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PROFIT AND PENITENCE

AN ADMINISTRATIVE HISTORY OF

THE OHIO PENITENTIARY FROM

1815 TO 1885

DISSERTATION

Presented in Partial Fulfillment of the Requirements for the Degree Doctor of Philosophy in the History Department at The Ohio State University

By

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ABSTRACT

On the evening of December 9, 1997, demolition of the Ohio Penitentiary began. *Profits and Penitence* explores the administrative development of the Ohio Penitentiary between 1815 and 1885. Staying within the walls of the prison, this seminal work revolves around the twin objectives of profit for the state and reformation of the prisoner. This study utilizes primary source material from the reports of the Boards of Directors, wardens, acts and reports from the General Assembly, and previously unused special reports and pamphlets.

The administrative history of the Ohio Penitentiary is divided into seven chapters. These chapters are arranged both chronologically and thematically. Chapter One gives a brief background on the formation of the two primary prison systems in the United States, Auburn and the Pennsylvania plans. Chapters Two and Three discuss the formative years of the Ohio prison from 1815 to 1850. Chapters Four to Six examine four major subheadings: politics, improvements, discipline, and prison labor. These four areas detail the successes and failures by the prison administration in
trying to fulfill the legal directive to keep the prisoners working at hard labor, while trying to improve the character of the convicts. Chapter Seven details the sweeping penal reform laws of 1884 and 1885 enacted by the General Assembly. The old methods of discipline and labor changed completely. With these innovations, this work ends.

Since *Profits and Penitence* is limited to activities within the prison walls, opportunities for further exploration of this material are available. A monograph could be written on Chapters Two through Seven by expanding the focus to the wider population. Another research possibility includes a discussion the younger population of prisoners and the building of the Mansfield Reformatory.
Dedicated to my mother, Juanita Powers, and my son, Bruce Reaser
ACKNOWLEDGEMENTS

I want to thank my adviser, Warren Van Tine, who made me believe that I could do this; and all my friends who listened, and kept listening: Mary Jane Brown, David Fisher, Chandra Grantham, Paul Graves, Dianna Kardulias, Denise Riley, and Rose Thomas.
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INTRODUCTION

Not all the men in prison are nameless or faceless. One famous man confined to the Ohio Penitentiary wrote a well-known Christmas story. It was the tale of a young woman who sold her hair to buy her husband a fob for his watch, while her husband sold his watch to buy combs for his wife's hair. O Henry wrote The Gift of the Magi, that beautiful story of self-sacrifice, while behind bars for embezzlement!

One infamous man in the Ohio Penitentiary was the Confederate General John Hunt Morgan. In November 1863, he and six of his men tunneled out of the prison and into the Ohio history books. His escape embarrassed the prison, on one hand, and visitors flocked to see where he did it, on the other.

These two anecdotes exemplify the twin themes of An Administrative History of the Ohio Penitentiary between 1815 and 1885 -- profit and penitence. Morgan and his men worked to get out of the prison and O Henry was paying for his crimes. Penal theorists believed that the way to reformation was through "hard labor." They wanted to grind the prisoners honest. These same ideas became part of the
discipline at the Ohio Penitentiary.

This study will look specifically at the Ohio Penitentiary to see how it applied these two objectives. The early history of the prison, between 1815 and 1834, was an experimental period. Legislatively and institutionally no one was sure how to manage the prisoners or their labor. After 1834, the administrators carried out policies to apply reformatory, profitable discipline and reconcile the tensions between the two.

The purpose of using the Ohio Penitentiary as a case study in administrative history was that most penal writings since the 1960s followed the example of Michel Foucault. His seminal work, * Discipline and Punish*, focused on the abuses of prisons instead of an administrative look at how penitentiaries really function. This study harkens back to earlier works on the development of prison management.

This dissertation ends in 1885. Sweeping changes in the governance laws in 1884 and 1885 brought an end to one era and started another. After fifty years of contracted convict labor, the Ohio Penitentiary instituted the state-use and piece-price plans of inmate work. These same acts also introduced new ideas in prisoner reformation. With the introduction of the parole and convict classification systems, the state began to view criminals as capable of rehabilitation rather than brutal and intractable.

The penitentiary system in the United States followed
either the Pennsylvania or the Auburn model. These models form the foundation to the discipline used at the Ohio Penitentiary. Interestingly several sources on these disciplines came from foreign visitors and their observations of the United States and its penitentiary practices. Gustave de Beaumont and Alexis de Tocqueville in the 1830s looked at American prisons in their *On the Penitentiary Systems in the United States and its Application in France*. They visited New York's Auburn Prison, Pennsylvania's Walnut Street Prison and the Ohio Penitentiary and reported on their relative strengths and weaknesses. Also in the 1830s, Englishman William Crawford came to the United States to examine the American penitentiaries for the British government. His *Report on the Penitentiaries in the United States* detailed twenty-two of the major prisons, including the Ohio Penitentiary. Crawford discussed the history and the current condition of each institution. These observations added a different dimension to the discussion on the effectiveness of prisons.

These early writers focused on the adaptability of United States institutions to their countries. While scholars have addressed the issues of crime, punishment and prison reform, they have not written extensively on administrative history of American prison generally or the Ohio Penitentiary specifically. Some of the basic texts in studying the growth of the penitentiary in the United States
penitentiary "The History of Penal Institutions in Ohio to 1850" by Clara Belle Hicks in the 1925 issue of Ohio Archaeological and Historical Quarterly. John Paul Resch wrote on the inability of the prison's administrations to produce penal reforms during the second half of the nineteenth century. His "Ohio Adult Penal System, 1850-1900: A Study in the Failure of Institutional Reform" is also found in the 1963 issue Ohio Archaeological and Historical Quarterly. For a brief discussion on cholera outbreaks of 1833 and 1849 in Columbus, Ohio and the penitentiary see Jonathan Forman's articles "The First Cholera Epidemic in Columbus, Ohio -1833" in the 1943 Annals of Medical History and "The First Year of the Second Epidemic of Asiatic Cholera in Columbus, Ohio" in the 1944 Ohio Archaeological and Historical Quarterly.

This study is different from the above in that it presents an analysis of how a specific site and system, the Ohio Penitentiary, attempted the dual responsibilities of bringing reformation through profit and work. The American authors cited above wrote studies exploring the theories and ideas of the penal history, and this is an examination of how administrators tried to achieve the goals of reform and profit.

Materials used to explain how the Ohio Penitentiary accomplished these objectives came primarily from original documents. From 1811 to 1820s, the House and Senate
Journals of the Ohio General Assembly and the local newspapers printed the entire texts of the wardens and directors' reports as well as the pertinent legislative acts. Encompassing the period of this study from 1834 to 1885, the annual editions of the Executive Documents have complete sets of reports from wardens, Boards of Directors and Boards of Charities reports. After 1830 these journals included appendices that contained the reports of the standing committees investigating the prison and special panels formed to look into specific charges within the prison. The annual publication of the Laws of Ohio furnished a complete text for each act. The Ohio State University Main Library on the tenth floor has a wealth of this information. The State Library and the Ohio Historical Society also have most of these sources.

These primary sources set out the struggle to organize an institution that would fulfill the twin desires of profit and penitence. The legislature passed governance acts that controlled how much authority the prison administrators had in carrying out penal business. The Ohio House of Representatives and the Senate each had standing committees on the penitentiary that looked into its operation. These committees periodically made reports to the General Assembly exposing conditions there and investigated charges against the prison itself or the administrators. The annual wardens and directors' reports informed the General Assembly on the
conditions within the prison. Prison administrators often shared a common goals for the facility and were frequently in opposition with the General Assembly. The two groups, the warden and directors and the legislature, did not always agree on how to run the prison. These prison officials repeatedly saw the legislators as too limiting in allowing them to fulfill their duties or too stingy in appropriating money for repairs and expansion of the penitentiary. These yearly reports also charted the successes and failures of implementing the governance acts and fulfilling the needs of the institution. Each accounting gave facts concerning the production and money gained from the prison's industries, the physical condition of the facility, any catastrophes such as fires that occurred during the year, problems with discipline and efforts at reformation of the convicts, and requests for funds to modernize the institution. The findings of the penitentiary officials and the legislature often disclosed different views of how the prison functioned.

Another body informing the legislature on the Ohio Penitentiary was the Board of Charities and Corrections. Beginning in 1867, the Board of Charities made yearly reports on various relief and penal organizations. The Board could only relate the circumstances it found and make suggestions on ways to improve the conditions. However, the Board was a useful source on the problems and potential
solutions for reformation of the prisoners.

This dissertation presents an administrative history of the Ohio Penitentiary in seven chapters. Chapter One explores the development of the two main prison systems, Pennsylvania and Auburn. The Auburn model became the basis of the prison discipline at the Ohio Penitentiary. This chapter also presents the central dilemma of this dissertation, that of the search for both profit and penitence in the Ohio prison. The inability to harmonize these two objectives will be the theme of this work. The background material in Chapter One sets the stage for Chapter Two, which chronologically examines the history of the Ohio Penitentiary from 1815 to 1834. Chapter Three presents an analysis of the politics, discipline, improvements, and prison labor that characterizes the period between 1834 and 1850 at the penitentiary. These four areas continue to be explored in Chapter Four, which considers the transitional phase during the 1850s, as the prison moves from experimentation to stagnation. Chapters Five and Six carry on these four themes in the 1860s and 1870s. Chapter Six also includes an appraisal of several investigations into the problems of prison labor versus free labor. In the mid-1870s, free labor seriously challenged prison labor by questioning the corrupt nature of contract convict labor practices and how it undermines honest workers. Finally, Chapter Seven covers the years 1880 to 1885, taking the
prison up to the sweeping changes in penal reforms of 1884 and 1885. As this study ends, the new contract labor reform does not abolish the old system, but paradoxically results in simply more forms of prison labor: a confusing mix of the already-familiar contract labor, and the new industrial systems of state-use labor, and the piece-price plan. This combination of systems did not satisfy angry free labor groups, nor did it solve the political and economic problems it was meant to address, but only worsened them. The post-1885 era is beyond the scope of this historical study. The Conclusion briefly reconsiders the two major themes of profit and penance and how the political environment affects improvements within the crucible of prison labor.
New penal philosophies emerging from the early nationalistic period became the basic theories the Ohio Penitentiary used to develop its prison discipline. Convict labor and reformation of the inmate were the dual objectives of these principles. Republican principles valuing individualism and the Christian ideals concerning the redemption of man were the bases for the reformation of the criminal. Prisons used inmate labor as the engine both for individual rehabilitation and support of the institution.

Two prominent prison disciplines emerged in the late eighteenth and early nineteenth centuries, the Pennsylvania and Auburn models. They introduced solitary confinement of the criminal and convict labor. To effectively use prisoners' work, six different systems evolved. Contracted inmate labor, state-use and the piece-price plan became the three major models at the Ohio Penitentiary.

I. COLONIAL AMERICA
The English settlers on the North American continent brought with them a strong desire to maintain social control, whether the purpose of settlement was for the mercantile ventures of the Chesapeake or the religious idealism of New England.¹ If settlement was for economic reasons, maintaining social order was essential for turning a profit. If religion was the impetus, crime equaled sin not only against man but also God. The colonies wrote into their charters the laws of England and the need for punishment.²


²Early forms of punishments included flogging or whipping with a cat-o-nine-tails. The "cat" was a short handled whip with nine leather strips. Each strip had a barb on the end to pierce the skin. Whipping was one of the most frequently used punishments for minor offenses such as vagrancy, blasphemy, stealing small items, and illegitimacy. The pillory confined the offender in a standing position with the head and arms locked in a brace. While in the pillory, the prisoner could be mutilated, branded, have his nose or ear split, in addition to wearing a sign stating his crime. This punishment was for using false weights, hoarding, speculating in grain, and homosexuality. Akin to the pillory were the stocks. A person sat with his legs confined in a brace. Stocks served both as a punishment and a way to hold criminals before trial. A ducking stool punished women considered scolds. The ducking stool consisted of a chair fastened to a wooden lever and suspended over water. The Puritans brought the ducking stool to Connecticut and New Jersey. The last known sentence of ducking occurred in 1890 in New Jersey, but no stool was available. William Andrews, *Old Time Punishments* reprint originally published in 1881 (New York: Dorset Press, 1991), 4-5, 146-148; Henry Elmer Barnes, *The Story of Punishment: A Record of Man's Inhumanity to Man* (Montclair, New Jersey: Patterson Smith, 1930), 58; Michael Ignatieff, *A Just Measure of Pain: England 1750-1850* (New York:
In New England especially, religion influenced the definition of crime. The *Book of the General Lawes and Libertyes Concerning the Inhabitants of Massachusetts*, written in 1648, defined the criminal code in the context of sin and the Calvinist belief that man was born in sin.\(^3\) Crime became a personal fault instead of a flaw in society.\(^4\) The Puritans believed that any deviant behavior resulted from the lack of parental control and not from societal norms. Therefore, society was not responsibility for this aberrant display of morals and had no obligation in deterring crime.

The Puritans believed in punishing crime severely, as a serious breach of the social and moral life. Jails predominantly held criminals before trial. The chronic labor shortages in the colonies made imprisonment counterproductive.\(^5\) The severity of seventeenth-century punishments appear harsh to modern Americans. Convicted of insurrection in New York, Jacob Leisler and his partner received a sentence to be "drawn and quartered, hanged by the neck, while still alive their bodies cut and bowels

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\(^5\) Friedman, 48.
taken out and being still alive, burnt before their eyes, then their heads struck off and bodies cut into four parts."

Pennsylvania was the exception to the above example. The Quaker William Penn founded the colony in 1682 and based its governing principles on the religious philosophy that each person had an Inner Light, which permitted him to experience a direct relationship with God. He provided a more humane system of criminal justice by reducing corporal punishments. Only murder and treason were punishable by death. Pennsylvania's Great Law of 1682 provided for "build[ing] a sufficient house, at least twenty feet square, for restraint, correction, labor and punishment of such persons as shall be thereunto committed by law." The law stated, "All prisons shall be workhouses for felons, vagrants, and loose and idle persons." The intention of Pennsylvania's prison was work, punishment and

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9deFord, 13; Lewis, 11.
reformation. These ideas anticipated later prison development. However, upon Penn's death in 1718, his son reintroduced the harsh penal laws of England.

II. THE REFORMERS

Since English convicts could no longer be transported to the American colonies after the Revolution, England developed a serious problem of prisoner overpopulation. The new Australian penal colony relieved this pressure and delayed the prison reform movement had begun to grow in Great Britain during the latter half of the eighteenth century. A preeminent leader of this movement was John Howard. In his seminal work published in 1777, The State of Prisons in England and Wales, with Preliminary Observation and Account of some Foreign Prisons, Howard painstakingly recorded the size of prison cells, clothing, the exact amount and quality of food, sewage disposal, water supply, and any other detail that captured his eye. Howard also included concrete reform suggestions and examples within his work. According to Howard, "To reform prisoners, or to make them better as to their morals should always be the leading

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view in every house of correction and their earnings should only be a secondary object." Regardless of his efforts, Howard accomplished no concrete results and Parliament did not attempt prison reform until 1794.

The new United States of America was also interested in the reform movement. Harriet Martineau, an Englishwoman visiting the United States between 1834 and 1836, believed, "The fundamental democratic principles on which American Society is organized, are those 'principles of justice and mercy' by which the guilty, the ignorant, the needy and infirm are saved and blessed." Part of the revolutionary ideals was crime prevention. Punishment should promote security and maintain the order of society. Prison became the form of punishment. Crimes against religious doctrine declined and crimes against property increased.

However, punishment for crimes was not the only objective of reformers. The reformation of the criminal was to be the product of imprisonment. America's religious principles became the guiding force behind this objective. Visitors to the United States noted in their trip memoirs


14 Walker, 36.

15 Ibid, 45.
this religious obsession. In 1834 de Tocqueville wrote that moral and religious instruction forms the whole basis of the penitentiary system. He followed up with detailed explanations on the religious and moral instruction at the various prisons he visited.\(^6\) In 1837 Francis Grund, another Englishwoman, wrote in her book, *The Americans*,

> It is to religion they have recourse whenever they wish to impress the popular feeling with anything relative to their country; and it is religion which assists them in all their undertakings. The Americans look upon religion as a promoter of civil and political liberty; and have, therefore, transferred to it a large portion of the affection which they cherish for the institutions of their country... Religion presides over their councils, aids in the execution of the laws and adds to the dignity of the judges.\(^7\)

Anticipating the observations of these foreign visitors, the Quakers and Pennsylvania led criminal and prison reform. Founded on February 7, 1776, the Philadelphia Society for the Relief of Distressed Persons was the first American prison relief organization. Its main purpose was to provide food and clothing to convicts.\(^8\)

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Forced to disband in September 1777, when the British entered Philadelphia, it reorganized in May 1787 as the Philadelphia Society for Alleviating the Miseries of Public Prisons. This was the first prison society to assume the responsibility for the planning a penal system.

