes, unless it be an aggravated case.”\textsuperscript{133} The board noted that in “extreme cases,” overseers were to give up to “20 stripes and not more unless the party or parties still prove incorrigible.”\textsuperscript{134} The passage of this resolution after the banning of corporal punishment, demonstrates the conflicted nature of violence within this system. The state board did not embody a clear, progressive stance against violence but rather a group of conflicted men who debated its merits. This evidence demonstrates that views about violence and reform could not be divided between individuals outside the state prison system and those working within it.

The debate over the legality of whipping prisoners continued well into the twentieth century. In 1925, State Supreme Court Justice Clark asserted the illegality of whipping in his decision of \textit{State vs Mincher}.\textsuperscript{135} The judge cited Article Eleven, section one of the 1868 constitution, noting that the constitution did not specify whipping as a legal punishment within the state. At the time, the constitution listed death, imprisonment with or without labor, fines and removal from office as the only punishments allowed by state law. According to Justice Clark, because the constitution listed specific punishments it “removed… all possibility of whipping or other corporal punishment.”\textsuperscript{136} However, in their 1927 report on chain gangs, UNC sociologist Jeese Steiner and Roy Brown note that Justice Clark’s opposition to flogging was an “advanced stance” that the majority of the Supreme Court “never concurred” with.\textsuperscript{137}

\begin{itemize}
\item \textsuperscript{129} “Minutes and Reports” North Carolina State Archives, Location: SRC.B.13 (Archive Stacks), Call Number: Vol. 1-Vol. 2.1, 190.
\item \textsuperscript{130} Ibid., 190
\item \textsuperscript{131} “Minutes and Reports,” 198.
\item \textsuperscript{132} “Minutes and Reports,” 455.
\item \textsuperscript{133} Ibid., 455.
\item \textsuperscript{134} Ibid., 455.
\item \textsuperscript{137} Jesse Steiner and Roy Brown, \textit{The North Carolina Chain Gang}, 92.
\end{itemize}
Despite the progressive stance of Justice Clark, the prison statutes of the early twentieth century indicate that flogging was a legally accepted element of prison discipline. According to the *Consolidated Statutes of North Carolina*, in 1917 it was “unlawful” for the board of directors of the state prison to whip or flog prisoners within twenty four hours of their arrival. However, twenty four hours after the prisoner arrived, flogging was allowed “in the presence of the prison physician or prison chaplain.”[^138] This statue notes that the whipping of prisoners was only allowed for “third class” prisoners. Third class prisoners were classified as “prisoners who have demonstrated that they are incorrigible, have no respect for the rules and regulations and seriously interfere with the discipline and effectiveness of the labor of other prisoners.”[^139] This statue is significant, because it demonstrates two key elements of flogging within the prison system. One is the direct relationship between the whipping of prisoners and the productivity of prisoner labor. The other is the presence of a physician for whippings. These prerequisites for punishment suggest that state officials were concerned less with eradicating corporal punishment than justifying its use.

During the late nineteenth and early twentieth century as the state government expanded, an increasing variety of politicians, overseers and doctors became involved in questions of violence within disciplinary institutions. Outnumbered by hundreds of criminal faces, prison guards and doctors were charged with enforcing a structure of reform that would fall well short of the progressive aspirations of the 1868 constitution. In 1894 there were approximately 153 prison guards and overseers working in state penal institutions[^140]. These men were charged with monitoring a population of 1,265 men twenty four hours a day, seven days a week. How could these men, outnumbered eight to one, maintain control over a thousand of the state’s convicts? For many, the answer was physical abuse.

Debates about the use of the whip become particularly complex within the context of legislative committee investigations into the abuse of prisoners. In 1900, an investigative committee was convened by the state’s general assembly to “investigate the management of the State Penitentiary and the State Agriculture Department.”[^141] This committee, comprised of two members of the state house of representatives and one state senator, produced a report of over 300 pages with the task of investigating “all charges of fraud, negligence, immorality, incompetency and mismanagement on the part of any offices or employees of said Penitentiary...


[^139]: Ibid., 926.

[^140]: This number was calibrated by adding up the number of guards, overseers and gatekeepers listed on the 1984 payroll. It does not include other employees such as wardens, matrons and physicians who were not directly in charge of monitoring prisoners and preventing escape. *Annual Report of the Board of Directors and of the Superintendent of the State’s Prison, for the Year Ending December 31, 1894*, 50. [http://docsouth.unc.edu/nc/prison1894/prison1894.html](http://docsouth.unc.edu/nc/prison1894/prison1894.html) (accessed April 4, 2013).

and Department of Agriculture."  

The introductory section of the report specifically mentions the incompetence of both the State Department of Agriculture and the State Prison. The report explicitly references the neglect of prisoner health, noting that “drunkenness, incompetency, extravagance and a disregard for the health of convicts, were shown to exist in many cases.” The committee references both popular press reports and the reports of private individuals as the basis for the “special investigation.” Specifically, the evidence suggests “persons were so severely beaten with straps and cudgels that they were disabled for days.” This recognition of physical abuse is significant because it illustrates that within the legislative committee, cruelty was defined by excessive abuse and the mistreatment of prisoners. Ultimately, the committee called for “a revision of the laws governing this institution” so “convicts of the state may be governed without the necessity of such cruel treatment.” However, the committee remained firmly committed to utilizing convict labor.

The investigative report opens with an analysis of the prison system’s finances. The report notes that up until 1887, the management of the prison was “competent, business like, economical and honest.” However, the report notes that as of 1900 the state prison system was in debt “at least $100,000.” In the final paragraph of their report, the investigative committee clearly states their support for the continued employment of prisoners, “We are of the opinion that this institution can be made self-sustaining.” Carrying on, the committee recommended “the working of all convicts on the public roads and other public works. If this cannot be done, we are of the opinion that the present system of working on farms is the best disposition that can be made of them.” This summary demonstrates that state legislatures had more interest in making the prison system self-sustaining than in promoting the health and well-being of prisoners. Although state officials recognized that excessively abusing prisoners was cruel, legislators were economically invested in the productivity of prisoners.

The violence within prison communities took many forms. One of the most prominent was the use of a whip. The acceptability of whipping as an element of prison discipline is demonstrated by the testimony of various guards and overseers called to testify in front of the legislative committee. C.C. Bryan was a steward and overseer who had worked in association with the state penitentiary for six years. When asked what offenses usually require the whip, Bryan identified “fighting and refusing to work” as well as “misbehavior in the dining room.”

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144 Ibid., 17.
145 In addition to this abuse, the report also notes severe cases of frostbite, epidemics of fever and rampant infestation from vermin. Ibid., 18.
146 Ibid., 12.
147 Ibid., 10.
148 Ibid., 9.
149 Ibid., 13.
150 Ibid., 13
152 In addition to the whip, prisoners were beaten, forced to work until they feel victim to frost bite or heat stroke and shot during attempted escapes.
153 When pressed to define misbehavior in the dining room, Bryan suggested behaviors such as talking and the stealing of rations. Ibid., 227.
In addition, when asked if the use of the whip was a “necessary cruelty” for prisoners to obey penitentiary rules, Bryan answered “yes,” suggesting that the necessity of order within prisons was an acceptable excuse for cruel behavior. This testimony illustrates that for many guards bodily abuse was an acceptable form of punishment outside the parameters of labor. It illustrates that bodily abuse was utilized in order to establish control and discipline over prisoners who talked out of turn or who threatened the well-being of other prisoners. Although these actions could certainly be interpreted as a threat to the organization of prisoners as an efficient labor force, the violence of prison discipline went well beyond production and became an element of bodily dominance.

The question of cruelty was frequently laid before prison overseers and superintendents. In the majority of cases, the witness responded by suggesting that cruelty with the whip was an acceptable component of prison discipline. The testimony of prison superintendent W.A. Slater suggested that cruel and severe punishment only occurred after a prisoner had been “conquered.” When asked if he would be willing to conquer a man till he “whipped all the skin” from a prisoner’s body, Slater replied that although he would not “do it all at one time,” he did “believe in conquering at all hazards.” The notion of “conquering” an individual is significant, because it suggests that absolute control through bodily abuse was a central motivation for the use of violence. Whipping a prisoner till their skin was removed from their body would not be a mode of discipline conducive to the development of an efficient laborer. How could an individual, incapacitated by such extreme violence, work in a field or assist in the construction of a road?

This testimony illustrates the complexities of abuse within an expanding, institutionalized system of discipline. Guards and superintendents were willing to testify openly about the abuse of prisoner bodies, even going so far as to a label that abuse a “necessary cruelty.” This testimony establishes that some prison guards perceived a very different threshold for bodily abuse than state legislators. For some legislators, abuse of the body represented a dilemma of labor and morality. But this problem was excused if the men working prisoners believed it provided the necessary motivation for producing order and productivity. For guards and overseers, bodily abuse represented a necessary element of discipline, essential for the establishment of power and control over growing prison populations.

Although this system represented an expansion of state power, it also represented an increasingly diverse spectrum of opinions. These perspectives included the opinions of doctors, who lived within a culture of violence, honor and justice. The commentary of physicians in support of corporal punishment indicates that the culture of prison violence extended beyond the sentiments of prison guards. In 1869, the state of North Carolina produced rules and by-laws for the government and discipline of North Carolina’s penitentiary. Within these rules, the establishment of a penitentiary physician was established. Included in the physicians’ job

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155 Ibid., 236.
156 Ibid., 236.
157 Here I am referring to the labor of the specific individual being whipped. Within a larger context the violence perpetrated on one individual could be understood as motivation for other prison laborers. For more on whipping as a motivation for labor see Michael Mancini, If One Dies Get Another, 263.
description was an emphasis on recording whether prisoners were healthy enough to work: “He shall always when prisoners are brought to the prison be present when they are cleansed and examine them--make record of their condition of health, &c., and determine whether they be fit for labor.” In addition, the doctor was required to examine “the diet, clothing, nursing &c. of the sick,” as well as monitor prisoner confinement in “dark cells” to determine “whether such punishment is likely to affect the health of the prisoner.” Ultimately, doctors were given the power to order prisoners to the hospital or make “such change as he may think best” if the prison “unfavorably effects the health of a prisoner.”

Despite this directive, the description of the prison physician’s responsibilities does not directly reference the use of corporal punishment. The creation of this position represented the first time a physician became an officer within the state prison system. The description does not include any specific reference to beatings and whippings although they were a common occurrence within penal institutions. In fact, whether or not the use of such punishment was deemed detrimental to the well-being of prisoners was a matter of the doctor’s judgment. This distinction is significant, because it indicates that the health of prisoners was not defined by physical ailments or acts of abuse, but the discretion of an appointed physician.

One specific case, which demonstrates the system’s reliance on the judgment of medical professionals, is the county commission investigation of Castle Hayne in 1905. Following “charges of cruelty” the county commissioners for New Hanover County initiated a Grand Jury investigation into the treatment of prisoners at Castle Hayne. Over a period of ten days the grand jury compiled 132 pages of testimony. Despite their conclusion that “evidence does show that convicts were whipped” the commission ultimately determine that this abuse was “never in excess of what the law would recognize as necessary and humane.” But this determination raises a question, how did the law quantify what was humane? Who made this determination?

One factor, which commissioners utilized to determine the severity of abuse, was the size and weight of the whip used to beat prisoners. When questioned about the whipped he utilized, a prison overseer by the name of Shearin stated, “It is a strap of 10 ounce ducking tied to handle

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Many of the page numbers in this document were organized by the name of the individual testifying. Where applicable, this is how I have listed the page number (Shearin-12). In addition, mid-way through the investigation on October 7th, the page numbers of the transcribed testimony are reset to 1. Therefore, in some cases I have included the date along with the appropriate page number. The final pages of the document include an attached summary of prisoner testimony. The page numbers of this summary have an abbreviation of “sum” added to the page number.

162 “Reports,” 2, Oct, 4.
and it was shown to the doctor and he said no man could be hurt or more than stunned with it, it was made at his direction." In addition to overseers, multiple doctors were called in to testify about the severity of beating prisoners with a whip described as “one ply, 2 inches wide.” First, the committee asked a doctor and surgeon from James Walker Hospital if 5 to 15 blows with this belt could be considered “cruel or inhuman treatment.” Dr. Ackerman replied, “I should say not.” When pressed further and asked if 20 blows could “mutilate a man’s body,” Ackerman stated “I hardly think it would be possible to bring blood with this instrument.”