Benjamin Rush was a founding member of the Philadelphia Society and a leading idealist on prison reform. His 1788 essay "An Enquiry into the Effects of Public Punishments Upon Criminals and Upon Society" proposed a revolutionary system of penal management. The institution would classify prisoners and use convict labor to support it. Rush's purpose was to reform prisoners by example and remove those people unfit for society. As stated in his essay,

The design of punishment is said to be, 1st, to reform the person that should suffer it, 2dly, to prevent the perpetration of crime by exciting terror in the minds of spectators, 3rdly, to remove those persons from society, who have manifested, by their tempers and crimes, that they are unfit to live in it.19

In 1790, Rush presented a paper to the Society that criticized prevailing means of public punishment in Pennsylvania and proposed a new program for criminals. He wanted this program to include: a) classification of prisoners for housing, b) a rational system of prison labor to make the prison self-supporting, including gardens to

provide food and outdoor exercises for prisoners, c)
individualized treatment for convicts according to whether
crime came from passion, habit or temptation, d)
indeterminate periods of punishments. However, he opposed
capital punishment because it was against divine
revelation. Caleb Lownes, a Quaker ironmonger, was
another reformer. Published in 1793, his Account of the
Alteration and Present State of the Penal Laws of
Pennsylvania gave minute descriptions of the building,
government and regulations for the prisoners.

Another prominent citizen, William Bradford,
Pennsylvania's Attorney-General from 1790 to 1794 and the
Attorney-General of the United States during the Monroe
presidency, joined the Pennsylvania penal reformers
Benjamin Rush and Caleb Lownes. Bradford was the chief
architect of the more liberal state penal laws. Written in
1793, his An Enquiry on How Far the Punishment of Death is
Necessary in Pennsylvania explained that the fundamental
laws of every free country should be based on the
humanitarian principle that "the prevention of crime is the
sole end of punishment . . . every punishment that is not
absolutely necessary is a cruel and tyrannical act . . .

21Walker, 48.
that every penalty should be proportioned to the offense."²² Discussing felony crimes, Bradford recounted the history of each punishment for major felony crimes from murder, robbery, counterfeiting, rape, arson, manslaughter, and treason to malicious mayhem. Bradford concluded that the severity of the law did not prevent crime but instead caused it.²³

III. THE PENNSYLVANIA SYSTEM

In March 1790 the Pennsylvania legislature passed an act to build a new prison on the site of the old Walnut Street Jail in Philadelphia. The new Walnut Street Prison became the model for the American system of reformatory prison discipline and the prototype for prisons throughout the United States for the next thirty years. Known as the "Pennsylvania System," the new Walnut Street Prison was the world's first institution to adopt solitary confinement for hardened criminals. This new penitentiary (originally a place in which one might achieve penitence) reformed inmates and deterred criminals by instilling habits of discipline and strength of character through work and removing the


²³Ibid.
convict from the corrupting influence of his environment.\textsuperscript{24} The Pennsylvania System originally locked up the worst of the criminal class in solitary confinement, where they ate, slept and worked. The Walnut Street Prison built each cell six feet wide, eight feet long, and nine feet high. The dimensions prevented communication between the cells without sacrificing light and air.\textsuperscript{25} The English reformer John Howard, initially an advocate of solitary confinement, changed his mind after observing some of the problems it caused. "Absolute solitude," he wrote "is more than human nature can bear without the hazard of distraction or despair."\textsuperscript{26} The Walnut Street Prison separated convicts by sex, classified them, and dressed the inmates in uniform clothing. The institution kept the worst felons from those convicted of misdemeanors, such as vagrancy. Women stayed in their own section of the building, and debtors in a part called the "Debtors Apartments." There was an attempt to

\hspace{1cm}\textsuperscript{24}Rex Skidmore, "Penological Pioneering in the Walnut Street Jail, 1789-1799" \textit{Journal of Criminal Law and Criminology} XXXIX (1948-1949), 167; Friedman, 76-7.


\textsuperscript{26}quoted in deFord, 45.
provide prisoners with basic levels of health care, educational opportunities and religious services.\textsuperscript{27}

Besides separating the convicts, the state legislature appointed a board of twelve, unpaid Inspectors to supervise the prison. Board members visited the prison once a week, though many went daily. They inspected the Keeper, the behavior and care of the prisoners, heard complaints and brought them to the Board.\textsuperscript{28} The governor, judges of the supreme court, mayor, city and county judges, and grand juries checked on the prison quarterly.\textsuperscript{29} In 1792 the Inspectors put together a list of rules that became the foundation of prison government today.\textsuperscript{30}

Caleb Lownes, an Inspector from 1789 to 1799, wrote a complete record on the management of the Walnut Street Prison. After Lownes departed in 1799, the Board of Inspectors had a hard time finding responsible citizens to serve with the devotion of earlier ones. The duties of the Inspectors included securing contracts from outside businesses for convict labor. Prison labor instilled the

\textsuperscript{27}LeRoy B. DePuy, "The Walnut Street Prison: Pennsylvania's First Penitentiary" \textit{Pennsylvania History} XVIII, no.2 (April, 1951), 132-34.


\textsuperscript{29}Lownes, 10.

\textsuperscript{30}Skidmore, 174.
habit of working, counteracted previous idleness, supported the institution, and gave the inmates some financial resources when released. The Inspectors bought raw material and the prisoners manufactured the product, for which the contractor paid a preset price per item. The monies gained by convict labor were never profitable and the prison ran into financial problems quickly. According to Lownes, "The principal employments are shoe-making, weaving and tailoring, chipping logwood, grinding plaister of Paris, beating hemp, sawing and polishing marble, occasionally swingling flax, picking oakum, wool, cotton, and hair; carding wool for hatter, sawing wood, & c. . . ."\textsuperscript{31}

Besides finding work for the prisoners, another duty of the Inspectors was to review the petitions for a governor's pardon. The volume and frequency of these petitions increased rapidly. In rewarding good behavior by limiting the amount of time behind bars, the Board increasingly approved the pardons. Ultimately, there was a great abuse of the system.

These reforms brought the Walnut Street Prison to its height of progressive penal influence between 1790 and 1799. It became a magnet for people in the United States and Europe interested in penal reform for their own state or country. States such as New York, Massachusetts, Maryland

\textsuperscript{31}Lownes, 13.
and Vermont incorporated aspects of the Walnut Street Prison into their penal systems. The Duke de la Rochefoucault-Liancourt visited the Walnut Street Prison during the years 1795 and 1797. In his *Travels through the United States in North America, the Country of the Iroquois, and Upper Canada in the Years 1795, 1796, and 1797*, de la Rochefoucault praised the reforms in criminal law in Pennsylvania and the prison at Philadelphia. He wrote, "this truely wise Principle; that the imprisonment of a criminal during a reparation to society, it ought as little as possible to be a burden on its finances." In 1840 Charles Dickens visited Philadelphia and left with a much different impression of the Pennsylvania System. From his book, *American Notes and Pictures from Italy*, "The system here," he wrote, "is rigid, strict, and hopeless solitary confinement. I believe it, in its effects, to be cruel and wrong."

After 1800 the heyday of the influence of the Walnut Street Prison faded rapidly. There had been no improvements or additions nor limitations on the number of inmates, thus

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32 de la Rochefoucault-Liancourt, 43-4.

33 Charles Dickens, *American Notes and Pictures from Italy* (London: J. M. Dent, 1907), 97; When Dickens visited the penitentiary in Philadelphia, the old Walnut Street Prison had been closed and the new Eastern State Penitentiary replaced it. However, the new prison perpetuated the same discipline of total solitary confinement that was part of the Pennsylvania System.
making overcrowding a major problem. In 1828 Edward Livingston, a Louisiana criminologist, wrote to Roberts Vaux, an advocate of the Pennsylvania prison system, commiserating with his friend over the problems that arose from "false economy and fatal inattention to the principles which produced this success." Jailers forced more than one person into each cell, undermining the goal of solitary confinement. The prison industries were unproductive, which left large numbers of inmates idle and caused serious riots in 1817, 1819, 1820, 1821, and 1823. During the 1820 riot, the prison administrators feared that the whole inmate population would escape and, in the 1823 riot, the warden called out the Marines.

All these problems finally resulted in the Walnut Street Prison being returned to a jail until 1835, when the state sold the prison and later destroyed it. To replace the institution, Pennsylvania built two new prisons - the Western State Penitentiary in 1826 at Pittsburgh and the Eastern State Penitentiary in 1829 at Cherry Hill in

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35Walker, 50.

36DePuy, 142.
Philadelphia. These prisons continued using solitary confinement system of prison discipline.

IV. THE AUBURN SYSTEM

The penal system in New York, during the early nationalist period, was in serious trouble. Initially, imprisonment was not used as a punishment. The first attempt at prison reform began 1797. After having read William Bradford's Report on the Criminal Code of Pennsylvania, State Senator General Schuyler proposed a bill for changing New York's criminal codes and building a state prison. The act intended to copy many aspects of the Pennsylvania system, with the prisoners working at hard labor and living in solitude. The governor and his council appointed seven Inspectors to watch over the prison's management, oversee the facilities and conditions of the inmates, and make reports.37 The New York legislature reduced the number of capital crimes to murder and treason, and authorized the building of Newgate Prison in New York City. However, Newgate Prison still maintained the congregate system and it quickly became overcrowded. To limit the number of prisoners, the governor handed out

37Roscoe, 91-2.
pardons indiscriminately. In 1816 New York built a new prison, Auburn, but the congregate system remained. In 1821 the state tried again to establish a plan of discipline. The New York legislature decided to classify convicts into three groups, including putting hardened criminals into solitary confinement. This turned into another disaster.

These attempts by New York to start a penitentiary system failed. The example of the Pennsylvania System at Walnut Street Prison and the report by Englishman John Howard influenced New York reformers John Cray, Elam Lynds and Gershom Powers. In his *State of Prisons*, Howard described the House of Correction for Boys in the Hospice of Saint Michael in Rome in 1703. Three inscriptions at Saint Michael's described its philosophy,

For example in 1813, Newgate Prison received 198 prisoners and pardoned 134 and in 1814, it admitted 213 prisoners and released 176. Barnes, 131-3; "But whatever may be the character of the criminal codes or the discipline of the prison, there exists a power which is constantly at work to impair the efficiency of the law, and undermine the best effects of punishment. The evil to which I advert is the frequent exercise of the privilege of pardon." William Crawford, *Report on the Penitentiaries in the United States* (London: Government Printing Office, 1835), 57; "The restraining influence of penal justice is destroyed by the frequency of pardons . . . Laws which are continually set aside, are derided; and sentence, continually reversed, bring the dignity and authority of the highest courts of justice into contempt." Dorthea Dix, *Remarks on Prisons and Prison Discipline in the United States* (Montclair, New Jersey: Patterson Smith, 1967), 28; Roscoe noted the use and abuse of pardoning prisoners. "Without the power to pardon those inmates was essential to the nature of the penitentiary if the principle reason of the prison was reformation not punishment."; Roscoe, 105.
For the correction and instruction of profligate youth; That they who were idle, were injurious, when instructed might be useful to the state . . . It is of little advantage to restrain the Bad by Punishment unless you render them Good by Discipline . . . Silence!".39

In the House of Correction, the boys wore uniforms, stayed in solitary cells at night, chained to their work stations during the day, forbidden to speak to one another, and subject to severe punishment for breaking the rules.40

Many ideas from the House of Correction found their way into the New York prison model. In April 1824, the New York legislature enacted new penal laws that became known as the Auburn System. These rules were a modification of the Pennsylvania Model. Prisoners worked together under an absolute code of silence during the day and spent the night confined in solitude. The Auburn Prison added a new wing with 400 cells. Each cell was seven and one-half feet long, three feet and eight inches wide, and seven feet high.41 The convicts traveled to and from their cells in lockstep


with down cast eyes and one hand on the shoulder of the man in front.\textsuperscript{42}

Elam Lynds became the first warden overseeing these reforms. He had a reputation for using corporal punishment relentlessly to enforce the silence rule.\textsuperscript{43} The discipline at the Auburn Prison divided prisoners into three classifications. The worst inmates lived in solitary confinement for twenty-four hours without any work to occupy their time. This type of confinement caused serious mental problems and some insanity. Gershom Powers, also a warden at Auburn, reported,

\begin{quote}
A number of the convicts became insane while in solitude; one was so desperate that he sprang from his cell, when the door was opened, and threw himself from the gallery upon the pavement, which nearly killed him . . . another beat and mangled his head against the wall of his cell until he destroyed one of his eyes.\textsuperscript{44}
\end{quote}

Those prisoners believed capable of being reformed were alternately kept in solitary and let out of their cells to work in silence. The third class of prisoner stayed in solitary at night, worked together in communal workrooms during the day, and maintained a strict code of silence all

\textsuperscript{42}Crawford, 24-5; McKelvey, American Prisons: A Study in American Social Behavior Prior to 1915, 8; Wines, 149.


\textsuperscript{44}Friedman, 79; Lewis, 82.

28
The organization of the third class of prisoners became the method used by prisons adopting the Auburn Model.46

The silence rule imposed by the Auburn system caused enforcement problems. In his letter to Roberts Vaux, Edward Livingston complained about the discipline at Auburn. His chief problem focused on the congregate workshops, since the only way to maintain silence was with a whip. Livingston wrote, "Immediate guard chastisement by the infliction of stripes! -- the whole system is based upon this."47 He believed the reformation achieved by solitary confinement at night was destroyed by working together and marching in lockstep, which allowed communication between the prisoners despite the vigilance of guards or the threat of the whip.

Livingston pointed out some of the problems at Auburn. In order to correct them, the state legislature appointed a prison governing board of five unpaid Inspectors. The Inspectors had the responsibility of supervising the prison and convicts, maintaining the prison buildings, and hiring keepers and guards. Each year the Inspectors reported to

45Lewis, 80.
46Roscoe, Appendix IV, 50-1.
47Letter, 9.
the legislature on the inmate population and the results of convict labor.\textsuperscript{48}

The prison industries at Auburn included shoemaking, tailoring, weaving, blacksmith shops, coopers, and carding and spinning.\textsuperscript{49} The institution sold its products by the piece-price and the contract systems. With the contract system, the administrators made agreements with outside contractors. The contractors paid the prison a stipulated daily rate for the inmate labor. The contractor controlled manufacturing inside the prison, not the institution's management, and supplied the heavier machinery. The advantages of the contract system for the prison included keeping the convicts continuously employed and having outsiders assume the business risks. It was also profitable for the state. The disadvantages were that the inmates worked, not for the reformatory aspects of their confinement, but for profit. Also, prison labor came into direct competition with free labor.\textsuperscript{50}

In 1830 Gustave de Beaumont and Alexis de Tocqueville visited the Walnut Street Prison in Philadelphia and the

\textsuperscript{48}Crawford, 26; Roscoe, \textit{Appendix IV}, 34-6.


\textsuperscript{50}Henry Calvin Mohler, "Convict Labor Policies" \textit{Journal of the American Institute of Criminal Law and Criminology} XV (May, 1924-February, 1925), 549-50.
Auburn Prison in New York to find out if either system was adaptable to France. Several questions arose concerning the suitability of the American models in France. One objection was the high cost of setting up and maintaining the prison. Both American prison philosophies required convicts be individually isolated, but French prisons housed their inmates in communal rooms making the costs of providing solitary confinement prohibitively expensive.\(^\text{51}\) Though de Beaumont and de Tocqueville preferred the Auburn System to the Pennsylvania System, they questioned the ability to introduce total silence in French prisons.\(^\text{52}\) They feared that French prisoners would not be as productive as American convicts, and that prison-made goods would not find as many markets as in the United States. They acknowledged many other obstacles to reform the French prison system along the line of the American models.

The problems of the Auburn System observed by the French ultimately surfaced. By the beginning of the twentieth century, the Auburn Prison abandoned the silence rule because it was no longer effective. The prison population had outgrown the abilities of the officials to enforce compliance. Discipline became so lax that it barely controlled the violence. Moreover, prison industries came

\(^{\text{51}}\) de Beaumont and de Tocqueville, 118.

\(^{\text{52}}\) Ibid, 120.
under attack from organized labor which contended prison made goods constituted unfair competition.\(^{53}\)

IV PRISON LABOR

A serious dichotomy quickly developed in America's penitentiary system. On one side stood the reformers. For them the redemption of the prisoner was the prime purpose of imprisonment. On the other side were the state legislators and the public. Common complaints emerged concerning the drain on the public purse by the expenses of imprisonment. Ironically these two views merged under the rubric "hard labor." The courts usually included the phrase "hard labor" in their sentencing. Putting prisoners to work was a way to accomplish both objectives - profit and penance.\(^{54}\)

\(^{53}\)Lewis, 220-1.

\(^{54}\)These twin motives were not lost on the foreign visitors to American prisons. The Englishman William Crawford noted that, "I have generally found that the public approbation in reference to prisons had been measured not by their permanent effects on the moral character of the liberated convicts, but by the profits of the establishment." Crawford, 24; Moreover, work was seen as a liberating influence rather than punishment. Crawford and de Tocqueville perceived convict labor as a relief from solitude. Crawford observed that at the prison in Philadelphia, the new prisoner was put in solitary confinement without a Bible or work for a week. The prisoner soon asked for some kind of job to occupy himself, in which "labour [was] regarded as a great alleviation." Crawford, 10; De Tocqueville also commented in this 1833 On the Penitentiary Systems in the United States and its Application in France, that "labor was a real benefit to the prisoner, rather than an aggravation. It saved him from
There were six major systems of convict labor available from which prison managers could choose. One method was the public account system. The prison became the manufacturer. It bought the raw materials, produced the product and sold these items on the open market. There were certain advantages to this system, since all the profits went to the state and the state maintained control of the workshops and the prisoners. However, there developed many disadvantages. The warden had not only to maintain prison discipline, but also be an astute businessman. The products from prison industries were often inferior to those of free labor because convicts had less training. Workers outside the prison complained that prison-made goods sold at a lower price and were unfair competition. Finally, seasonal and market fluctuations meant inmates were not always fully utilized, therefore, not at "hard labor," and a burden on the state.

Another method of convict labor was the contract system. This system brought outside employers and prison boredom of solitude because work fatigued the body and relieved the soul." de Tocqueville, 22-23; Almost these exact words concerning the Ohio Penitentiary were used in the Report by the Committee on the Penitentiary by Mr. Wilson. "Nothing is more onerous, nothing more omnipotent in its effects upon the human mind and frame, than the reflecting stillness of a secluded inactivity. It is then a guilty conscience murmurs in a voice not to be suppressed. To dissipate, for a time, this weary and corroding canker, labor will be asked for as a privilege and relief, and with proper management, can be converted into a premium for good conduct." Columbus Gazette, December 31, 1821.
officials together to exploit the labor of the prisoners, with each making a profit. The contractor would lease the labor of the prisoner on a per day price. The contract stipulated the number of convicts needed, multiplied by the price per day to equal the amount paid to the prison officials. These contracts ran for several years at a time. Each contract stipulated the divisions of responsibilities for the manufacturing process. The prison provided some machinery and workshop space, and the outside contractor provided the remaining machinery, raw materials, an overseer of production, and marketing of the product.

The contract system offered several advantages to the prison management. One was that the outside contractor took the business risks instead of the prison. Secondly, this system allowed for full employment of the prisoners. Finally, the profits from this method were substantial. On the other hand, there were no reformatory aspects to this type of profit motive convict labor. Also, contractors sold prison made goods more cheaply and came into direct competition with free labor. Lastly, the prisoners came under outside influences and the brutalities of the overseer.

The third method of prison labor was the piece-price plan, a modification of the above system. The outside contractor supplied the raw materials, received the finished product, and paid a prearranged price for each piece. This
allowed the prison management to control all aspects of production and discipline without the problems of outside influences. Because of this, piece-price labor appeared to be reformatory.

The fourth system was the leasing of convicts. The lessee took physical possession of the convicts and moved them outside the penitentiary to the job site for a long period of time - sometimes months to years. The contractor was responsible for housing, feeding and clothing the convicts, as well as discipline, which could be brutal. The prison relinquished all control over the prisoners. The advantages to the prison were that it relieved the state of the costs of supporting the convicts, while making substantial profits from their labor. However, the lease system lent itself to potential corruption by tempting the criminal justice system to provide a profitable, cheap labor source. Without proper oversight, the convicts were subject to abusive treatment and no assurance of proper health care.

The fifth system was the state-use plan. This put convict labor completely in the hands of prison management. Inmates worked in the prison manufacturing for the facility or other state institutions. Products for this system did not compete on the open market with free labor and the prison retained control over the reformatory measures. However, it did not generate the profits of the other systems and was expensive to set up.
The last system, public works model, differed from state-use only in that the work of inmates was away from the prison. The prisoners built other state facilities or labored on a prison farm.⁵⁵

V. CONCLUSION

In the late eighteenth century, England began a prison reform movement with the purpose of transforming the prisoner into a productive member of society. In the United States, the Quakers in Pennsylvania founded the first prison society to become responsible for planning a penal system, the Philadelphia Society for the Relief of Distressed Prisoners in 1776.

Two penal approaches developed out this reforming era, the Pennsylvania and the Auburn Systems. Both methods relied on solitary confinement and labor as ways of remolding the prisoners' character. The Auburn and Pennsylvania plans sought to completely cut off the prisoners from each other and from the bad influences outside the prison that helped to create them. Solitary confinement was a time in which the inmates could

contemplate the errors of their ways and gain the self-discipline they did not learn while free. There were differences in each method. The Pennsylvania method wanted the complete separation of inmates, even during working and eating periods. The Auburn method allowed for communal working and eating, while brutally maintaining the strict rule of silence. The Auburn system became very popular among states developing new penitentiary systems. These two prison philosophies dominated American penal reform until the beginning of the twentieth century.

Each of these models of prison discipline required the convicts to work at "hard labor" to support the institutions. Six systems of prison industries developed: the public account method, contract convict labor method, state-use model, piece-price plan, leasing inmates outside the prison, and the public works system.
CHAPTER 2
FIRST EFFORTS AND FIRST FAILURES
1815 TO 1834

When Ohio's state government set out to establish a penitentiary it needed to address a series of questions. How would the prison support itself? What work could the prisoners do that did not compete with free labor and how would the products be sold? Who would oversee the convicts' production? Who appointed the prison's upper management? What would be the rules and regulations, who would establish them, and how would they be implemented? Where did reformation of the criminal fit into the management of the prison? All these questions and more arose in the early period of the Ohio Penitentiary.

I. FIRST PENITENTIARY - 1815

The Northwest Ordinance of 1787 guided the earliest political development of the Ohio territory. This document gave the area bordering the Great Lakes a blueprint for the development of territorial and, ultimately, state government. The Continental Congress of the United States
appointed a governor, secretary, and three judges to the new province on October 27, 1787.¹ Many of the settlers to Ohio came from New England.² These settlers brought the Puritan ideals of respect for law and order and the laws of England. Some of the earliest laws provided for the establishment of inferior courts and the punishment of crime.³ Punishments included whipping, confinement in stocks and pillories, commitment to gaols, fines, and forfeiture of life and property.⁴

²"Here in Ohio they are intelligent, industrious and thriving . . . Most of the "Backwoods" men, as they are sometimes called, are emigrants from foreign countries, but the State of Ohio was settled by people from New England, The Region of Industry, Economy, and Steady habits" Thaddeus Harris, The Journal of a Tour into the Northwest Territories (Boston: Manning and Loring, 1805), 58-9; "The early settlers of Marietta and its vicinity were of a different sort from the rough backwoodsmen who had done so much to push the frontier westward. Some of them had attended Harvard or Yale; the leaders had been in the Revolution . . . Respect for the law and order and the religion and educational ideals of New England predominated in the new community." Roseboom and Wisenburger, 54.
⁴Clara Belle Hicks, "History of Penal Institutions in Ohio" Ohio Archaeological and Historical Quarterly Oct, 1924, (Columbus, Ohio: F. J. Heer Printing Co., 1925) 367-8; Chase, 18-23; "As the penitentiary system had not been adopted, and Cincinnati was the seat of justice, it was ornamented with a pillory, stocks and whipping post, and occasionally gallows." Howe, 642, 752-3.
In 1803 Ohio became the eighteenth state within the union. Local jails lodged prisoners until 1813. In 1813 under Governor Return Jonathan Meigs, who held office from 1810 to 1814, the construction of the first state prison in Ohio began. In 1811, the Ohio Senate concluded:

Certainty of punishment is a great prevention of crime, while uncertainty of conviction and of consequent punishment inspires the hope of impunity, and induces a commission of offenses. To your reflections on this subject is submitted the expediency of establishing by law a state prison upon a suitable plan, and under wholesome regulations. To provide for the punishment of crimes in such a manner as to prevent their perpetration by living examples of their effects - to guard against individual repetition by personal confinement - producing in its process the safety of the public, with the reformation of the criminal, and his eventual restoration to society, would be to blend the best attributes of government.

In the same session, the Ohio House of Representatives heard the report of Samuel Monett, a member of the Joint Legislative Committee on the Penitentiary, on plans for a prison. The House resolved that the penitentiary should be sixty feet by thirty feet to be built of brick on a stone foundation, with stone walls projecting in a line with the front, fifty feet on each end, so as to form a front of one hundred and sixty feet, and to extend back from the front one hundred feet, forming an area of one hundred and sixty feet by one hundred, the wall to be

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5Around the same time, the legislature centralized the government of Ohio at Columbus on February 14, 1812.

6Senate Journal (1811), 8.
fifteen feet high. The proprietors of the penitentiary shall be regulated by the directors . . . and said directors shall make a report of their proceedings in the premises, with a plan of said building to the next legislature . . . .

The original proprietors of Columbus, Lyne Starling, John Kerr, Alexander McLaughlin, and James Johnston, conveyed to the state a ten acre square and a ten acre lot for building a State House and a Penitentiary.\(^8\) The legislature appointed a director to lay out the town and select where the public buildings and penitentiary would be built. On March 4, 1814, the final boundaries, plans and all warranties for Columbus were recorded. The state had absolute control over the property.\(^9\) The land for the penitentiary chosen was "bounded by Friends St. (now Main St.), Scioto Lane (now 2nd St.), South Public Lane (an extension of the present Livingston Ave.), and Short Alley (now Short St.)."\(^{10}\) Surveys were made of the rules and regulations of prisons in New York, Pennsylvania and

\(^{7}\) *House Journal* (1811), 333.

\(^{8}\) *Senate Journal* (1812), 8-9; *Laws of Ohio X*, (1812), 92-4.


Maryland for ideas about governing the Ohio Penitentiary.\textsuperscript{11}

Joel Wright, the director overseeing these early building operations, wrote an 1812 report to the House of Representatives. Wright noted that after surveying the proposed site and reviewing the dimensional requirements, he examined the Philadelphia, New York and Kentucky prison structures, but settled on Baltimore's Wethersfield Prison design. Though an exact replica would not be appropriate for Columbus because of the size of the lot, modifications could be adapted easily.\textsuperscript{12}

Under the direction of William Ludlow, State Director of Public Buildings, the new penitentiary, finished in 1815, was built poorly.\textsuperscript{13} The single building measured sixty feet long by thirty-six feet wide and rose three stories, including a basement that was half above ground and the rest below ground. Below ground were five dark, solitary confinement cells.\textsuperscript{14} The basement housed the kitchen, cellar and the prisoners' dining room. The story above the

\textsuperscript{11}Lee, 578.

\textsuperscript{12}House Journal (1812), 37-8; Wright did not include in his report to the House of Representatives an explanation for his choice of Wethersfield Prison.

\textsuperscript{13}William T. Martin, History of Franklin County: Reminiscences of the Early Settlement of the County (Columbus: Follett, Foster and Company, 1858), 347.

\textsuperscript{14}These dark cells were holes in the ground that could only be reached by a trap door in the ceiling without any light or heating. Columbus Correctional Facility, \textit{A Page in History} (1983), 1; Hicks, 376.
basement held the keeper's residence. Thirteen new cells, estimated to hold thirty criminals, ranged opposite each other along an eight-foot passageway. The cell doors had gratings, which allowed the convicts to converse with each other at night.\(^{15}\) The building provided little in the way of health or comfort for the prisoners.\(^{16}\) The prison yard measured about one hundred feet square surrounded by a stone wall fifteen to eighteen feet high.\(^{17}\) The first inmates in the new penitentiary were Jack and David Evans, convicted of assault and battery.\(^{18}\)

In January 1815, the Ohio General Assembly passed the first statute providing for punishment at the penitentiary. It stated,

that if any person shall steal any money or other personal goods and chattels of another, of the value of ten dollars and upwards, every person so offending shall be deemed guilty of larceny and, upon conviction thereof, shall be imprisoned in the penitentiary at hard labor


\(^{16}\)Lee, 578; Martin, 348-9; Jacob H. Studer, \textit{Columbus, Ohio: History, Resources, and Progress} (Columbus: Published by Author, 1873), 368.

\(^{17}\)Howe, 643; Lee 578; Studer, 368-9.

\(^{18}\)The United States government at one time sent Federal prisoners to the Ohio Penitentiary, including ten Apache Indians. George Cole, \textit{History of the Ohio Penitentiary from 1850-1900} (unpublished Masters Thesis, Ohio State University, 1941), 8; Howe, 646.
During Governor Thomas Worthington's December 1816 address to the Ohio House of Representatives, he concurred with the Inspectors of the Penitentiary Report that some of the punishments for crimes were excessive. He questioned if these laws were inconsistent with the section of the State Constitution apportioning penalties. For instance, the laws concerning crimes such as stolen money or goods amounting to only ten dollars imposed a maximum punishment of seven years, while robbing a bank resulted in a maximum sentence of only three years at hard labor. Worthington wanted the penalty to equal the crime, not exceed it. The Governor explained that a convict who worked at hard labor for the benefit of the state left prison degraded, penniless and scorned by society. Worthington asked if humans should not have an opportunity for reformation? According to Worthington, these harsh laws did not accomplish the true purpose of punishment - reform. "Force," he said, "never convinced the human mind; mild, persuasive treatment often

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19Hicks, 374; Martin, 347; Harry Simpson, The Prisoners of the Ohio Penitentiary (Columbus, Ohio: Hann & Adair, Printers, 1883), 10.

20House Journal (1816), 59.
Reformation of the prisoner meant instilling habits of honesty, industry and sobriety.  

From the very beginning, offices at the penitentiary were filled by political appointees, first by the legislature and later by the governor and the senate, and as a result, became subject to political winds.  

The 1815 law that established penal punishments for crimes also gave a general outline for the governance of the new penitentiary. The first five Inspectors named were Samuel Parsons, Robert M'Coy, Henry Brown, Alexander Morrison and James Johnston.  

Terms of office for the Inspectors were one year. During this time, a minimum of three Inspectors met quarterly to examine all prison business. In rotating shifts, two inspectors went weekly to the prison to advise and approve daily operations. Additionally, they had a wide range of duties. The most important responsibility was to draw up

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21 House Journal (1816), 60.


23 Hicks, 343 footnote 4; The only real changes in administration had been the number of members of the board of inspectors and how they were appointed and who appointed the subordinate officers. The only supervision of prison management was an auditing of the accounts and the appointment of special legislative committees to investigate. Samuel P. Orth, "The Centralization of Administration in Ohio" Columbia University Studies in History, Economics and Public Law XVI, no.3 (New York: AMS Press, 1903), 109-110.

24 Chase, 864; House Journal (1815), 435.
the rules and regulations concerning administration of the penitentiary. Also, the Inspectors approved expenditures, punishments and convict labor by the prison administration. Lastly, they appointed or dismissed the keeper of the prison.²⁵

The first keeper of the Ohio Penitentiary was Captain James Kooken.²⁶ His duties focused on the inner workings of the prison's staff and the convicts. Except for his personal or medicinal use, the keeper was forbidden to allow any liquor within the walls. He even paid a fine of fifty dollars if a prisoner escaped and there was no such excuse as extenuating circumstances.²⁷ For guidance on managing the prison Keeper Kookken wrote on July 1, 1819, to the Warden of the Trenton, New Jersey prison asking for any information or advise.²⁸

Upon delivery to the prison's gates, convicts began their initiation into the institution's routine. Prisoners were scrubbed and had the right side of their heads shaved for easy identification. They were then clothed in prison uniforms and housed in solitary until examined and passed by

²⁶Howe, 643; Martin, 348.
²⁷Laws (1815), 31, 33-34, 36-38.
²⁸James Kookken to the Keeper of the Prison at Trenton, New Jersey, July 1, 1819, Papers of James Kookken, Ohio Historical Society, Columbus, Ohio.
a physician. Prison sentences usually required that the criminals spend some time in absolute separation from the prison population, a period of adjustment. The prison management took several actions to maintain the prisoner's health, including sending him out in the yard to "air" regularly. To keep down odor and mildew, the walls were white-washed with lime every month. Finally, the inmates ate "wholesome but coarse food."\(^\text{30}\)

Besides meeting the basic needs of the inmates, the prison was a place of correction. The 1815 law that laid the groundwork for the prison gave the keeper the power to punish prisoners for a variety of infractions by putting them on bread and water for five days in the dungeon or solitary cells, with the suspension of tobacco and other privileges.\(^\text{31}\) If the keeper did not believe this punishment enough, he could petition the inspectors for a thirty-day direct solitary confinement as a part of the sentence.\(^\text{32}\)

\(^{29}\)If at release time the convict was seriously ill, he would be taken care of in prison until well or he requested to leave.  \textit{Laws} (1815), 35.