Following Ackerman’s testimony, a county physician and the president of the state board of health also testified about the use of the whip. Upon being show the strap used to beat prisoners, county physician Dr. McMillan confirmed that he “recommended it as a strap that a prisoner cannot be injured with.” McMillian continued, confirming that “whenever the strap [used to beat prisoners] is changed it is submitted to my inspection before it is used.” Dr. George Thomas, President of the State Board of Health, was also brought in to examine the strap. When asked if “one could be cruelly and inhumanely beaten with it,” the doctor replied, “In my opinion, no serious injury could be inflicted by the strap.” This testimony demonstrates that the opinion of medical professionals was relied upon for quantifying abuse.

In addition to the length and weight of the object used to beat prisoners, investigators also inquired about the number of times prisoners were whipped. They inquired with guards about what was considered “the usual punishment.” One guard estimated “anywhere from 20 to 35” lashes. Other officials noted the usual punishment was anywhere from “3 to 12, sometimes 15.” The final pages of the document included a list of over thirty prisoners who testified to being beaten. Next to the prisoner’s name was a description which included whether or not they identified the whip shown to doctors as the one used on them, the number of times they had been beaten and whether or not blood was drawn. For example, “John Williams, whipped with leather strap sometime and sometimes with one like that shown; made blood come and blistered him.” In some cases the motivating factor for the abuse was listed. Such was the case with Hunch Hallen, “whipped six times with strap like that one shown, never brought blood; whipped once because he wanted to write a letter home, once because he had stone bruise and could not keep up with gang and because he carried bread in cell.” In the end, the testimony of the convicts fell on deaf ears. The committee determined that “no one could vouch for” the testimony of convicts and ex-convicts whose “characters are admittedly bad.” Despite the committee’s thorough investigation into abuse, the testimony of guards and doctors could not be “outweighed” by the “evidence of six or seven convicts” who testified that inhumane abuse had occurred.

The expertise of medical professionals was also called upon during the state legislative investigation of 1900. A doctor by the name of Furgerson was asked about the death of a state

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164 Ibid., Cumming-57.
165 Ibid., Dr. Ackerman-58.
166 Ibid., Thomas-64.
167 Ibid., 3, Oct 7.
168 Ibid., 3, Oct. 7.
169 “Reports,” sum., 2.
170 Ibid., sum., 2.
171 Ibid., 1, Oct, 18.
prisoner named Lowe. Asked about the severity of Lowe’s whipping, Furgerson recalled that Lowe had been whipped three times the day he died. Dr. Furgerson then goes on to state that he felt the whipping “was very cruel.” But Furgerson later argued that the whipping of prisoners was not always objectionable. In response to questions about the behavior of a Mr. Shearin at a Halifax County prison farm, Dr. Furgerson referred to him as “a very humane man. I think he is most too easy with them. I don’t think he uses the whip enough.” Furgerson later argued that prisoners would not work unless they were punished, stating “You have to punish them in order to do anything with them at all.” Although Furgerson recognized that the use of the whip could be construed as cruel, he acknowledged that corporal punishment was necessary if you expected prisoners to be productive.

In the late nineteenth century and early twentieth century medicine was becoming defined by institutionalized approaches to the body. The growing importance of understanding the body through a medical perspective becomes clear when reviewing the development of medicine in North Carolina. In his address to the Sixty Fourth Annual Meeting of the North Carolina Medical Society in 1917, Dr. John Long noted that that “practically everything” the medical society stood for in 1917 was “inaugurated and practiced” in 1861. Among these values were “the importance of internship and post-graduate study,” the “wisdom of doing autopsies, establishing laboratories and museums,” and “the spread of medical knowledge through legitimate publications.”

Within North Carolina, there was a well-organized medical community as early as 1861. This emphasis on education, observation and publications demonstrates that medicine in the late nineteenth century was evolving into an established profession. Although North Carolina would not pass a law requiring a Board of Examiners license to practice medicine until 1921, it was the first state to pass a law creating a Board of Examiners in 1859. These laws recognized the authority of an institutionalized approach to medicine. The testimony of these professional men demonstrates how violence evolved within a bureaucratic structure where humanity was measured by the number of stripes or width of a strap.

The testimony of doctors suggests that recognition of the body through a medical perspective gave corporal punishment a level of legitimacy. Because these physicians served as employees of the state, specifically hired to monitor the health of prisoners, their approval of specific forms of corporal punishment suggest that bodily abuse was accepted as a medically legitimate approach to prison discipline. In nineteenth century North Carolina, violence was becoming formalized by state authority. For the first time, an entire labor force sponsored by the state was actively participating in violent behaviors. A dramatically expanding population of prisoners was routinely whipped by prison guards and overseers in an attempt to motivate

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173 Ibid., 173.
174 Ibid., 174.
175 For a detailed account of the consolidation and institutionalization of the medical profession in the eighteen and nineteen hundreds, see Chapter Three of The Social Transformation of American Medicine.
177 John Long, Early History of the North Carolina Medical Society, 14.
workers and maintain authority. Doctors were called in under the guise of protecting prisoner health, only to testify that whippings were often necessary for maintaining order within prison communities. As state authority expanded and reform was set in place, the state prison system created a venue for bodily abuse that would continue well into the twentieth century. Ultimately, these examples demonstrate that violence was justified in evolving ways as the state wrestled with balancing economic pressure and changing ideals about inhumane and cruel punishment.
Chapter 3: Legal Prejudice

The Civil War, like other wars, was followed by an orgy of crime. In this the negro, unprepared in every way for the responsibilities of freedom, played a principal part. The difficulties of the problems of readjustment in the relations of the two races were greatly aggravated by the stupid course of the National Government during the reconstruction period. Our attitude toward prisons and the treatment of prisoners, unconsciously often, is colored by the fact that a large percentage of our prisoners are negroes. Too many people have thought and still think that anything is good enough for a "nigger." We are too prone to tolerate in the chaingang supervisor or guard the methods of the slave-trader. 178

These sentences come from a State Board of Charity report in 1924. They demonstrate the prevalence of racism and abuse in North Carolina’s justice system, almost sixty years after the state ratified the 13th Amendment, supposedly ending slavery. But a clause existed within the amendment that allowed for the continuation of forced labor. Neither slavery nor involuntary servitude shall exist “except as a punishment for crime, whereof the party shall have been duly convicted.” 179 For decades, North Carolina would take advantage of this exception, utilizing state and county prisoners as forced labor. Abuse within this system would be well documented by the State Board of Charity. The board produced reports and investigations into the disciplinary failures of North Carolina’s prison system, routinely calling for the reform of disciplinary tactics. The board wrote letters to governors and legislators urging them to pass reforms which would encourage moral reformation and end the violent practices of a state system that relied upon physical and psychological intimidation.