\(^{31}\)These infractions included assault and battery, profanity, indecent behavior, idleness, neglect of work, or disobeying the rules and regulations.  B. F. Dyer, \textit{History of the Penitentiary, Annex, and Prisoners} (Columbus: Ohio Penitentiary Print, 1891), 10; Hicks, 389.

\(^{32}\)Ibid., 866-7.
After an introductory period in solitary confinement, all inmates worked at hard labor. During this formative period of the prison's history, discipline was lax. With little to do, the prisoners amused themselves playing ball and games. Inmates even went to jobs outside the prison without guards. There were many escapes.

The convicts worked daily for as long as the seasons allowed, except Sunday. The keeper bought all the necessary tools and materials for prison manufacturing and contracted outside instructors to teach trades to the convicts. He also sold the prison's products. The keeper kept detailed accounts of who bought the articles, when and how much was paid. The inspectors could spot-check the keeper's books at any time. Any work done above required labor gave the prisoner credit. These credits accumulated until the end of his sentence and were cashed out upon release. The keeper kept these credits in a separate account.

The 1818 Report of the Inspectors of the Penitentiary requested that the legislature pass a law restructuring prison administration. Under this proposal, the keeper would regulate the internal affairs of the prison and would be authorized to arm himself and his guards. A new position of general agent would be created with duties to provide all

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33Simpson, 11.

34Hicks, 389; Lee, 579.
materials for manufacturing and provisions for convicts. At the end of this report, the inspectors noted that running the prison cost a fraction less than ten and one-half cents per day per man!\(^5\)

II. EXPANSION OF THE PENITENTIARY

Within a year of its opening, the penitentiary had become overcrowded. As a result, in 1819 a new cell block was built.\(^6\) The new building, measuring approximately 150 feet long and thirty-four feet wide, housed a kitchen, dining hall and fifty-four cells on the ground floor with five dark cells in the basement. The size of the prison yard increased to 400 by 160 feet. Inside the yard new workshops were set up.\(^7\)

As the size of the prison expanded, the Ohio Penitentiary needed the convicts to support the growing expenses of maintaining the institution. Throughout its history, the prison used four labor methods -- public

\(^5\)House Journal (1818), 244-245.

\(^6\)As early as 1816 Samuel Parsons, President of the Inspectors, complained of overcrowding. House Journal (1816), 62.

\(^7\)Chase, 1221; Columbus and Central Ohio Historian, 5; "Laws of Ohio" section 2, Columbus Gazette, February 14, 1822.

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account, contract labor, state-use, and piece-price. During the period 1816 to 1835, prisoners worked on a public account system. Under this system the keeper had the responsibility of both the prison discipline and business interests. He acquired tools, machinery, and stocks of materials necessary for the employment of the prisoners. Also, the keeper kept accounts relating to the prisoners. These accounts included the costs of prisoner maintenance, accounts for the tools and materials manufactured at the prison, and accounts for the prison goods sold. The keeper, with the approval of two inspectors, could buy the raw materials and make arrangements to sell or exchange goods for provisions. The first official warden's report by Keeper Kooken in 1816 showed $3126.41 in sales of prison goods with $572.60 worth of goods on hand. The balance sheet was short $1065.39 to meet the prison's expenses. Much of the prison-made goods sold on credit. On February 20, 1817, Keeper Kooken announced in the paper,

The time has arrived when the subscriber finds himself under the necessity of calling all those who are indebted to him for articles purchased from the Penitentiary to make an immediate payment. His indulgence

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38 Please see Chapter One pages 33 to 36 for an explanation of these labor use terms.

39 Chase, 864-5.

40 Chase, 865; Howe, 643; Lee, 579.

41 Columbus Gazette, December 12, 1816.
has been at his own risk and injury, and he now has express orders from the board of inspectors, to put all note and accounts in suit . . . .

By 1817 Jeremiah McLene, President of the Inspectors, complained that the penitentiary was not as profitable as it should be and believed that the lack of space was the reason. To make the prison more profitable, the General Assembly in 1819 reduced the number of inspectors from five to three and turned over their responsibility for prison manufacturing to a state agent. The agent worked with the keeper to regulate and control manufacturing, store goods, make sales, collect debts, and pay receipts to the State Treasurer. The new post of agent paid $600.00 per year and two per cent of the money he brought into the prison's treasury from prison-made goods. The agent had the discretion to sell these articles for cash or credit, however, credit could only be for six months. If restitution was not within that time, the agent was liable for the outstanding debts. However, the General Assembly abolished the position in 1822.

In March 1821 another management level for prison industries was added, the director. The director's job was to purchase essential raw materials, increase the output of

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42 Lee, 579.
43 House Journal (1818), 70-2.
44 Chase, 1057-9; Studer, 370.
the prison's industries, inform the keeper on the kinds of items manufactured, and instruct the agent to make contracts for these articles. Each Saturday the director, agent and keeper met and discussed the disposal of the items manufactured during the previous week. The director set the price for the articles. The agent received the goods and the director's price list and then gave the keeper this accounting record so it could be added to the prison's receipts. After one year, the legislature abolished the director's position and merged its duties with the agent's. Later the General Assembly discontinued both the agent and director position and the keeper assumed the responsibilities.

Though the management of prison labor fluctuated during the early period, convict labor remained busy. The state used convict labor to build the new penitentiary and help build the Ohio Canal. Also, convict labor worked at blacksmithing, cabinet making, gunsmithing, wagon-making, shoemaking, coopering, weaving, and tailoring. Advertisements ran in various editions of the Columbus Gazette listing articles for sale. These advertisements

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45Columbus Gazette, March 1, 1821.

46Chase, 1180-1.

47Hicks, 387.

48Columbus Gazette, December 12, 1816; Crawford, 126.
offered men, women and children's shoes, nails, plough irons, axes, hoes, hinges, bed screws, bridle bits, and coopers wares such as barrels, tubs, buckets, steel traps, ladles, forks, and tin wares. Columbus' economy was cash poor, so Agent G. Thomas was willing to barter prison manufactured articles for beeswax, tallow, old pewter, and wool of second shearing and lambs wool. In the later advertisement, Keeper B. Wright offered a liberal discount to merchants.\textsuperscript{49}

Even with all this production and efforts to dispose of these goods, various reports by Keeper Kookken to the General Assembly showed that the State Treasury regularly supplemented the income of the prison. During the 1820's, articles in the \textit{Columbus Gazette} reported these appropriations. The February 22, 1821, edition reported that the General Assembly appropriated $3,000.00 to pay the prison's debts from 1820. The January 5, 1822, issue reported the legislature again needed to add $2,000.00 to defray the institution's expenses.

The Legislative Committee on the Penitentiary in December 1821 reported to the General Assembly that several firms had approached prison officials with offers to lease convict labor, but the Committee rejected the idea as not

\textsuperscript{49}\textit{Columbus Gazette}, June 21, 1821, March 9, 1822 and March 15, 1822.
being in the best interests of the prison or the state.\textsuperscript{50} The Committee recommended abolishing the position of director and agent and putting the authority over convict labor in the hands of the keeper and one inspector.\textsuperscript{51}

This recommendation was an attempt to get the revenue reports under some kind of control. According to the same 1821 Legislative Report, the prison accounts were so complex and time consuming that no concise profit and loss statement could be given to the General Assembly. In response, an 1823 law required the keeper to maintain fair, plain and regular accounts for the state showing the sale of manufactured articles, all monies paid out for the institution, a regular account for purchases, and make quarterly reports to the legislature.\textsuperscript{52}

The new accounting law came as a result of the problems arising from an audit of the prison books after the death of Keeper Wright.\textsuperscript{53} A discrepancy appeared of approximately

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\textsuperscript{50}\textit{Columbus Gazette}, December 31, 1821.
\textsuperscript{51}Ibid.
\textsuperscript{52}\textsuperscript{Chase, 1339.}
\textsuperscript{53}The administration of Barzillai Wright had controversy from the beginning. In the December 28, 1822 edition of the \textit{Columbus Gazette}, a protest against Mr. Wright becoming Keeper was published. Thirteen legislators, Clayton Webb, George House, J. R. Parish, Thomas Shannon, Roswell Mills, William Towsley, William W. Gault, John Dougherty, John L. Meredith, George Richardson, John Shelby, William Lewis, and William Vance, argued that Wright's appointment was unconstitutional. The basis of this complaint was that Wright had lived in Ohio for only four
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$5,000.00 between the Keeper's accounts and the auditors evaluations. Wright's accounting books had over $6,000.00 of outstanding debts; a substantial amount of money needed to run the prison. Because these debts were divided among 500 different debtors, getting restitution would be very difficult. The Joint Committee of the Penitentiary cautioned that continuing such a policy would constitute an ongoing loss for the facility. The Committee lamented, "It is a matter of great regret to find that an institution, bounded on the great principles of reform, should have been so expensive, and produced so little benefit in its ultimate object, as the penitentiary of Ohio." Interestingly, the Committee recommended keeping prisoners in solitary confinement with shorter prison terms, this way the

months and state citizenship took one year. The Ohio Constitution stated that no office could be held by anyone not a resident for at least one year.

Also, Wright's appointment was made during the interim of two laws regulating the prison, 1821 and 1822 laws. The 1821 law had been repealed and the 1822 law had passed both houses of the legislature, but not signed by the governor and registered, therefore, not in force. According to the protestors, the legislature did not have the authority to confirm Wright as keeper. "Protest", Columbus Gazette, December 28, 1822.

Report of the Joint Committee. Appointed to Examine into the State and Condition of the Penitentiary. 1823 (Columbus: P.H. Olmstead, 1823), 4.

Ibid., 4-6.
production costs would be less because fewer convicts would be employed in work.\textsuperscript{56}

Governor Adair's annual message in November 1821 also included a series of complaints concerning the management of the Ohio Penitentiary: the omission of solitary confinement, the need for general education, the absence of all distinctions of merit, the infliction of corporal punishment, and the neglect to supply the released prisoners with any money. To address these shortcomings, the Governor had several suggestions. First, since the prisoner had committed an offense against society, he believed that religious and moral instruction of the prisoners would be beneficial. Secondly, to prepare the inmates for the future, the prison should teach the basics of educations (reading, writing, and arithmetic) along with marketable skills. Governor Adair also suggested that an industrious convict could keep part of his earnings to support his family or receive his money upon his release. Thirdly, to encourage better conduct during confinement, the Governor felt that some rewards for good behavior should be offered, such as convict distinctions or shortening sentences. Finally, Adair wanted to move away from corporal punishments and substitute in its place solitary confinement. Governor Adair reiterated that none of this could take place until

\textsuperscript{56}Ibid.
the present prison was renovated. The number of convicts had outgrown the space available to either house or carry on their labor adequately.57

As noted in Governor Adair's speech, there had been few attempts to redeem the inmates. The 1821 Joint Committee of the Legislature Report bemoaned the fact that there was no classification of prisoners. The Committee expressed fear of young offenders being corrupted by the older convicts. Thus, instead of making the prison a house of correction, it became a school of crime.58 In 1821 the General Assembly passed the first law to give every prisoner a Bible, paid for by the state. It also authorized the director to recruit ministers to preach to the convicts.59 The Joint Committee Report of 1823 advocated solitary confinement as a method to promote reform. The Committee considered the system at the prison to be "radically defective." The obvious problems, both for work and discipline, laid in the "licensed society of the convicts with each other." Solitary would lead the convict "to that desolate feeling of solitude and restraint for a sufficient length of time to

57 Columbus Gazette, November 22, 1821.
58 Columbus Gazette, December 31, 1821.
59 "... [the prisoners] have been furnished with a Book of Common Prayer." Chaplain Report to Board of Directors, 1835, 22; Chase, 1184.
produce the effects proposed by this mode of punishment — repentance and reform."  

However, in the First Annual Report of the Boston Prison Discipline Society in 1825, Keeper Nathaniel McLean reported that the Ohio Penitentiary had no chapel or regular religious instruction. In spite of that, when a religious service was provided, many prisoners seemed moved. Keeper McLean's hope was that the Boston Society would provide financially for a minister at the prison.  

Still by 1827 little had been done toward reformation. Governor Trimble in his 1828 Annual Message expressed frustration in the continuing conditions. He said, "The utter inability of the Penitentiary to meet the constantly accumulating charges upon it, and failure to produce reformation of convicts has given rise to prejudice against the system . . . it is not equally unreasonable to expect the present mode of discipline to effect reformation."  

In 1828 the Presbytery of Cincinnati appointed Reverend James Chute as Chaplain of the Penitentiary with a salary of thirty dollars a month. This money was raised by personal subscriptions paid by the ministers of the Synod of
Presbyterians. Reverend Chute held the post for a little over two years and then resigned his office in May 1831 and no one took up his appointment. Perhaps Reverend Chute's departure was linked to the failure of the gospel to reform the prisoners. Keeper Leonard in 1830 commented in his report to the Boston Prison Discipline Society,

The worthy individual who, for some time past, has acted in a ministerial capacity in this institution, still continues his laudable endeavors to impart to the prisoners beneficial instruction. And it is deeply to be regretted, that the zeal which he evinces in the cause of reformation, and his devout endeavors to secure to his unfortunate auditors an eternal welfare, should not be accompanied with corresponding good. But how can it be otherwise, than that system of discipline which fails to restrain men in their evil propensities towards the community, should be equally inoperative in enforcing upon them an obedience to the positive command of their God?

Reformation was difficult with the prison being so crowded. Moreover, the warden cited this lack of space as the reason that the prison had not been as profitable as hoped. As early as 1826, the legislature discussed building a much larger penitentiary. In 1830 Keeper Leonard reported to the Boston Prison Discipline Society that the prison was a "sinking institution" with only enough room to

63 Boston Prison Discipline Society, Third Report, 1827 (Boston: Perkins and Marvin, 1830), 15; Hicks, 391.
64 Boston Prison Discipline Society, Sixth Report, 1830 (Boston: Perkins and Marvin, 1831), 509.
65 Lee, 579.
employ eighty inmates out of a population of about 150. The rest of the convicts were shut up in the cells. Leonard wanted to abandon the solitary system, which could not be enforced, or to expand the prison. Overcrowding inside the prison hindered putting men to work. The hospital was converted into a tailor’s shop, constricting the space for the sick. Some prisoners worked outside the walls digging part of a canal feeder. These men had to wear chains, to control escapes. Keeper Leonard condemned this practice as humiliating and debasing, but no other alternative was available.

On October 8, 1830, a fire started in a workshop near the center of the prison and nearly all the shops burned down. Penitentiary officials assumed some inmates started the fire by a slow burning fuse. Keeper Leonard lamented that if he had the power he would not rebuild the permanent shops where they were, because of the lack of space on the prison grounds.

Conditions at the penitentiary had deteriorated so badly that in his speech to the State Legislature in

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66Boston Prison Discipline Society, Fifth Report, 1829 (Boston: Boston Type and Stereotype Foundry, 1830), 366; Crawford, 126.


December 1831, Governor Duncan M'Arthur condemned every aspect of the situation. According to M'Arthur,

> The present situation of that establishment is so defective - so generally deranged, and so insecure - so little calculated to promote the object for which it was established, that I feel it my duty to recommend that some prompt and efficient measures may be taken by the representatives of the people to remedy the existing evils, ... The present location, and every thing connected with it, appears to be radically defective. The object of establishing the Penitentiary was to punish crimes and offenses, reform the convicts, and deter others from the commission of crime. In all these aspects it has failed. Confinement in the Penitentiary, under the present regulations, is, in fact, no punishment.\(^6^9\)

Part of the problem lay with the governor. When the population of the prison exceeded 120 inmates, he pardoned many convicts to make room for new prisoners. Therefore, the average confinement lasted only twenty-one months, whatever the sentence of the court. Notwithstanding these efforts, the inmates were locked up four to a cell.\(^7^0\)

In his *Annual Report* to the Ohio Legislature, Keeper Leonard echoed the Governor in his assessment of the success, or lack of, the prison. He wrote,

> With the joint exertions of directors, and agent, and a keeper; of inspectors and keeper;

\(^6^9^{Boston Prison Discipline Society. Seventh Report, 1831 (Boston: Perkins and Marvin, 1832), 59.}\n
\(^7^0^{Crawford, 126; Whenever the number of prisoners exceeded 120, the Governor of Ohio pardoned prisoners to make room for new ones. This use of the pardoning power frustrated inspectors and wardens alike. How could discipline be enforced when the potential for freedom was always at hand? Attorney General's Survey, 7.}\n
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of directors, inspector and keeper, at several different periods of time, the Prison has failed to become profitable, or to produce reformation . . . They have, indeed, been productive of a greater amount of evil than good; and more perfect system for dissemination of vice would not be devised, that is to be found within the walls of the Ohio Prison.\textsuperscript{71}

Following up on the Governor and Keeper's reports, the Ohio Legislature Standing Committee on the Penitentiary confirmed the above reports and issued one of their own. The report stated, "The committee have examined the 'Ohio Penitentiary', its condition and prospects; and they have fully concurred in the opinion often expressed, that the institution has not only failed to answer any valuable purpose, but has, in fact, become a serious evil, an evil which requires immediate remedy."\textsuperscript{72} In this detailed report, all the ills of the prison were covered from its location to the lack of cleanliness. The committee recommended building a new prison with 500 cells and establishing a new system of discipline. This new system of discipline should include total silence, neatness and

\textsuperscript{71}Boston Prison Discipline Society, Seventh Report, 61.

\textsuperscript{72}Ibid.; De Tocqueville, the French visitor in the United States between 1832 to 1834, noted that, "In Ohio, New Hampshire, and some other states, there is, indeed, a system of imprisonment; but it is a bad system, and no PENITENTIARY SYSTEM". (de Tocqueville's emphasis) Gustave de Beaumont and Alexis de Tocqueville, On the Penitentiary System in the United States and its Application in France, (Carbondale and Edwardsville: Southern Illinois University Press, 1964), 12, footnote.
industry as a way to moral reform. To achieve this goal, the committee included a list of requirements endorsed earlier by the Boston Prison Discipline Society: 1) solitary confinement at night, 2) productive labor, 3) vigilant inspection, day and night, 4) a place for everything, and everything in its place, 5) the lockstep, 6) not permitting the prisoners to face each other at work, and 8) establishing habits of neatness and industry.  

This crowding exacerbated a cholera attack that hit Columbus and the penitentiary in July 1833. Out of 203 prisoners, few avoided getting sick, but only eleven died. The prison management feared unaffected prisoners would try to break out. Keeper Gault increased the number of guards around the compound. Work on the new prison building was suspended and did not begin again until September.

CONCLUSION:

The first Ohio Penitentiary had no cohesive plans for discipline or utilizing convict labor. Moreover, many of the difficulties that faced this facility will continue

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74Warden Report (1833), 1-2; Keepers of the Old Penitentiary were: 1815 to 1822 - James Kook, 1822 (died the summer, 1823) Barzillai Wright; 1823, Nathaniel McLean; 1830, Bryam Leonard; and 1832 to 1834, W. W. Gault.
throughout the scope of this paper. The foremost problem was trying to balance the monetary needs of the institution with reformation of the criminals. From its opening in 1815, the prison constantly called upon the legislature for money, and the legislature never gave funds easily. The main source of income for the prison came from convict labor working in the state shops. Prisoner products were sold first by the keeper and then by an agent.

This change in the person responsible for selling prison made goods reflected the political nature of the penitentiary. Because prison management was appointed, politics played an integral part in running the institution and contributed to many of the complications that arose. As elections led to new political alignments in the legislature and governorship, these shifts reverberated in the prison administrations.

Overcrowding began as soon as the penitentiary was built. Maintaining enough room for the expanding inmate population and the work it was expected to do remained an ongoing concern.

Reform of the criminal had not been part of the early prison. Governors and keepers wanted to use a Christian approach to change the habits of the prisoners. Bibles were put in the cells to advance this ideal. Other methods mentioned as reformatory were classification of prisoners, separation of the young offender from the hardened criminal,
and solitary confinement instead of corporeal punishment. These ideas will form the basis of all innovations toward reformation in the future.

This brief nineteen years set the stage for the future of the Ohio Penitentiary.
By the early 1830s the inadequacies of the original penitentiary led the General Assembly, Board of Directors, and Wardens all to call for the establishment of a larger, modern prison structure. The questions asked were not why but how and what. How large and on what penal plan should the new building be patterned? How would the prison management keep the inmates employed? The current convict labor system was run by various prison officials and was not profitable enough to support the institution. Since convicts' sentences included the phrase, "at hard labor," what different method could be instituted that would turn the prison into a moneymaking enterprise? The old prison did not have an organized routine of discipline. With a new penitentiary, what method would be the most effective in controlling the prisoners? How did reform fit into this disciplinary regimen? The answers to these questions were not easy.
I. THE NEW OHIO PENITENTIARY

In 1832 the General Assembly passed a bill authorizing the erection of a new penitentiary able to hold at least 500 prisoners, with plans for 200 more cells. Four directors, Joseph Olds of Circleville, Samuel MacCracken of Lancaster, Charles Anthony of Springfield, and Nathaniel Medbery as superintendent, oversaw the construction using the design of the prison in Wethersfield, Connecticut.1 The directors hired as contractors Joseph Ridgeway, Senior and Junior, Otis and Samuel Crosby, and D. W. Deshler.2 They secured fifteen acres east of the Scioto River and north of Columbus for $800.00. These contractors could only use thirty-six convicts, being held at the old prison, to work on the new penitentiary.3 As an inducement, prisoners, whose sentences had not expired before finishing the penitentiary, received a pardon from the governor for their remaining time.4 The


2Lee, 580; Directors Report (1833), 2.

3Solmon P. Chase, The Statutes of Ohio and of the Northwestern Territory vol. 1 (Cincinnati: Corey and Fairbank, 1833), 1920-1.


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construction of the new prison began in March 1833 and finished in October 1837. The facility received its first prisoners in October 1834, well before construction was complete.

The penitentiary cost $78,428.15 in 1834, including $58,744.61 for 11,112,462 days of convict labor. The 1835 Directors Report praised the work of the convicts on the penitentiary. They considered the work "highly satisfactory, with as regards the character of the work and the amount performed."

The new prison, now known as the Ohio Penitentiary, covered twenty-six acres. A wall thirty-feet high with twelve armed sentry boxes surrounded the prison. The main prison entrance opened onto Spring Street, with three more gates placed at each juncture of the walls. The cell wings rose five stories high and each wing held seventy cells. Each prison building had two stories of cells that faced the outside walls. An eleven-foot wide corridor ran between the cells and the walls. The lower level of cells had air ducts

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The 1837 cost of the prison was $93,370.50. Columbus Correctional Facility, "A Page in History", 1; Directors Report (1833), 4; B. F. Dyer, History of the Penitentiary, Annex, and Prisoners (Columbus: Ohio Penitentiary Print, 1891), 11; Lee, 580; Jacob H. Studer, Columbus, Ohio: History, Resources, and Progress (Columbus: Published by Author, 1873), 380.

Directors Report (1835), 2.

Dyer, 18-19.
to prevent dampness. Built from stone with iron doors, a cell measured four by seven feet and contained a bed made out of a bag of hay and a blanket for winter. The bed turned against the wall during the day to allow more room in the cell. It was not long before the prisoners complained of conditions at the penitentiary. The meager amount of food provided by the kitchen was of the coarsest kind. The table ware consisted of rusted tin plates with knives and forks made at the blacksmith's shop and attached to cut off broomstick handles.

Besides the construction of the prison, the directors had the responsibility of making the rules and regulations for the discipline at the institution, appointing the warden (formerly called the keeper), inspecting his books, and reporting to the General Assembly. On October 27, 1834, Nathaniel Medbery became the first warden. His duties included purchasing raw materials for prison industries, attending to the sale of these articles and using this money to provide food and clothing for the inmates, and general charge of the facility. The institution abandoned the old

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system of bartering prison made-goods for necessities and replaced it with outside contractors paying a per day per prisoner rate for manufactured goods.\textsuperscript{10}

The cost of the transportation of criminals from the jails to the prison was a sore point with the prison administration. The 1815 law assigned this transportation duty to the sheriff, with the state reimbursing him ten cents a mile each way plus expenses for food, lodging and guarding. These transportation costs were major monetary expenses. In 1835, the prison expended approximately $71.71 per convict for these charges. From 1835 onward most of the reports of the directors and wardens harped on this item. The penitentiary ultimately paid these costs and then had to ask for reimbursement from the State Treasury. Warden John Patterson complained that, if the sheriff transported ten criminals, he would take the expenses of one and multiply it

\textsuperscript{10}The 1835 Directors Report to the Legislature highly praised the new system of responsibilities. The directors agreed that, "It is due to the Warden, and to the other officers of the Institution . . . One of the distinguishing features of the system is, that it contemplates a regular subordination and accountability from the lowest to the highest of the officers of the institution. Each, in his appropriate sphere of action, is responsible for the due administration of discipline, and for strict application of the system in the detail in department, especially with reference to the reformatory influence (their emphasis) to be exercised upon the convicts." Directors Report (1835), 5-6; Chase, 922; Clara Belle Hicks, "History of Penal Institution in Ohio" Ohio Archaeological and Historical Quarterly Oct. 1924 (Columbus, Ohio: F. J. Heer Printing Co., 1925), 398; Studer, 389.
by ten. The warden exclaimed - is this fair? The convicts supposedly paid the money. However, they usually did not have any money nor were the families willing or able to come up with the transportation costs. In 1836 the Directors asked the legislature to enact a law providing that, if the criminal did not reimburse the transportation costs, then the convict remained in prison until the money was reimbursed through his labor.  

In 1844 the legislature attempted to save money by dispensing with the deputy warden's position and foisting the duties onto the warden; simultaneously, the General Assembly cut his wages. When the warden became ill for a few weeks and unable to attend to prison administrative details, things ran amuck. The guards refused to obey anyone's orders. The directors begged the legislature to either reinstate the deputy warden or give the warden the authority to put a guard in a command position when necessary and restore the warden's former salary.  

II. PRISON DISCIPLINE

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11Laws (1815), 29.

12Directors Report (1835), 4-5; Warden Report (1836), 4-5; Directors Report (1837), 5; Directors Report (1838), 4-5; Directors Report (1839), 5; Directors Report (1841), 7.

13Directors Report (1844), 3-4.
In 1834, the Ohio Penitentiary adopted a new discipline based on the Auburn system: congregate work in an environment of strictly enforced silence during the day and solitary confinement at night. Inmates walked in lockstep to and from work and meals, and dressed in black and white prison stripes. To reward well-behaved inmates, prison officials instituted the "Ohio Idea" of using different colored stripes to denote special inmates. Those convicts consenting to a special agreement to follow both the spirit and letter of the rules and maintain that level of obedience for six months, could wear grey and white stripped uniforms. This worked well as a reformatory measure and other states adopted this system.¹⁴

These new rules were to fulfill two goals: first, to reform the prisoner and second, to bring money into the institution through prison labor.¹⁵ The reformation was achieved by several avenues. Every Sunday had religious instruction and Sunday School classes. Catholic inmates, for example, had their own chapel in which to meet religious obligations. In 1835 the Directors named the Reverend Russell Bigelow as Chaplain. However, in 1836 the General Assembly repealed the legal provision for a Chaplain. As a consequence, Dorthea Dix, in her August 1844 visit to the

¹⁴Howe, 645.

¹⁵Hicks, 401.
Ohio Penitentiary, wrote, "The Ohio State Penitentiary, at Columbus, is so totally deficient of the means of moral and mental culture directly imparted, that little remains to be said, after stating the fact." To fill this gap in moral instruction, various citizens wanted to evangelize the prisoners. A group, Young Men's Prison Society, formed to raise money to support a chaplain. Upon their urgings, the Directors used money charged for visitors to the prison to pay for the chaplain. Dix disliked the idea of visitors coming into the prison and viewing prisoners. She scathingly wrote,

In Columbus, Ohio in one year, 1844, was received $1038.78 for paying visitors . . . at 25 cents each, above 4150 persons. It might be supposed that the exposure of convicts to the large numbers of spectators, would not aid the moral and reforming influences of the prisoners. This source of revenue would be better dispensed with.

From 1840 to 1845, Reverend Samuel F. Mills donated his time to the prison. The 1844 Directors Report praised Reverend Mills' work and again requested the legislature to provide for a full-time chaplain's position.

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17 Hicks, 401-2; Lee, 580.

18 Ibid.

19 Dix, 43.

20 Directors Report (1844), 7.
In complying with the directors' requests, on April 2, 1846, the legislature selected Reverend James B. Finley as Chaplain of the Penitentiary. In 1850 Finley published a diary of his first year at the prison. His position was unique, neither part of the general administration nor a prisoner. Consequently, his comments on penal discipline gave a different perspective of prison life. "I have no cause to advocate but the cause of justice and humanity combined," Finley declared. "I have no hobbies to ride; I have no ulterior end in view; but I sit down merely to record what I have seen and heard." 21

Whatever his pretenses, by the end of his first year at the Ohio Penitentiary, Finley had clearly formed forceful conclusions regarding prison discipline. He roundly condemned the laws as too harsh and, though he accepted the necessity of pardons, he condemned their too frequent use as a deterrent to reformation. He wrote,

> It appears to me that there is a great defect in our criminal code, which greatly retards the reformation of the prisoner - and this is the abuse of the pardoning power . . . under the Present laws, from the time a man is convicted, he is strongly encouraged to hope for a pardon . . . The constant endeavors of the prisoner to be released from confinement renders abortive every effort to reclaim him . . . The certainty (his emphasis) of punishment rather than the severity is

undoubtedly the greatest influence in preventing crime.\textsuperscript{22}

Finley also believed that mental activity should be encouraged, as it played a role in reforming the inmate.\textsuperscript{23} To implement this, he began classes after work every day but Sunday to teach illiterate convicts to read. He was the prime mover in establishing the first true prison library in the country. By 1849 he amassed 7,000 books, 1,500 pamphlets, and 20,000 pages of religious tracts. Prisoners could spend their evening reading such material as Herodotus, Homer, Livy, Greek and Latin poets, Washington Irving, and many Bibles and religious material. Finley selected the reading material carefully with an eye toward moral instruction. "Works for the heads and works for the hearts should be commingled," Finley believed. "Science,

\textsuperscript{22}Ibid., 299-300.

\textsuperscript{23}As early as 1835, the directors questioned the efficacy of putting uneducated men and, especially the under twenty-one years olds, in solitary confinement. In the time between lock-up and lights out, these convicts would daydream about past actions or sexual excitements. Rather than reform, plots and schemes would be hatched. The directors recommended an educational program, then instead of the above, the inmates could read the Bible provided by law, and this would help reform them. The Directors quoted the Constitution of Ohio as fully supporting education for its citizens. Directors Report (1835), 6-7; Chaplain Charles Fitch in his 1839 Report to the Board of Directors, also lamented of the lack of reading material for the inmates and the need to keep the mind, as well as the body, occupied if reformation was to work. The prison, in 1839, only had about 200 small volumes of religious tracts given to the penitentiary in 1836 by the American Sunday School Union. The box containing the tracts was not opened until fall of 1839! Chaplain Report to the Directors (1839), 50.
philosophy, literature, religion, general intelligence should be recommended to them by books written by the masters of composition."

In his 1847 Report to the Directors, Warden Laurin Dewey proudly acknowledged Reverend Finley's efforts for the library.

Through his efforts . . . the Library for the use and benefit of the prisoners . . . is now probably the largest prison library in the world. Each convict is permitted to draw a book from the library every Saturday morning, and, through this instrumentality, a desire for improvement is greatly excited, and the seeds sown, no doubt, in many cases of moral reform.

Finley suffered from a chronic illness and was away from the prison during 1848 and 1849. During the summer of 1849, an outbreak of Asiatic cholera forced the Legislature to appoint another chaplain to spiritually comfort the ill. Columbus had an earlier epidemic of cholera in 1833, during the building of the new penitentiary, killing eleven prisoners. The cholera of 1849 began in June, about the same time of year as the 1833 epidemic. By July 9, out of 423 inmates, 396 came down with some stage of the disease. All work stopped and the shops converted into makeshift hospitals. The prisoners panicked and some guards deserted,

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24 Finley, 159-160.


26 Directors Report (1834), 1; See above Chapter 2 page 63.
causing prison discipline to breakdown completely. However, Governor Ford persuaded the inmates not to flee by promising pardons to those who remained and helped the sick. Fifty-two inmates received a Governor's pardon. By September the epidemic finally abated. A total of 116 prisoners died. Both Dr. B.F. Gard and Dr. H. Lathrop, the regular prison doctor, died trying to help the prisoners. A less serious outbreak of cholera occurred in 1850, but with no loss of life.

A Special Report of the Warden to the Senate sent on February 1, 1850, detailed the names, dates and compensation of the doctors that worked during the 1849 cholera attack at the penitentiary. In all, nine doctors, three assistant physicians and seven nurses assisted. The temporary doctors and nurses agreed not to take compensations.