Some historians have interpreted the board of charity as a progressive institution that provided a voice for black prisoners. In her 2011 dissertation, Susan Thomas argues that through a relationship with the State Board of Charity, convicts were able to shape their circumstances. 180 But the board of charity represented the very edge of North Carolina’s criminal justice system in the nineteenth and early twentieth centuries. The board’s belief in the “reformation of the criminal” was idealistic but largely unrealistic. 181 During the late nineteenth and early twentieth century, the expansion of state and county authority required the hiring of a labor force, in the form of administrators, doctors and guards. In 1894, one

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179 U.S. Constitution, Amend 13, sec. 1.
180 Thomas’s work provides a dramatically different perspective than my own. Taking a cue from Mary Curtin’s work Black Prisoner’s and Their World, Alabama 1865-1900, Thomas examines how prisoners managed to obtain agency and power within the prison system by exposing the violence and barbarity to political and reformists leaders. Susan W. Thomas, Chain Gangs, Roads and Reform in North Carolina, 1900-1935. These works represent an extension of recent historiographical trends that have established disenfranchised slaves communities as historical actors who had power and influence over their circumstances.
hundred and eighty six people were listed on the payroll for the state’s prison facilities. These individuals brought with them their own attitudes toward the disciplinary institutions of the state.

An examination of North Carolina’s justice system suggests that the men who held new roles within state and county government, such as prison administrators, guards and doctors, not only opposed ideas of moral reformation, they often reverted back to racism and violence as a means of discipline. While local communities were often resistant to state authority, the state expanded its disciplinary reach incorporating the biases of local men hired into new positions within the state. As state infrastructure expanded, with the construction of asylums, orphanages and prisons, the individuals working within state government came to represent a variety of opinions and sentiments. By 1900, it was violence and not reform that had become so prevalent in North Carolina’s penal system that an investigative committee was called upon to scrutinize abuse and incompetence in state run facilities.

Historians of violence have described the New South as time when “Southern legislatures intended to substitute law for the lash.” However, men who were hired to enforce the law often supported the lash. Prisoners faced rampant brutality on state prison farms and county roads. As the South entered the late nineteenth century, local communities rallied against the influence of state and federal government authority. In the New South, “two fundamental values clashed,” the paternalism of reformers and the power of local communities. But to portray the New South as a clash of forces suggests that stark lines should be drawn between localism and reform.

This chapter demonstrates that attitudes and sentiments within North Carolina’s nineteenth century justice system cannot be neatly divided along the lines of progressivism and localism. No topic demonstrates this more than ideas about race. States throughout the South faced much uncertainty about the future of law and order within newly integrated, post slavery communities. In North Carolina, the justice system sought to maintain order and appease popular beliefs about race, justice and violence by incarcerating black men. By 1894, over seventy five percent of that state’s prisoners were black men. This high percentage was the result of a system which devised laws to target freedmen and women who tried to exert independence and authority in the post slavery south.

At the turn of the century, issues of racial discrimination and equality became a central element of North Carolina’s justice system. As the Civil War entered its final stages in 1864, North Carolina’s embattled governor Zebulon Vance made a compelling case for fear. Vance stood before frightened, white southerners and talked of a Union Army “inciting the slaves of our
state to burn your homes and murder your families.”187 For years, North Carolinians had been recoiling against the uncertainty of freed slave populations. With the passage of the 13th Amendment, white citizens in North Carolina faced a new population of freedmen and women. As these individuals gained authority over their own movements and communities, whites remained uncertain about the future.

The fears of white men and women permeated popular media. Articles were published claiming that as a result of emancipation “fields and plantations are uncultivated, the country pauperized, at the point of starvation and filled with every grade of crime.”188 The character of freedmen and women was attacked with slurs and stereotypes: “The coon has ever been a curse on this country…The negro is a lazy, lying, lustful animal.”189 Papers even blamed black citizens for costing “the public thousands every year” as concerns over state prison facilities became part of public debate.190 These reports demonstrate how the prejudice that many white citizen felt correlated with concerns about criminal behavior and emancipation. For many white citizens, emancipation sparked a fear of crime that in turn fostered resentment over public expense and perceived levels of violence.191

Despite this growing concern, historical work has suggested that these fears were exaggerated. In her 1985 analysis of race relations in post-Civil War North Carolina, historian Roberta Alexander noted that the crime rate during Presidential Reconstruction may have been “somewhat lower” than crime rates during the antebellum period.192 By comparing post-war court records and reports from the Freedmen’s Bureau with statistics from Guion Johnson’s Antebellum-North Carolina, Alexander demonstrates that the ratio of felony convictions to overall population may have been higher in antebellum North Carolina. However, this conclusion is largely circumstantial given the fact that many crimes remained unreported throughout the nineteenth century, especially when victims were black.193

For many victims of violence in post-war North Carolina, justice was not an option. During Reconstruction, the Freedmen’s Bureau provided a venue for aid to many freedmen and women. However, recent work has demonstrated that the Freedman Bureau suffered from the

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191 In his 2013 article “Surrounded on All Sides by an Armed and Brutal Mob” in the collection After Slavery, historian Jonathan Bryant explores how print media contributed to the overreaction of Georgia’s white elites to a black insurrection that was in fact workers striking against poor conditions.
193 For more on crime rates in post war North Carolina see Chapter Six of North Carolina Faces the Freedman, 121.
most “intransigent and influential problem” of Reconstruction, “a basic lack of manpower.”

Bureau agents often found themselves geographically isolated from reinforcements. In his 2013 article “Statelessness and the Reconstruction of Authority in Emancipation North Carolina,” Gregory Downs emphasizes the example of a bureau agent named Hugo Hillebrandt. Downs notes that Hillebrandt’s lack of resources, such as mules, men and ratios, prevented him from pursuing criminals who robbed freedmen and women and even murdered Union solders. Ultimately, Downs notes that Hillebrandt worried less about establishing law and order in North Carolina than managing “an isolated garrison in the wilds.”

Although bureau agents may have been sympathetic to the plight of freedmen and women, the fact remained that the resources and manpower of Southern communities were dedicated to establishing segregation, not equality.

New laws were set in place to restrict the access of African Americans to transportation and government agencies. These laws ensured segregation in government buildings such as libraries and courthouses, as well as on trains and street cars. In Promise of the New South, Edward Ayers notes that the railways of the American South were “contested terrain” where whites and blacks came together, forced to ride the same rails. By 1900, North Carolina had developed an extensive rail system. However, the failure of black men and women to move to any unoccupied seat toward the rear of street cars or buses could result in $50 fines or imprisonment “not exceeding thirty [30] days.” Even the dead were segregated according to North Carolina law. Laws stated that all white burial grounds “shall remain and be established as a burial ground for the white race.”

The establishment of racial prejudice within the expanding reach of governmental authority represented the institutionalization of racism. Support for these laws and attitudes became increasingly formalized as racial stereotypes led to the development of the Jim Crow South.

Issues of race would become regulated as laws were put in place restricting the movements of black men and women. This process began immediately after the South lost the Civil War. In 1866, an eight-man joint committee was put in place by the state’s general assembly to report on the segregation of freedmen and women. This committee would propose nine bills for the general committee to consider, including proposals to punish vagrancy and prevent willful trespassing on lands. For many Carolinians, racial stereotypes of vagrancy and laziness represented the downfall of southern communities. Vagrancy laws provided a legally sound framework for compelling freedmen and women to work. In North Carolina, vagrancy laws set few parameters for punishment. When impoverished individuals found themselves

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195 Gregory Downs, “Anarchy at the Circumference,” 111.
198 Ibid., 330.
199 For a thorough review of North Carolina’s legal debate over freedmen and women see Chapter 3 of North Carolina Faces the Freedmen.
unable to pay court costs, they could face exorbitant fines or a jail sentence of an unspecified length. 200 This system funneled a disproportionate number of young black men into the state’s prison system. By 1894, the state prison system had over one thousand black men and women under its authority. In contrast, only 230 of the state’s prisoners were white. 201 These prisoners were also predominately young. Prison records indicate that 528 of the state’s 1265 prisoners were between the ages of 20 and 30 years old. In addition, another 423 were under the age of 20. In 1894, 75 percent of the state prisoners were under the age of 30, 99 of whom were under 16 years of age. 202

In 1927, two social scientists, Jesse Steiner and Roy Brown, set out to investigate “Negro crime” as part of a larger study of the “Negro in the South” conducted by the Institute of Research in Social Science at the University of North Carolina. This study included a detailed analysis of maintenance and discipline on county chain gangs and within county jails. At the conclusion of their chapter on discipline, after a detailed description of the rampant use of flogging and beatings that existed within county institutions, the authors noted that abuse was “further complicated” by the large number of “Negro prisoners.” 203 The authors recall that “almost any individual prison official” would tell you that “Negroes are more easily handled than white prisoners.” 204 However, when floggings and beatings were condemned, “someone is ready with the retort: You can’t handle a nigger any other way.” 205

The beating of black prisoners was a widely recognize element of convict labor within North Carolina’s penal system. Guards openly defended their actions in testimony before members of the state’s legislature. The language used by guards indicates a violent relationship between order and race. Exchanges between guards and prisoners often involved racist epithets and the use the whip. In one such case, prison supervisor E.L. Summerhil recalled:

Joe Mazon and some other prisoners came out of their cells to go to work and had their jackets on. It was a clear day, and I told them to take their jackets off, but Joe kept his on. I said, "take that coat off, didn't you hear me talking to you?" He said: "Yes, I heard you. but I am not going to take it off." I said: "Nigger, you don't know who you are talking to." He said: "You don't know who you are talking to." I said: "Hand me that strap." I took the strap and took hold of him in the collar (he was a great big nigger, weighed about 200 pounds), and he said: "What you going to do?" I told him I was going to whip him, and he drew a big knife, and I knocked him in the head. 206

200 Racism in the New South took many forms other than law. Historians have debated many elements of racial prejudice within Southern communities, including the relationship of race to the political and economic structure of the South. For an overview see Ch. 6 of Edward Ayers’ The Promise of the New South. Specific works include, Joseph Kousser, The Shaping of Southern Politics Suffrage Restriction and the Establishment of the One-Party South 1880-1910 (New Haven: Yale University Press, 1974) and C. Van Woodward’s Origins of the New South.


202 Ibid.


204 Ibid., 101.

205 Ibid., 101.

The casual use of the term *nigger* and the use of the whip in response to prisoner defiance demonstrate how social hierarchies became engendered within prison order. The guards understood the violence they committed as an inherent component of maintaining control of a supposedly dangerous and immoral class of people. One prison overseer affirmed during the legislative investigation that most people “do not pay attention to the ordinary whipping of a negro down in this country.”\(^{207}\) This language not only demonstrates that abuse was considered an “ordinary” element of prison discipline; it suggests a marginalization of violence as a means of maintaining racial hierarchies.\(^{208}\) The abuse of black bodies was recognized by state employees and openly acknowledged by state legislatures as part of maintaining discipline over a predominately black prison population.

This environment of racial tension is not surprising given the type of men often called upon to work as prison guards. These men were white, uneducated laborers. The minutes from the board of the state penitentiary suggest that men were routinely removed from their positions due to excessive intoxication.\(^{209}\) The board of charity would continue to criticize the quality of prison guards well into the twentieth century. In a 1923 study conducted by the board, it was noted that the 50 dollars a month paid to prison guards did not attract “the type of man who is fit to be in charge of other men.”\(^{210}\) The report notes that guards were often without elementary education and were “ignorant” of controlling men by means other than violent force.\(^{211}\)

Although the racism of prison guards can be attributed in large part to a post-slavery environment, this does not mean that penal racism should be disregarded as pre-modern barbarity. These guards represented a necessary element of state and county authority. They were the front lines of an institutional prison infrastructure. Hired by state and county officials, these men were a necessary component of mass incarceration. In order for state and county authorities to establish their disciplinary legitimacy, the physical presence of men willing to enforce this authority was required. As far as state officials and guards were concerned, only white men were fit for this responsibility.