III. VAN HOOK SCANDAL: THE FIRST THREAT TO THE PRISON ADMINISTRATION

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27 Directors Reports (1849), 29; Jonathan Forman, "The First Cholera Epidemic in Columbus, Ohio - 1833" Annals of Medical History (vol. 6, #5), 415, 423; Jonathan Forman, "The First Year of the Second Epidemic of Asiatic Cholera in Columbus, Ohio - 1849" The Ohio State Archaeological and Historical Quarterly (October-December, 1944), 307-9; Hicks, 410-12.

While the cholera attack shook the prison internally, scandal during the early 1840s brought with it public outcries. Richard Jeffries, Clerk of the Prison, brought charges to the legislature accusing Warden Van Hook of misappropriating funds from the visitors box and safe. After Jeffries, others added their own information about Van Hook's actions. The complaints against him concerned malfeasance in office in relation to some pork, muslin, shoes, the visitors box, and the safe. The Directors, A. H. Patterson, William Spencer and A. McElvian, conducted a probe into these charges and recorded the proceedings.

Van Hook attended these sessions with his counsel and questioned the witnesses. The Directors fired the Warden.

The recorded testimony leaked and became public knowledge, casting aspersions upon the character of the prison and Van Hook. Many were appalled at the action against Van Hook, having considered him a man of unimpeachable character; friends and political enemies alike attested to his integrity. This outcry forced the legislature to act. On January 3, 1843, the Ohio House of Representatives and Senate passed a joint resolution requesting that the Legislative Standing Committee on the Penitentiary look into the Directors' proceedings and

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29 In the Directors or Wardens' Reports for the years 1842 and 1843, not one mention was made of the Van Hook affair.
charges and take testimony. The committee should decide on
the validity of the firing. 30

The most serious charge against Van Hook, revolving
around the money, came from Richard Jeffries. He contended
that the Warden took money from the visitors box and the
safe, but he never made an accounting to Jeffries for the
prison's books. During questioning it became apparent that
Jeffries and Van Hook had a tempestuous relationship. They
argued frequently and Jeffries had once threatened to quit.
So Jeffries had a bias against the Warden. However, his
opinion of Van Hook did not erase the problem of the missing
money. Jeffries testified that he observed the Warden
taking the money and noted funds missing from both places.
To confirm his suspicions, Jeffries had the guards in the
next room watch for anyone coming in and out of his office
while he was out. The guards, John and Adam Christ, did see
the Warden inside the empty office.

Warden Van Hook admitted that he had taken money
several times, but so what? Past wardens did the same
thing. Van Hook explained that he used the cash to pay off
the prison's small debts. Debts, he claimed, that did not
justify all the required paper work. Ex-warden Nathaniel
Medbery testified that he did the same thing and no one ever
questioned him. Van Hook alluded to the fact that he and

30Laws XLI (1843), 240.
Jeffries were not on the best of terms and this could be a vendetta against him. By themselves these charges were inconclusive.

However, the other charges began to establish a pattern of abuse of office. The charges concerning the hogs in the prison's sty were the most confusing and conflicting. The prior warden, Nathaniel Medbery, kept six or seven of his personal hogs at the prison. When Medbery retired and Van Hook took over, he bought all of the furniture and kitchen utensils from Medbery for $300.00. Medbery took Van Hook to the sty, pointed to the hogs, and indicated some of the pigs belonged to him. These hogs were part of the items bought by Van Hook and, after having the animals slaughtered, Medbery expected to receive part of the meat. Depending on whom you believe, either Medbery never clearly represented how many hogs were part of the transaction or Van Hook tried to get undeserved credit from the prison for the sale of the meat. Testimony conflicted over the interpretation. The evidence showed that Van Hook received credit for over 2000 pounds of pork. After he explained the confusion, the directors reduced the credit to less than 200 pounds and later less than that. Like the issue of taking the funds from the visitors box, it appeared that some people wanted to make the pork situation seem more than it really was. One of the contractors, Jacob Stickler, supposedly put the pork story about because of his personal dislike of Van Hook.
Nonetheless, another suspicious action by Van Hook revolved around muslin. The muslin controversy had the appearance of Van Hook trying to get something for nothing. The prison received 169 yards of clothing muslin. Warden Van Hook took fifty-three yards for himself, saying he had already paid for the material. However, the prison paid the full amount of the bill. Again, after the directors notified Van Hook had not paid for the material, the Warden reimbursed the money. At issue was whether he would have paid if the discrepancy had it not been brought to his attention?

The shoes incident took an entirely different turn. A contractor, John Jones, testified that Warden Van Hook badgered Jones to give him a pair of free shoes. Jones refused and Van Hook threatened not to renew Jones' contract. Finally to appease the Warden, Jones gave him a fine pair of boots. After that, there were no more problems from the Warden. Could this be extortion?

After reviewing the facts concerning the hogs, muslin and shoes, the Directors cleared Warden Van Hook of the charges, but fired him anyway. The appearances of misconduct were fairly obvious. Undaunted, Van Hook pressured the Directors to give him a letter of recommendation. The Directors wrote a very carefully worded letter say that Van Hook had "managed the institution to the
advantage and interest of the State, during the time he was Warden," not exactly a glowing recommendation.\textsuperscript{31}

S. Lahm and Henry C. Brish, the majority members of the Legislative Committee investigating the charges against Van Hook, agreed the Directors had been correct in firing the Warden. Nevertheless, in reviewing each charge, they defended the action of the Warden down the line saying that some of the testimony was suspect; the committee found questionable individuals involved in the incidents; and the committee members offered justifications. The majority report asked how a man with such exemplary credentials was so misunderstood.

The minority member, George Woodbridge, was diametrically opposed to the majority. He contended that the testimonies be accepted at face value. What if the witnesses were right? With so many charges centering on the Warden trying to get something for nothing the evidence seemed overwhelming. "To pronounce Mr. Van Hook innocent upon such evidence would be to offer license and premium to others to imitate his example," Woodbridge openly stated. "If he can escape, who may not hope for the like result? All the duties of moral, social and political man, are attended by corresponding penal sanctions."\textsuperscript{32}

\textsuperscript{31}House Journal (1842), 149.

\textsuperscript{32}Appendix to the House Journal (1842), 48.
The Van Hook affair was the first public scandal for the prison and taken seriously. Even if the prejudice of Jeffries made his statements suspect, the unaccounted money was a fact. Without full disclosure, how would Jeffries know which bills to pay? The Warden may have had the authority to take money from the visitors box and the safe, but he needed to account for the funds.

Along with providing insights into faulty administration practices, personal rivalries, and abuses, the Van Hook scandal, as well as the accompanying testimony of former Warden Medbery, reveals the attitudes early prison officials had toward the post. Van Hook believed he had the right to receive perks while in office. As warden, he should have known the prison owned hogs. The incident with the muslin showed the same attitude. However, demanding a pair of shoes was the most telling of the charges. Nothing in Jones' testimony indicated he had any previous animosities against the Warden. Van Hook used threats to get what he wanted, a pair of shoes he could afford to buy himself. What made the whole scandal even more bizarre was, that although the Directors and the Legislative Committee's majority reports tried to justify Van Hook's actions, his firing remained. If the Committee really believed Van Hook was innocent, he would be reinstated.33

33House Journal (1842), 406-414; Appendix to the House Journal (1842), 1-149.
IV. PRISON LABOR

While the scandal attracted much public attention, more significant developments transpired at the institution. Between 1835 and 1850, the first major reorganization of the prison labor took place. A February 16, 1835 law instructed the directors and wardens of the penitentiary that the convicts shall as far as may be consistent with their age, health and ability be kept at hard labor in such a manner as the Warden shall deem most proper and most beneficial and advantageous to the State, under such rules and regulations as the Directors may, from time to time, prescribe.

Throughout these years prison officials experimented with how to best keep the prisoners occupied and bring money into the state. With the need for profits from the convicts' labor, the directors introduced contract labor into the prison system. The main inducement for this method was that it did not require an outlay of cash by the state. In June 1835 Peter Hayden, Richard Hasluck and William J. Buck signed the first convict labor contract for fifty to one hundred convicts for five years making saddlery and harness

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In 1836 Hayden contracted for 200 more prisoners making sacks, shovels and men's silk hats. These contracts allowed three months credit on each month of prisoner labor with a reconciliation of accounts made at the end of the year. With proper notification of one year, the contracts automatically renewed as originally written and did not require approval of the warden or directors. This clause denied any changes in the contracts, whether to increase the price for convict labor or to allow the state to find more advantageous ways to use that labor. The only recourse was for the legislature to change the system.

Beginning in 1836, prisoners went to work on public buildings, such as the Lunatic Asylum and State House. This practice became a thorn in the side for both directors and wardens. Complaints began on several accounts. One major problem arose because the prison made more money on contracts than from the state. Contracted laborers could work and get paid year round. State labor only worked in the warm months of spring, summer and fall and stood idle during the cold months. Contractors were not interested in this unreliable labor force. The prison received forty cents per day per convict working on public building, but

36 Directors Report (1835), 8.
37 Directors Report (1838), 4.
38 Directors Report (1846), 3; Directors Report (1847), 4.
considering bad weather, idleness, guards, and transportation, income barely matched costs. Actually, inmate labor was more expensive than using free labor. The prison also purchased materials used in these public buildings and reimbursement from the state was slow and often less than the costs. These complaints were ongoing until both buildings were finished.\textsuperscript{39}

Even with this limitation, the directors in their 1836 report optimistically predicted that soon the state would no longer have to financially support the prison. Rather, they trumpeted, prison labor would be an ongoing source of money.\textsuperscript{40} Prison officials entered into other contracts: A. H Pinney in 1837 for one hundred convicts to use in coopering; McCoy for shoemaking for three years, Thomas Johnson and William Burdell thirty-five convicts to use in tailoring for five years, and in 1839 J. O. B. Renick and A. E. Force for five prisoners to use making corn brooms.\textsuperscript{41} And indeed in 1838, the prison turned a substantial profit for the first time as a result of the income from labor

\textsuperscript{39}\textit{Warden Report} (1836), 10; \textit{Directors Report} (1837), 4-5; \textit{Directors Report} (1843), 4-5; \textit{Warden Report} (1844), 13; \textit{Warden Report} (1846), 9; \textit{Warden Report} (1848), 10-11.

\textsuperscript{40}\textit{Directors Report} (1836), 3.

\textsuperscript{41}\textit{Directors Report} (1835), 8; Hicks, 406-7.
contracts and from the state for convict labor on the Lunatic Asylum.\textsuperscript{42}

On one hand, the directors and wardens were positively gleeful at the money being raked in by prisoner labor, and, on the other hand, there was some brief concern that the original goal of the prison, reformation, was being lost. The Directors Report of 1839 noted, since the introduction of the contract, the prisoners' sentences had increased to make their labor more profitable. Before this, convicts had shorter terms to reduce their cost to the state. The directors scoffed that the legislature considered the prison an investment and the prisoners a stock "quite as productive as any owned by the State."\textsuperscript{43}

Prison industries were quite productive. The penitentiary paid into the State Treasury in 1840 and 1841 $14,000 each year, 1842 $6,000, 1843 $16,000, 1844 $13,950. These amounts still left the prison with a profit. In other years the lack of contract work meant that convicts worked on state projects, such as the building of the Lunatic Asylum, State House, making bricks, and stone cutting. The down side of this was the cost of guarding the convicts and

\textsuperscript{42}Directors Reports (1838), 3.

\textsuperscript{43}Directors Report (1839), 4.

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the opportunities to escape while outside the prison walls.\textsuperscript{44}

Besides the problems over state buildings, another arose between the contract labor system and the backlash from free labor. Various Columbus manufacturers and labor organizations protested against the competition of prison made goods.\textsuperscript{45} To allay the fears of free labor, some of the prison officials' reports discussed that the products made at the prison were items previously imported from other countries, and not in competition with local manufacturers.\textsuperscript{46} The directors believed many of the complaints were imaginary. Prison manufactures should not be in competition with free labor since the demand outstripped supply, they contended. So far the prison had not reduced its prices and thus was not harming free labor. The directors even offered, if the General Assembly wanted, a cost analysis to prove this.\textsuperscript{47} The prison management huffed that since the law required the convicts to work, they had to work at something!\textsuperscript{48}

\textsuperscript{44}Warden Report (1840), 7; Warden Report (1841), 10; Warden Report (1842), 7; Directors Report (1843), 3; Directors Report (1844), 1.

\textsuperscript{45}Directors Report (1838), 6.

\textsuperscript{46}Warden Report (1839), 5; Warden Report (1840), 4; Warden Report (1841), 5; Warden Report (1842), 4.

\textsuperscript{47}Directors Report (1838), 6-7.

\textsuperscript{48}Directors Report (1841), 6-7.
The prison chose not to continue cabinetmaking and shoemaking by 1843, which were the industries generating the loudest complaints by free labor. Again, prison management reaffirmed its attempts to not interfere with local mechanics. One contractor, Peter Hayden, used 200 convicts in manufacturing saddlery items currently imported from England.49

The legislature remained in a flux on what to do about prison labor. Money was the prime objective for the prison and the state, but no one seemed to know exactly how to achieve profitable prison industries, placate free labor, and at least give a nod to reformation. In 1845 the General Assembly required of the directors and warden that

when any present contract for convict labor shall expire, by limitation or otherwise; such contract shall not be renewed, if, in the opinion of the Directors, it will, to any considerable extent, interfere with the business interest of the mechanics of this State.50

The General Assembly also stipulated that the institution could only employ on contract enough men as necessary to pay the facility's expenses.51 Soon problems arose between prison management and the legislature when the latter passed several laws curtailing the profitability of the convict

49Directors Report (1843), 4.
50Directors Report (1845), 1.
51Tbid., 1-2.
labor. The 1846 act required using the available convict labor on the State House and the Lunatic Asylum. However, the prison did not get paid for the convicts' labor on public works or, at least, not at the going rate for their labor. Another problem lay in legislative requirement that convicts be left idle in anticipation of limited usage by the state. By leaving prisoners idle, they were not only unprofitable, but also a threat to the peace and security of the prison. Although contracted labor was the major source of revenues, many prisoners worked, unprofitably for the prison, on public works such as the State House, Lunatic Asylum, and opening a new limestone quarry.

By 1841 the need to acquire a limestone quarry and timber for these public buildings had become a serious concern. Mr. Stockton, the State Engineer, surveyed and reported on the easiest and cheapest way to build a railroad to the Resnick and Sullivant limestone quarries. The directors believed that Mr. Stockton's plan was not in the economic best interest of the prison. They thought Stockton's over $23,000.00 cost estimate was too high. In true diplomatic style, the directors left the final decision up to the General Assembly. However, by 1842 the

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52 *Warden Report* (1846), 9.
53 *Directors Report* (1846), 3.
54 *Report on Convict Labor* (1884), 12-3.
legislature had not made this decision. So the directors resubmitted both their 1841 report and Mr. Stockton's and urged the General Assembly to make a decision. But again no action was taken by 1843. The directors had almost tired of trying to push the legislature. 55

Finally, on March 13, 1845, the legislature provided for the purchase of a limestone quarry and railroad near the penitentiary to supply stone for public buildings at an economical price. The two prospective quarries, one owned by Samuel Medary and the other owned by William L. Sullivant, fulfilled the legislative requirements that the quarry be on the Scioto River and the owner sell up to fifty acres of stone. The Report of the Directors and Warden to the Legislature explained, in detail, the advantages and disadvantages of each offer. Parameters of comparison were: the costs of the quarry and land, distance to and from the prison, the cost of the railroad with right of way to haul men and materials back and forth, the cost to guard the prisoners, and the lost contracted work time. The report firmly recommended the Sullivant property and the directors made an offer. 56 By special report in 1847, the directors bought fifty-five acres of limestone with a thickness

55Directors Report (1841), 5, 31-32; Directors Report (1842), 239-244; Directors Report (1843), 4.

varying from six inches to five feet. The value of savings to the state on the State House building alone was $91,000.00. The costs of building a railroad amounted to about $19,500.00.\textsuperscript{57}

In an 1850 special report, the directors and warden presented a delineated breakdown of the costs to the penitentiary for stone used on the State House. It covered the years 1838-1849 and included the number of convicts' workdays, labor costs and the cost of stone. The prison administrations showed a total of 38,218 days of convict labor at a price of $19,436.05. This amount reflected a stone cutter at seventy-five cents a day and common laborers at forty and fifty cents a day, which the prison management could charge more on regular contracts. The state legislature normally paid an average of thirty-four cents equaling $12,994.12. In other words, the prison was losing about $6,500 in labor income. Additionally, the prison paid $18,263.36 in costs and interest for the limestone for the State House. However, the State Treasury only appropriated $15,000 to reimburse the prison. Though stated politely and factually, the directors and warden let the Senate know that they were losing money and wanted reimbursement.\textsuperscript{58}

\textsuperscript{57}[Executive Documents, "Special Report of the Directors and Warden" (1847), 649-652.]