The testimony of guards suggests that prison employees rejected the notion of black men hired as prison workers. Prison superintendent R.P. Reinhardt cursed at the notion of a negro guard, “I’ll be G----- d------ if you do; you send a negro here and I will kick his d---- a---- off the place so quick it will make your head swim… no damn negro is coming here.”\(^{212}\) Prison guards were faced with putting their lives on the line, monitoring the state’s worst criminals. If white guards felt that a black guard could not be trusted, the consequence could be deadly. As prison populations expanded, prison guards were faced with the prospect of handing over firearms to black men. When legislators asked superintendent Reinhardt if he knew a single “negro” that he would “be willing to trust with a gun to guard convicts,” he replied “no.” Later, Reinhardt would

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\(^{208}\) It has been argued, that the use of racial epithets were so prevalent within southern penal institutions the terms transcended race and denoted all prisoners as a lower class of people. See Randolph Lewis, “Black and White on the Chain Gang: Representing Race and Punishment,” *Borderlines: Studies in American Culture* 3, no. 3 (1996).

\(^{209}\) Two such cases are listed within the Board of State Penitentiary minutes from 1877. “Minutes and Reports” North Carolina State Archives, Location: SRC.B.13 (Archive Stacks), Call Number: Vol. 1-Vol. 2.1, 439, 467.


\(^{211}\) Ibid.

\(^{212}\) *Report of the Investigating Committee*, 203.
confirm the legislative committee’s inquiry that the hiring of “negro guards” would represent a “dangerous experiment” for the prison system.\footnote{Report of the Investigating Committee, 03.}

Racism extended beyond North Carolina’s prison courtyards and roadways. It was also a central component of the political and reformists mentalities that sought to reform North Carolina’s penal system. Many reformers recognized segregation as a necessary element of eliminating incompetence within the prison system. In the opening of their 1900 investigative report, state legislatures explicitly listed “negro guards” as part of the “incompetency and extravagance” of the state prison system.\footnote{Ibid., 11.} As legislators sought to meet public demand for a cost effective penal system, the rumored hiring of black guards made an essay target for condemnation.\footnote{Although white guards rejected the notion, it is clear that prisoner administrators at the very least debated the possibility of hiring black men. One prisoner even confirmed that he had seen black guards at Caledonia State Prison Farm. When contrast with the opinions of guards it is easy to see how tension could be created by the bureaucracy of North Carolina’s prison system. Report of the Investigating Committee Appointed, 223.}

Even state legislators, specifically called in to investigate acts of abuse within North Carolina’s prison system, brought with their investigation a sense of skepticism and condescension for the testimony of black prisoners. During the questioning of a black prisoner who had been beaten, legislators pointed out that he “must have been rather a bad negro” to be whipped so frequently during his tenure at Northampton Prison Farm. This commentary regarding the character of Andrew Farrar as not only a bad prisoner, but explicitly a “bad negro” demonstrates the depth of influence racism had within this system.\footnote{Ibid., 219.} These state legislators, who were charged with investigating “cruelty and mistreatment” approached abuse with a prejudiced mindset.\footnote{Ibid., 11.}

Although black men testified in front of investigative committees, investigations were a venue where black prisoners were asked to implicate white men in front of other white men. In 1900, legislators even inquired with a prison steward about “what faith should be put in the testimony of a convict,” the answer, “none at all.”\footnote{Ibid., 225.} The fact that legislatures would ask white men accused of abusing prisoners about the reliability of the men testifying about abuse demonstrates the profound skepticism and bias built within this system. Investigative committees, such as the New Hanover grand jury, informed the prisoners that they were there to “aid them” and that the “superintendent and foreman would certainly suffer” if prisoners spoke the truth about abuse.\footnote{“Reports,” (1893-1907) North Carolina State Archive, Location: 4-G (Old Records Center), Call Number: Box 2. Contents: Castle Hayne Prison Camp: Grand Jury Report, 1905, Wescott-8, Oct. 4.} However, the fact remained that investigations would end, and black prisoners would most likely be left at the hands of men against whom they had testified. In fact, fear of retribution is a possible explanation for the profound discrepancies in prisoner testimony. During the 1905 grand jury investigation of Castle Hayne prison farm, prisoners provided a variety of depictions regarding physical abuse. While many prisoners testified that they never saw a prisoner whipped to the point of cruelty, others would testify that they saw whippings of “more than 100 lashings.”\footnote{Ibid., Galloway Williams-25.}
Ultimately, this discrepancy was written off because “no-one could vouch” for the credibility of convicts.221 In 1905, R. M. Wescott, a member of the local board of charities, informed the grand jury that the testimony of prisoners was “absolutely contradictory to each other.”222 While a contemporary perspective cannot confirm which prisoners may have been conveying the truth, it is clear that these men were placed in a precarious position. If prisoners testified about the abuse they experienced, perhaps reformers would provide their salvation. But if they were written off as dishonest men, as was the case in 1905, they would be left to face a life of hard labor under the guise of the very men they testified against. Ultimately, this system provided prisoners with little opportunity to freely express their concerns.

There is no better illustration of the extent to which racial prejudice was engendered within North Carolina’s justice system than the board of charity itself. Board of charity reports consistently supported the segregation of prisoners as an essential element of proper prison management. In 1908 the board of charity noted the “illegality” of county camps that, instead of walls, utilized curtains to separate prisoners. In fact, throughout the early twentieth century the board noted the lack of separation for races within county jails and convict camps.223 As late as 1924, the Board of Charity espoused the belief that it was “the negro, unprepared in every way for the responsibilities of freedom,” who was principally responsible for an “orgy of crime” following the Civil War.224 Although the sympathy of the board members to the abuse and violence of North Carolina’s prison system may have eventually produced reform, racism and prejudice were deeply engrained within the minds of individuals at all levels of the state’s justice system.

The bureaucratic nature of this prejudice suggests that we understand racism not only as a violent element of prison systems, but also as an organized and debated element of social hierarchies that extended into political and intellectual debates. This emphasis on the bureaucratic and institutional nature of prejudice coincides with recent works that emphasize the intellectual and statistical support for social hierarchies. Struggles over the right to vote, segregation and the right to marry would become topics of debate in nineteenth century courtrooms, print media, and even in North Carolina’s most prestigious university.