\textsuperscript{58}[Executive Documents Part I "Special Report of the Directors and Warden" (1850), 151-152.]
To exacerbate these monetary problems, an 1848 act forbade finalizing or renewing any contract without it being submitted to and approved by the legislature. This completely left the directors and the warden at the mercy of the government. In the subsequent reports, both the directors and the wardens repeatedly requested legislative attention to the facility's labor needs. Finally, debts taken on in prior years and debts incurred in making improvements to the infrastructure, such as an 1848 legislative resolution requiring the prison to install gas lighting in the halls enabling the prisoners to read in their cells at night before lights out, threatened the financial stability and the credit of the prison.

In response to these legislative actions, the 1848 Directors Report gave a detailed accounting of convict labor needed to defray the costs of the prison. Three hundred healthy men at contract prices were required just to pay the expenses of the prison. In 1848, there were approximately 420 inmates, leaving 120 to work for profit. Contracts were in effect for 200 prisoners for Peter Hayden, until October 1, 1851, and fifteen for William Burdell, until April 1, 1853. This left a short fall of eighty-five laboring convicts needed for the prison to be solvent. Additionally,

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60Directors Report (1848), 4.
in the same year, the state legislature passed a law authorizing the warden to lend all convicts, not working on contracts, to the building of the State House. The directors rather pointedly stated that, if the remaining convicts were used on state projects, the State Treasury ought to pay the prison $8,000.00, an amount based on the going contract price. Another monetary complaint concerned purchasing the stone used on the State House from the prison at such a low price a profit was barely made.

CONCLUSION

The period 1834 to 1850 saw the development of the complete prison system in Ohio. The first prison built in 1815 was small and without any organized discipline for the prisoners. The original intention was for the prisoners to support the system through their labor. The prison management became a manufacturer producing goods to be sold and bartered on the open market. This was never successful. Some of the reasons cited for this lack of profitability were the overcrowded conditions and sporadic employment.

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61 Directors Report (1848), 3-5; Warden Report (1848), 10-11.
62 Directors Report (1849), 5.
63 Directors Report (1848), 3.
In 1832 construction began on the new prison with an initial plan for 500 cells. This penitentiary followed the Auburn system of prison discipline in which the inmates worked during the day in congregate workshops under a code of silence and at night slept in solitary confinement.

The new prison used a new technique in employing the convicts. Prison management made contracts with outside businesses for the prisoners' labor. The advantage of this system was that the facility was no longer subject to the whims of the marketplace and the outside contractors assumed the risks. Also the prisoners were fully engaged in labor and the prison could turn a profit.

Another goal of the prison was the reformation of the convict from his evil ways and, upon release or pardon, he returned to the outside world an asset to society. Moral and religious instruction became an integral part of the institution. The Ohio Legislature repealed the law in 1836 providing for a Prison Chaplain. The religious community helped by supplying services and the penitentiary itself paid for the services of a chaplain out of their visitors fees. Finally in 1846, the Legislature passed an act funding a chaplain's position.

In June 1849 a new outbreak of Asiatic cholera killed 116. The disruption of work and discipline caused a panic among the prisoners and the guards. Many prisoners worked
helping the sick and dying. Governor Ford gave fifty-two pardons to these prisoners.

The Ohio Penitentiary came of age during the 1830s and 1840s. However, new problems arose from the old.
CHAPTER 4
STAGNATION AND INCREMENTAL CHANGE
1850 TO 1859

During the 1850s, four main issues emerged concerning the administration of the Penitentiary which would preoccupy prison officials and state legislators until the 1870s. The first issue concerned the efficacy of changing the prison officials with every political election. How could there be any consistency within the facility with an inconsistency of prison administrations? The second issue involved maintenance and expansion. Since the "new" prison was no longer new and suffered from rampant deterioration, substantial physical improvements were required. A tug of war developed between the prison and the legislature over the needs and costs of these improvements. Thirdly, because the prison's population grew steadily during the decade, a serious debate arose over prison discipline and reform. How should the prison restrain its convicts without being brutal? What help could the penitentiary give an inmate that would prepare him for an honest life outside of the prison? Lastly, prison labor became a disputed topic.
between the institution and the legislature. Each body wanted to control the convicts' labor, though the objectives were the same -- money. The legislature wanted cheap prisoner labor to build the State House. Prison officials needed the cash earnings of contracted convict labor to support the prison.

I. POLITICS

Since the board of directors and wardens' positions were appointed and approved by the governor and General Assembly, politics played an important role at the Ohio Penitentiary.¹ Between 1850 and 1860 nine different wardens served at the prison. Unfortunately, either because of gentlemanly manners or because the legislature already knew the reasons, the directors or wardens' reports provided no indication as to why these men did not finish their two year contracts. With such a high turnover of personnel at this level of management, any consistent discipline or strict adherence to and execution of any new laws would have been difficult, though from the reports, the wardens certainly made an effort.

Laurin Dewey served as warden the longest of the group. He took over in 1846 and resigned on June 11, 1851. The

¹See Chapter 2 page 45 - 46.
Board of Directors appointed Samuel Atkinson as the new warden, but three months later in September 1851, he died while in office, the first such occurrence in the history of the prison. Deputy Warden Huffman acted as the intermediary warden until the Board selected D. W. Brown in October 1851. However in May 1852, a new warden, Asa G. Dimmock, replaced Brown, who had been in office for only eight months. Warden Dimmock's 1852 report was unusually long and detailed with a wealth of information on the financial condition of the prison since 1834, an essay on discipline, and a review of the physical conditions of the buildings. In 1853 he made recommendations concerning the improvements needed at the institution. However, Dimmock resigned on July 1, 1854.

The 1856 Directors Report recorded several outstanding debts owed to the prison, including approximately $2,000.00 Warden Dimmock had incurred during his stay.² Samuel Wilson

²The Senate was aware that the prison had uncollected debts from earlier administrations. Therefore, the Senate passed a resolution in February 1856 requiring Warden Buttles to explain who owed money to the prison, how much was owed, and what attempts were made to collect these debts. Dimmock's indebtedness was explained in detail; apparently he had a weakness for fine clothes and shoes. In his time as warden, from 1852 to 1854, Dimmock ran up $1,450 at the prison shoe and tailor shops. An ever rising interest, $150 by the time of the report, was added to the principle. Attempts by the directors to collect the debt were met with pleas of poverty, and even his friends doubted it would be paid back. Finally in frustration, the directors gave Dimmock an ultimatum: pay up by spring or go to court. The directors were still waiting. Executive Documents, "Special Report of the Warden of the Penitentiary", 1856, 698-700.
assumed the warden's responsibilities in July 1854. However, he died in January 1855.

The 1855 *Directors Report* appraised the General Assembly that it needed to pass legislation that would permit the deputy warden to fill a vacancy in the warden's position until a successor could be designated by the board. Apparently there had been no formal process to handle this exigency. The Board of Directors chose J. B. Buttles in October 1855, but replaced him in April 1856. The succeeding warden, John Ewing, in his 1856 report to the Directors showed Warden Buttles' management to have had several financial irregularities, though he never bluntly said that Buttles was guilty of malfeasance. He also listed Warden Buttles as a $2000.00 debtor to the prison. The Directors doubted the money would ever be paid back. John Ewing was warden for two years, from April 1856 until July 1858. His administration saw many major changes in the laws regarding the prison. L. B. Van Slyke became the warden in 1858 and remained until June 1859. John H. Prentice assumed the position in July 1859 and stayed until July 1862.

Along with this rotation of wardens, the 1850s witnessed a constant state of change in the makeup of the Board of Directors as well: not in one year of the ten did

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*Directors Report* (1855), 6.

the entire membership of the board remain the same. Usually a member served two consecutive years, except the years 1852, 1854 and 1856, when completely new boards were impaneled. This translated to twenty-three new board members during the 1850s. Moreover, two board members became wardens: J. B. Buttles and L. B. Van Slyke.

The Directors Report of 1852 pointed out to the legislature the instability caused by board members having terms of two years all of which ended simultaneously. The directors requested that the legislature consider staggering the terms of office to lend more consistency to prison management. In response, the General Assembly enacted an 1854 penitentiary governance act that set the number of directors at three. This act also provided that one member of the board would hold the office for two years, another member remain for four years, and the third director stay for six years. In case of a death or resignation, the governor could fill the vacancy until the next meeting of the General Assembly. In 1856 another penitentiary act changed the number of directors to five, with one director holding office for two years, two directors remaining for four years, and two directors serving for six years. These

\[5^{\text{Directors Report (1852), 11.}}\]
\[6^{\text{Laws LII (1854), 56.}}\]
\[7^{\text{Laws LIII (1856), 126.}}\]
two acts contributed to bring greater administrative stability to the prison.

II. IMPROVEMENTS

By the 1850s the physical condition of the Ohio Penitentiary had begun to deteriorate badly. All the directors and wardens' reports during the decade referred to the terrible conditions within the prison. The wooden workshops and warehouses stood too close together causing valid fears about fires. In 1850 Warden Dewey purchased a fire engine and hose for protection, although he praised the Columbus City Fire Department for its response to prison emergencies.® Despite these precautions, in 1853 an inmate set fire to the building holding the state shoe shop and the tailor shop along with their stock of materials. This fire cost the State Treasury not only the money to replace the building and materials, but also, the lost income that would have been derived from the prisoners' earnings.® Another fire occurred in 1857, severely damaging several two story workshops in the courtyard. The prison's fire equipment worked slowly, adding to the crisis. Fortunately for the penitentiary, the city fire department responded to the

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®Directors Report (1850), 7.
®Warden Report (1853), 17.
call. The fire caused extensive damage because of the crowded conditions in the prison yard and because none of the buildings had firewalls. The loss of income from the prisoners' contracted labor, as a result of the destruction of the shops, equaled 6,200 days. Therefore, in 1858, Warden Van Slyke formed a fire department complete with around-the-clock fire watch. He attributed the absence of fire in 1858 to the diligence of the new fire department.

Lastly, Warden Prentice improved the fire department in 1859 by buying 250 more feet of hose and locating a new horse carriage by the engine room.

In addition to making the prison safer from fire, every year wardens initiated projects to improve the physical conditions throughout the prison. Yet the battle with these deteriorating conditions was never ending. Water leaking into the buildings caused enormous problems. In 1850 inmates painted the leaking roof with fire proof paint. Warden Dewey believed this would cure the problem and be very economical, but the original tin roof had been badly

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11 Directors Report (1858), 6.
12 Ibid., 7.
13 Warden Report (1858), 14.
14 Warden Report (1859), 11.

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installed and poorly maintained. Certainly vital to the operation of the prison was the repair to the contractors' shops. Besides the damage caused by fires, mentioned above, water had come through the shop roofs causing cracked and sinking walls, and uneven and rotting wooden floors.

Leaking water caused the cell floors to crack and fungi to grow and the plaster on the walls to flake off. The wooden bunks attached to the wall could hardly be functional under these conditions. Also rats, fleas and lice ran rampant in the humid atmosphere. Tradition maintained that these vermin had infested the cells "for a time whereof the memory of convicts runneth not to the contrary." In 1855 Warden Buttles noted that in low places in the halls the water was "shoe mouth deep." So he had a new tin roof installed and painted. Finally in 1857, Warden Ewing installed iron beds, a concrete floor, and new bedding which alleviated many of these problems.

Having apparently solved the above concerns, ventilation of the cells caused many other continuing problems. Between 1852 and 1859 there was an effort to bring fresh air into the cells because the fetid air was

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16 Warden Report (1852), 22; Warden Report (1855), 9.
17 Directors Report (1855), 3.
18 Warden Report (1857), 5.
believed to cause much of the illness experienced by the inmates, especially the outbreaks of cholera in 1849 and 1850. In 1856 N. B. Kelly, the architect for the State House, drew up a plan to improve the ventilation. His report to the Chairman of the Standing Committee on the Penitentiary of the House of Representatives, Cyrus Mendenhall, explained why the upper tier and lower tier of cells had the bulk of the sickness. Kelly maintained that by the time the air from the middle range of cells reached the highest and lowest areas, it was so contaminated that it caused the many health concerns.

Kelly's plan featured steam coils placed opposite the cells with an opening made in the walls below the coils, so that air and heat could be sent through these coils into the cells. A boiler and engine, built in the center of the courtyard, would provide steam for the coils. The energy could also be used for heat in the kitchen, laundry and grinding mill. At a cost of $18,000.00 and the savings from convict labor, these multiple uses would make the improvements extremely profitable.19

As well as health concerns caused by the contaminated air, the foul smells proved the need for new sewage conductors. In 1851 the convicts dug a new brick sewer line underneath the prison, which ended in the Scioto River. As

an extra bonus, the new sewer line effectively drained the swamp surrounding the prison.\(^{20}\)

Other improvements were made to accommodate the growing population of inmates. A new dining hall and kitchen were built. The old dining hall had been so small that the inmates were crammed together which was inconvenient for eating. It was also unhealthy and allowed them to converse with each other which violated the silence rule. The old, uneven floors were hard to keep clean of the filth from all the inmates and the food, so a new flagstone floor was installed which made cleaning easier. The tables in the new dining hall were cleverly situated so that the prisoners sat facing forward and, therefore, could only see the backs of the inmates in front of them which maintained silence.\(^{21}\)

With the construction of the dining hall, food service for the convicts was greatly improved. In all the wardens' reports, much references were made about the food prepared for the prisoners. The wardens were seriously concerned about the diet of the prisoners, especially after the outbreaks of cholera in 1849 and 1850, scurvy in 1854 and 1855, and typhoid fever in 1858. However, most of the discussions centered on the ever increasing cost of provisions for the institution. From its inception, the

\(^{20}\)Warden Report (1851), 7.

\(^{21}\)Warden Report (1852), 22; Warden Report (1856), 9.
rules and regulations of the penitentiary only specified that prisoners be fed coarse but wholesome food. The prison physician advised the kitchen on the kinds and proportions of food necessary to maintain the inmates' health. In 1856 the House of Representatives sent a resolution to Warden Buttles asking him to explain the kinds and amounts of food supplied. Bread was the first item about which they inquired. Buttles replied that corn bread was the principal type given to the prisoners, and they were allowed as much as they could eat. Meats included beef, corned beef, pork, ham, mutton, and occasionally fish. The prison kitchen served vegetables, potatoes, beans, turnips, onions, sauerkraut, cabbages, carrots, and tomatoes along with rice. Vegetable soup was made and given to the inmates three to six times a week. The amount of ingredients in the soup was overwhelming: a bushel of beans or a half bushel of rice, five bushels of potatoes, along with cabbages and onions. In summer, the prison served buttermilk once a week; eighty-five gallons was needed for all the inmates for one meal.

Buttles, as an experiment, decided to change the diet of the prisoners. He eliminated meat at breakfast and gave sweetened coffee in its place. Supper consisted of bread and mush with molasses. Therefore, dinner became the major
meal. Buttles remarked how well the new plan worked because it cut the cost of meat.22

The prison management wanted to make the facility as self-sufficient as possible in providing food for the inmates. Warden Dimmock brought pigs into the prison in 1852. The intention was to have pork for the table and to sell what was left over, thus providing the prison with additional income. In every available space, prisoners dug gardens to grow fresh vegetables, such as cabbages, tomatoes, corn, and so forth.23 Though the wardens' reports never disclosed how the kitchen cooked the food, Warden Van Slyke remarked in 1858 that in the past meat had been exclusively boiled, either alone or with vegetables, thus losing much of its nutritional value. He purchased a zinc roaster in which to cook the meat, believing that this method would make the food more palatable and healthy. Of course, being a warden and having to look at the bottom line, he explained that the roaster would pay for itself in three months because the cooks could now better control the preparation process.24

The kitchen also became instrumental in providing light for the convicts' cells. An 1848 law required that the

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23Ibid., 700.
24Warden Report (1858), 10.
prisoners have light in their cells at night so that they could read from the time of lock down to lights out. In 1850 Warden Dewey proposed using gas for the lighting. The grease produced in the kitchen would be converted into gas for the cell lights. Because the warden believed the kitchen produced a lot of grease, this seemed a great way to solve these two problems. To his shock, however, not enough grease was produced, so additional grease and coal had to be purchased from outside sources making the lighting not as economical as was first assumed.²⁵

In another attempt to conform with the law requiring lighting, candles were handed out to each cell. But this caused several adverse results. First was the smell plus the lack of ventilation to carry away the fumes. Secondly, the candles became a medium of exchange among the inmates. Finally, the only way to make sure the prisoners put out their lights was to have the guards go to each cell every night and physically check. This was totally impractical and a considerable expense for the state.