In his 2009 article, “University Men, Social Science and White Supremacy in North Carolina,” Gregory Downs argues that white supremacy was based not in the “personal neuroses” of a select few intellectuals. It was a “mandarin movement led by a newly self-conscious group of public individuals.”225 This movement demonstrates the relationship between racial prejudice and intellectual ideas. It suggests that prejudice should be understood on broad terms, steeped within the ideological and social motivations of progressive reform in North Carolina. Downs notes that a leading sociologist at the University of North Carolina Chapel Hill, George Winston, “followed many sociologists of the era in connecting social progress to early

221 “Reports,” 2., Oct. 18.
222 Ibid., Wescott-8.
racial science.”226 This approach to social science included the belief that the mixing of these races resulted in the possibility of “degeneration or reversion.”227 These ideas were manifested in staunch support for public education and the belief that “education inspired progress” and could train the masses to “maintain the purity of the Caucasian race.”228 These attitudes demonstrate the prevalence of support for racial prejudice even within the highest levels of intellectual life in North Carolina.229

Recent work has also suggested that social science discourses perpetuated the mass incarceration of black men in the nineteenth century. In his 2010 work, The Condemnation of Blackness, Khalil Muhammad argues that black crime statistics from the late nineteenth century were “woven together” with migration trends in order to produce “a cautionary tale about the exceptional threat black people posed to modern society.”230 Scientists and researchers, such as leading Alabama physician Josiah Nott, utilized religious and scientific theory to promote racism. Their claims often included the belief that black men and women were closely related to primates, and had less control over their temperament. Professional positions, based on the legitimacy of scientific observation and mathematics were incorporated into the maintenance of social hierarchies.

Dr. Muhammad’s argument rests largely on his analysis of popular interpretations of the 1890 census. The publication of this census represented the first time that prison statistics became a basis of “national discussion about blacks as a distinct and dangerous criminal population.”231 The data demonstrated that African Americans, who represented 12 percent of the total U.S. population, represented 30 percent of the national prison population.232 These numbers resulted in rampant speculation regarding criminal disposition of black populations and fueled a fire of racial fear that provided the basis for institutionalized racism.

Muhammad’s work argues that statistical discourses about black criminality represented a “modern invention that encapsulated northern and southern ideas about race.”233 It begins to bridge the gap between southern discussions of vigilante justice as pre-modern forms of discipline and northern justice systems as industrialized. It provides evidence that racism in Southern communities cannot only be understood by looking backward, but must also be

226 Gregory Downs, “University Men, Social Science, and white Supremacy in North Carolina,” 275.
227 Ibid., 275.
228 Ibid., 279.
229 Dr. Down’s work draws a direct connection between the sociological support for racial inferiority and the development of progressive reforms based on the idea that African Americans should be treated, “not as archaic survivals but as a child race in need of development.” Downs, “University Men,” 277.
understood by appreciating how Southern penal systems in the nineteenth century set the stage for modern discourses about crime and race.

The prejudice of state officials indicates the institutional nature of racial prejudice within North Carolinian communities. It suggests that even reformers concerned with creating a disciplinary system that prioritized the establishment of racial hierarchies. The history of Southern justice systems has often associated racism and abuse with pre-modern mentalities towards social discipline. However, the relationship between race and criminality can also be understood as an institutionalized approach to discipline. The racism and violence within this system was discussed, debated and investigated. This discrimination and abuse was not only the result of individual prejudices. It was also an orchestrated, institutionalized effort carried out against an expanding, predominately black prison population.
Conclusion: Prisons and the Big Picture

This thesis adds to our understanding of Reconstruction by suggesting that white males continued to control economic and social mobility throughout the late nineteenth and early twentieth century through a formalized system of social discipline. Although some historians have argued that black men and women gained agency in the late nineteenth century, the institutional setting of prisons was utilized throughout the South to strip individuals of agency by manipulating their bodies and perpetuating a system of forced labor. By contextualizing prisoners as convict laborers, men became tools of the state. Instead of developing institutions based on the individual needs of prisoners, physical abuse became a byproduct of an evolving discourse about black criminality and a desire for self-sufficient institutions. Although North Carolina’s state officials sought to create a modern state through the construction of roads, bridges, railroads, asylums and prisons, it is clear that the racist traditions of the past were not washed away by emancipation. The development of North Carolina as a modern, Southern state was tainted with the blood and abuse of prisoners.

Although this work has sought to highlight how approaches to discipline and violence changed over time, many questions remain unanswered about social discipline in the nineteenth century. For example, how does the development of southern penal systems fit into a global or transnational context? Recent works on the American South have emphasized placing the New South within a global context. Works have even emphasized the development of Charlotte, a community that developed rapidly during the New South, as a player in modern globalization. This recent trend suggest that it is worth asking where the South’s penal system fits within a trans-national or even global context.

Recent work has suggested that historians should move beyond understanding the South as an exceptional region with its own sociopolitical issues of inequality. As part of this larger move towards transnational and global history, historian Heather Thompson has suggested that penal historians have been blinded by the barbarity of Southern slavery. Thompson suggests that not enough historians have “questioned the popular premise that the southern justice system


235 Although The Global Evolution of a New South City work focuses heavily on Charlotte’s contemporary place in the World, I still feel it is indicative of recent trends that are building an appreciation for the global importance of Southern communities both in history and today. William Graves and Heather Smith ed. The Global Evolution of a New South City (Athens: University of Georgia Press, 2010).

236 Recent work has been completed in an attempt to place Southern mob violence in a global context. See Robert Thurston, Lynching and . Manfred Berg and Simon Wendt, ed. Globalizing Lynching History: Vigilantism and Extralegal Punishment from an International Perspective (New York: Pelgrave Macmillian, 2011).


was uniquely brutal.” Ultimately, Thompson argues that the consequence of this approach was an acceptance for brutality across the nation by the end of the twentieth century. Because Southern prisons have been interpreted as a barbaric continuation of the antebellum era, once they were finally recognized as modern during the twentieth century, Americans “had little desire to intervene any further on behalf of inmate’s rights anywhere.”

By recognizing the violence of penal systems, as organized, debated and bureaucratic, this work reinterprets Southern justice as less barbaric and more modern. By interpreting the abusive nature of this system as economic and political calculations, instead of a byproduct of antebellum sentiments, perhaps we can develop a fuller appreciation for the nature of violence and abuse. Previous works have suggested that there is a firm division between the North as “the birthplace for rehabilitative penology” and the South as “the fountainhead of subjugationists discipline.” However, this work recognizes that the rise of the Penitentiary in both spaces was about responding to newly enfranchised populations. Throughout American history, liberty has been met with institutional control.

In addition to the relationship between globalization and Southern penal systems, another topic that remains relatively underdeveloped within the historiography of prisons are issues of gender. Although recent work has suggested that an emphasis on reform can highlight the role of woman with prison systems, very little work has been done on the role of female prisoners. In her 2011 dissertation, Susan Thomas highlighted the role of women in fighting for prison reform. Specifically, she focused on the efforts of Kate Burr Johnson, the first woman in the United States to serve as a state commissioner of public welfare. This emphasis on the role of women within the state politics of North Carolina was also emphasized by Anastatia Simms in her work The Power of Femininity in the New South. Although these works emphasize the ability of women to organize, and influence political and social policies, the experiences of female prisoners and the women who worked within prisons as matrons and nurses remains largely untold. North Carolina records indicate that by 1894, 70 women were incarcerated in North Carolina’s state prison facilities. In addition, at least three women were listed on the state’s payroll as matrons and hospital stewards. The fact remains that the experiences of these women and hundreds of their peers across the South remains largely untold.

Although moving forward with research on the experience of women in North Carolina’s institutions may be difficult, given the fact that many of the records utilized in this thesis do not even acknowledge the presence of women within state institutions, several avenues of research have yet to be exhausted. One area of research which may provide a tangible avenue for exploring the relationship between women and disciplinary institutions in the South is the development of state asylums. North Carolina established an asylum in 1854. The records of that

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239 Heather Thompson, “Blinded By A Barbaric South,” 75.
240 Ibid. 76.
242 What little work that has been done on the experience of female prisoners has focused largely on the American West. See Anne M. Butler, Gendered Justice in the American West: Women Prisoner’s in Men’s Penitentiaries (Urbana: University of Illinois Press, 1997). One of the only major works to emphasize the experiences of female prisoners in the South is Mary Curtin’s Black Prisoners and Their World, Alabama, 1865-1900.
244 Annual Report of the Board of Directors 1894, 44.
245 Annual Report of the Board of Directors 50.
institution indicate that over the next thirty years hundreds of women would be put to work within this institution, mending sheets, vests and curtains. 246 Although recent work has focused on the development of South Carolina’s state asylum, relatively little work has been completed on the development of southern mental health institutions during the nineteenth century. 247

Violence within prison systems has often been relegated by historians as a final vestige of slavery. Historians have avoided discussion of the “brutality” of convict labor for fear that it would “distance the subject” of convict labor. 248 But why should violence be thought of as anything less than modern? Recent work has suggested that contemporary criminal justice policies represent a renewed effort to incarcerate young black men. Legal scholars have even gone so far as to claim that the current mass incarceration of young black men in the United States represents “something akin to a racial caste system.” 249 In addition, scholars have also sought to explain mass incarceration as a result of weakening labor practices and the shifting of capital investment in the twentieth century. 250 As contemporary political scientist and legal scholars seek to understand mass incarceration, it is worth reassessing the place of prisons in America’s historical narrative.

Recent trends in the historiography of Reconstruction suggest that historians can benefit from drawing Reconstruction and the Gilded Age together. Historians have even argued that tradition periodization created “an incomplete picture” of the Civil War’s aftermath. 251 Recent works, such as A Nation Under Our Feet, Race and Reunion, Vicksburg’s Long Shadow and Declarations of Dependence have all extended the memory and influence of Reconstruction into the twentieth century. 252 By examining the development of North Carolina’s penal system form 1868 into the twentieth century, this work is affirming that belief in the long term impact of the Civil War. The Constitution of 1868 was not only a moment of radical reform. It was also the legal basis for institutionalized abuse over the next half century.


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This work opened by stating that slavery did not end with the Thirteenth Amendment. As historians seek to understand the impact of the Civil War, it is necessary that we build an appreciation for the relationship between convict labor and Reconstruction. The number of individuals who suffered the pains of forced labor diminished following the Civil War, but the fact remains that thousands of men and women were put to work in state sponsored institutions during the subsequent century. Perhaps, a better understanding for mass incarceration today could begin by more firmly establishing the place of convicts in our history.
Primary Sources


Annual Report of the Board of Directors and of the Superintendent of the State’s Prison, for the Year Ending December 31, 1894 (Raleigh: Josephus Daniels State Printer and Binder, 1895).


“Governors Message,” Executive and Legislative Documents Laid Before the General Assembly, 1869-70 (Raleigh: Jo W. Holden State Printer and Binder, 1870).

Laws and Resolutions of the State of North Carolina: Passed by the General Assembly at Its Session 1874-1875 (Raleigh: Authority, 1875).


“Lynching of Julius Davidson” North Carolina State Archive, Location: Archive Stacks, Call Number: N.94.6.33.


North Carolina Department of Secretary of State. North Carolina’s 1868 State Constitution. art 11, sec. 2.
North Carolina Department of Secretary of State. *North Carolina’s 1868 State Constitution.* art. 11, sec. 5.


*The Asheville Citizen,* Asheville, North Carolina, (1886).


“The Big House, State Penitentiary, Raleigh N.C. 1909” North Carolina State Archive, Location: Archive Stacks, Call Number: PhC68.1.192


*The Chipley Banner,* Washington County, Florida, (1900)
“The Committee Appointed By the Senate of North Carolina to Inquire into the Facts Attending the Purchase of the Site for the Penitentiary”, in Executive and Legislative Documents Laid Before the General Assembly of North Carolina 1868-1869 (Raleigh: Wm E. Pell State Printer, 1869).

The Danbury Reporter, Danbury, North Carolina, (1877).

The Goldsboro Headlight, Goldsboro, North Carolina, (1897).

“The Hanging of John Taylor and Robert Fortune for Robbing and killing Robert Hester” North Carolina State Archive, Location: Archive Stacks, Call Number: N.85.5.28.


The Indianapolis Journal, Indianapolis, Indiana, (1900).

The Lincoln Courier, Lincoln, North Carolina, (1889).

The Manning Times, Manning South Carolina, (1899).


The Old North State, Salisbury, North Carolina, (1868-69).

U.S. Constitution, Amend 13, sec. 1.

“Virginian-Pilot, Norfolk, Virginia, (1900).

“Whipping Stocks Erected in the Courthouse Yard at Goldsboro, N.C. For the Punishment of Slaves” North Carolina State Archives; Call Number N.2003.5.2 Location: WR2.


Secondary Sources