In 1856 the Directors and Warden Ewing's annual reports suggested putting gas in each of the 700 cells to provide light. To do this, holes had to be drilled into the walls of each cell to accommodate the pipes and burners.²⁶

²⁵Warden Report (1850), 8.
²⁶Directors Report (1856), 5; Warden Report (1856), 21-23.
1857 gas lights were put in every cell. This plan required that the prison buy gas from an outside vendor, which was very expensive. For an institution that prided itself on being frugal, the added expense of three dollars per 1,000 feet of gas became extremely costly. The Board of Directors suggested that the prison build its own gas works. By doing so, the facility would become self-sufficient and could sell gas to outside businesses and make a profit. By 1858 the gas works was in the planning stage. The Board of Directors estimated the cost to build the gas works at $2,000.00, which included $500.00 in prisoner labor. The Board figured the gas works would also save seventy-five percent of the cost of heating water for the bath house and the laundry. However, the General Assembly had still not appropriated the money by 1859, so construction of the gas works could not proceed.

Equally critical, the overcrowding of machinery and manpower led to ongoing concerns for the entire period of the 1850s. The contractors constantly complained of the need for new buildings for shops and storage. Moreover, the space available for the different manufacturing businesses was neither permanent nor convenient. As prisoners were

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27 *Directors Report* (1857), 4.
28 *Directors Report* (1858), 7.
spread out with thin supervision, they slacked off their labor, plotted together, or slipped away from the shops. The annual prison management reports recited the ever growing need for space, both for the increasing number of prisoners and for contractual obligations.

The population of the prison grew rapidly in the 1850s. The 1850 warden's report showed an average of 400 convicts for the year. In 1855, 606 prisoners lived there and by 1859 the number reached 853. From time to time during this period, statements were made about the possibility of enlarging the present structure or building another prison.

Finally in April 1859, the Fifty-Third General Assembly enacted a bill that addressed the overcrowding problem. The act set out specific parameters of the plan for enlarging the penitentiary. This plan called for an extension of fifty feet to the eastern cell block. Cells built in this extension would relieve the current overpopulation. These cells were to house male inmates. Forty-three feet was to be added to the west wall for a new female prisoners' building.

These new stone buildings would be surrounded by a stone wall of sufficient height and length to enclose the

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32 Directors Report (1859), 5-6.
area. Any part of the present wall needing repair would be replaced simultaneously.

The act instructed the state architect to draw up the plan and specifications. However, it also emphasized that he was to focus on the finishing of the State House first. Therefore, the architect could only work on the prison plan during his spare time. In addition, he would not receive extra payment for this service, but only his regular salary.

Before construction could begin on the new extensions, the legislature needed to secure additional land for the expansion and take bids for the building contractors. Advertisements for contractors appeared in the *Daily Ohio Statesman* and the *Daily Ohio State Journal* for three consecutive weeks. Each bid had to include the style of the building, completion date, materials needed, and cost. Of course, the contract was to be awarded to the lowest, most responsible bidder that could meet the November 1859 completion deadline.

Prison labor would be hired out to the contractors. In the two sections of the 1859 "Act to Provide for the Enlargement of the Ohio Penitentiary" that mentioned prisoner labor, appeared the phrase "upon such terms, and to such extent, as will best subserve the interests of the state." Did this mean that only convicts would be used on

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*Laws LVI (1859), 123-125.*

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the new prison structure? Or did it mean, that if a better labor contract came along, the prisoners would be taken away and used elsewhere? The legislature gave the directors and warden complete authority to decide on the deployment of convict labor.

The General Assembly appropriated $22,000.00 for the buildings and $15,000.00 for the walls. These amounts included payments for work and construction materials. Any additional expenses had to be submitted to the legislature for cost consideration before payment.  

Contracts for the new wings of the prison went to William Hunter to purchase stone for the buildings and walls and to Morris Becker to furnish all other materials for the walls. John Stolhart contracted for all building materials, except the stone. Auld and Miller contracted to provide the furnishings for the men's and the women's quarters.

By November 1859, when the directors and warden's reports were due to the legislature, most of the new buildings, shops and cells had been finished ahead of schedule. The capacity of the prison increased to 1,200 inmates.

III. PRISON DISCIPLINE

34Ibid.

In the 1850s the directors and wardens began looking for ways to improve discipline at the penitentiary. With the rapid growth of the inmate population and expansion of the facilities, the General Assembly questioned the efficacy of the current disciplinary method. In 1850 the legislature sent Warden Laurin Dewey on a trip to look into the disciplinary systems at other facilities and make suggestions. Though he had his hands full at the penitentiary with a cholera outbreak and other responsibilities, Warden Dewey set about his task. He visited and reported on the prisons in Pennsylvania, Washington, D.C., Maryland, Virginia, New York, Connecticut, and Massachusetts. His report contained basic information on the age of the institutions, number of inmates, earnings of the prisoners, staff salaries, as well as additional comments concerning the methods of discipline used in each institution. The discipline emphasized at the various prisons all evolved from the two predominate models, the Auburn system and the Pennsylvania model. Much of Dewey's discussion of the prisons' disciplines focused on the pros and cons of these two main models.

His report also included a section on the prison discipline at the Ohio Penitentiary. Education ranked first in his discussion. New York law provided for instructors to

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36See Chapter 1 for the discussion on these two penal models.
teach illiterate prisoners the subjects found in regular primary school curriculums. Dewey recommended this for Ohio. Only by education, he believed, could the convict have any possibility for a life without crime.

Dewey also addressed in his report the length of sentences and how that impacted upon the reformation and health of the prisoner. Imprisonment for too long had detrimental effects in both areas. For most major crimes, prisoners' sentences of five years were thought to provide the best opportunities for reformation. Also, each of the wardens Dewey interviewed had real fears concerning the health of the prisoners doing hard labor for any longer periods.

Dewey felt that the indiscriminate use of the governor's pardoning power seriously undermined reforming the inmates. If a governor passed out pardons for unexceptional reasons, prisoners no longer had any incentive for good conduct, which made handling the convicts difficult and reform impossible. However, a limited, judicious use of the pardoning power encouraged good inmate behavior because the prisoner's conduct would be considered before a pardon was granted. Although his experiences at these other prisons were informative, Dewey did not gain any new
insights or offer any fundamental changes in controlling the prisoners at the Ohio Penitentiary.\textsuperscript{37}

In 1849 and 1850, the House of Representatives also requested that Dewey evaluate the possibility of changing the penal code from sentencing a convict to a number of years at hard labor to a number of days at hard labor. Three hundred days would be considered to equal one year. Additionally, Warden Dewey was instructed to contract wardens at penitentiaries in other states to ask their opinions on the new sentencing proposal.

Dewey's reply to the House of Representatives derailed any further exploration into these possibilities. For one thing, the warden doubted that a prisoner sentenced to a certain number of years would feel any comfort when the years were changed to days. Nine hundred days at hard labor sounded worse than three years.

Before making this change, many questions would need to be considered. Was all work equal in value? If not, how would work be apportioned? What happened to the prisoner who was sick, feeble or injured? Would he get any credit for time served? If not, the convict would be unfairly punished. Conversely if time was credited, what would deter a convict from injuring himself so as not to work? What

about an insane prisoner or the prisoner with a life sentence? To end his sentence earlier, a prisoner could do so much overwork that he would end up destroying his physical and mental health. How the days would be figured under these varying circumstances and how to induce the prisoner to work were only a few of the details left open.

To adopt such a plan, Dewey believed that radical change would be necessary not only in the penal code, but also, in how discipline would be carried out. Without being too blunt, the Warden got the point across that obviously the House had not thoroughly considered all these issues.

Still trying to comply with legislative wishes, Dewey mailed questionnaires to the prisons around the eastern part of the United States. The consensus was that the plan was flawed, for some of the same reasons cited above. Many of the responses from other wardens questioned where moral and religious instruction fit. How would reform be achieved if work was the only item measured?

John Patterson, ex-warden of the Ohio Penitentiary, presented several good observations. He asked how the courts could determine fairly how many days of work in the future a convict could do. What if the prisoner was ill and regained his health in prison, or he began his sentence in good health and then became sick? How could any of these contingencies be fairly judged before the fact? Patterson wanted the terms of sentences made shorter, the contractors
forced to obey the prison's silence rule, and a limit imposed on inmates' movement within the prison's grounds.\textsuperscript{38}

Despite the legislature's attempts to change it, prison discipline was one of the main responsibilities of the warden. Warden Asa Dimmock disapproved of several practices of the prior warden, D. W. Brown. Brown's actions caused a lot of jealousy among the prisoners and undermined whatever discipline existed. He rewarded inmates with the right to wear civilian clothing and keep civilian food in private lockers in their cells. Regular searches of the lockers found not only these privileged articles, but also many different types of weapons. Prisoners used the weapons to attack the guards, causing serious injury. Deputy Warden Huffman came under particular scrutiny because he treated prisoners too mildly, and in Warden Dimmock's mind, was the cause of the attacks and breakdown of discipline. According to Dimmock, Brown's administration impaired discipline because the officials did not work together, but were at odds over the governing of the prison. To say the very least, Warden Dimmock had a very dim view of the previous warden's ability to control the prison.\textsuperscript{39}

Warden Dimmock's 1852 annual report gave the clearest discipline requirements for the prison, along with his

\textsuperscript{38}Executive Documents Part I "Special Report of the Warden", (1850), 393-405.

\textsuperscript{39}Warden Report (1852), 25.
personal observations. He was a law and order type of warden. He believed that criminal law should prevent crime and that the purpose of imprisonment for law breakers was two fold: "one, the proper punishment of crime; secondly, the reformation of the criminal." He felt that society was briefly protected by the incarceration of criminals and that reformation was the only way to keep society safe on a permanent basis. However, his solution was to make prison "a terror to evil doers." If prison life appeared too comfortable, the convict would lose his fear of coming back nor would he effect any kind of reformation. Interestingly, Dimmock assumed that if prison was too easy, the criminal justice system would be inundated because no one would fear going to prison.40 He advocated the use of the lash and shower bath for difficult prisoners.41 Solitary confinement was used in a limited manner. Dimmock thought that the dark, narrow cells did not bring contrition for the prisoner, but gave him an opportunity to think about past

40Ibid., 28-29.

41The lash, also called the cat, had a short handle, about two feet long with four strips of untanned skin or cat gut longer than the handle. The blows were made on the convicts' bare back. Each strip cut a channel across the entire back and the blood flowed freely. The shower bath was for serious offenses. "The convict is stripped, bound to an upright plank, and a stream of cold water is thrown with great force through a one and one half inch tube, in a descending direction, directly upon his head; the stream being continued for longer or shorter time, according to the degree of punishment intended to be inflicted." House Journal (1856), 29-30.
exploits. Dwelling on this, the prisoner emerged from the cell even more intractable than when he went in. 42

In order to reestablish prison discipline, Dimmock used the 'cat' and the shower bath "promptly and firmly, yet as mildly as the nature of the cases would permit." 43 Dimmock insisted that the number of necessary punishments was reduced after the implementation of the new regime. He had explored the use of corporeal punishment at other major prisons in the United States, such as Auburn and Sing Sing Prisons in New York, the Maine Penitentiary, and the Massachusetts State Penitentiary, and had come to the conclusion that these comparably sized prisons meted out corporeal punishment at more than twice the rate of the Ohio Penitentiary. 44

A new law in 1856 abolished the use of the lash and shower bath for punishment and advocated only solitary confinement, except for the worst, most unrepentant convicts. After 1856, each warden proudly pointed out the humanity of this punishment. For the next four years, the wardens commented in their annual reports on the effectiveness of solitary confinement. In sharp contrast to Dimmock's strict attitudes, these same wardens emphasized

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43 Ibid.
the need to treat prisoners as human beings. They believed that true reformation and discipline came about from treating prisoners as men, not as subhuman, and allowing the inmate to have daily interaction with the officers of the prison.  

Punishments were not the only things meted out to the prisoners. They also received rewards. In 1855 Warden Buttles found that the judicious giving of tobacco to the prisoners was an effective reward. Actually this was forbidden by law, but the warden acknowledged that he gave it out anyway. By law only the physician could prescribe tobacco to the inmates, but the directors requested that the law forbidding it be repealed because, "small quantities have been found to be remarkable incentives to industry, cheerfulness and general good conduct . . . good prison discipline calls for a mixture of promises and rewards, with threats and punishment." There was no indication that the law was repealed, but neither were there any repercussions suffered by the warden for distributing tobacco in this manner.

Another prisoner benefit was a change in the lockstep. The lockstep had been part of the routine since

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46 Directors Report (1855), 5; Directors Report (1856), 5.
the inception of the prison. The lockstep placed the inmates in close order, about thirty-five in a company with the tallest in front and the shortest at the rear. While wearing leg irons, they marched in formation with one hand on the shoulder of the prisoner in front. This was standard practice in most of the existing penitentiaries in the United States. Past wardens assumed that discipline would break down without this power display by the institution's administration. What better way to break the convicts' spirits than to regiment every aspect of their life, even the way they walked to and from their cells? This practice was constantly referred to as the "odious lockstep." If it was so odious, why was the practice not stopped?

In 1855 Warden Buttles ended the lockstep. He instituted a military step. A prisoner still walked at half an arm's length with his hand on the shoulder of the inmate in front, but he was rid of the painful leg irons. Being a fiscally aware warden, in his 1855 Annual Report, Buttles noted how this change would bring the state substantial savings on the cost of prisoners' shoes, since the leg irons severely cut through the leather. Whatever the prison staff's apprehensions were about controlling the inmates, no

riots or disciplinary breakdowns occurred. During the rest of the 1850s, none of the directors or wardens' reports mentioned the lockstep being reinstated.

Outsiders working within the facility caused serious worries for the prison officials. In 1852 Warden Dimmock complained bitterly about the contractors, foremen and teamsters moving in and out of the prison at will. These outsiders talked to the inmates, disregarding the silence rule, and brought them forbidden whiskey. The Warden wanted these groups to post a bond as an assurance against breaking prison rules. The teamsters came under particular scrutiny. Dimmock believed they should be prosecuted for running whiskey.

Other difficulties arose with administrative personnel, contractors, and other outsiders using prison industries for personal benefit. These people availed themselves of products made in the penitenitary's workshops without reimbursing the state. Apparently this had been a longstanding practice. Consequently, the General Assembly passed the following rule in 1855:

No officer, assistant keeper, foreman, or other persons shall have any article, goods or wares made, repaired, or manufactured in the State shops, nor shall any prisoner be permitted to repair, or

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* Warden Report, (1852), 22.
manufacture any article, goods or wares, except for the contractor who hired him, or for the State.\textsuperscript{50}

The law also stipulated that no article could be made at the penitentiary for private purposes unless paid for or charged in the books at a predetermined price negotiated with either the warden or board of directors. The Directors suggested keeping a separate set of books for these purchases to avoid oversights or any confusion with the contractors' accounts.\textsuperscript{51}

In March 1854 a more serious problem within the prison surfaced. A guard was caught accepting a bribe for helping a prisoner try to escape. After the money had been deposited in the bank and the date set for the break out, the Columbus City Police apprehended the guard. He had violated a March 1835 law that said:

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that if any of the assistants, guards or other officers of the penitentiary shall procure, aid, or abet any convicts confined therein to escape therefrom, the person so offending shall upon conviction thereof, be imprisoned in the penitentiary, and kept at hard labor, for any space of time not greater than the person thus procured, aided or abetted to escape, was originally sentenced for.\textsuperscript{52}
\end{quote}

In what must have been a very interesting trial, the defendant's lawyer argued that the convict did not actually escape, therefore, the guard was not liable. Had the

\begin{flushright}
\textsuperscript{50}\textit{Directors Report} (1856), 5-6.
\textsuperscript{51}\textit{Ibid.}
\textsuperscript{52}\textit{Warden Report} (1855), 11.
\end{flushright}
convict escaped, he would then have been guilty. Later in 1854 another guard was indicted for trying to help an inmate to escape. And again the guard gave the same argument. The judge upheld each guard's argument and neither guard was convicted.53

Needless to say, Warden Buttles was not happy. He called upon the legislature to draft another law to plug the legal holes. He wanted to be sure that if a guard was found abetting a prisoner, he "should be severely dealt with and punished, should it be an officer, who, for a paltry sum of money, would agree to let a convict escape or do any act to aid him to escape, whether the convict escaped or not." The key argument was that the officer had already violated his responsibility regardless of the outcome.54 The legislature passed a special law on January 5, 1857, that stated if any officer helped a convict to escape, whether or not the attempt was successful, he could be sentenced to one to three years at hard labor in the penitentiary.55

During this period in their annual reports, several wardens expounded upon how an unfeeling society rejected the

53 The guards managed to avoid conviction from inside the prison; however, enough evidence was found outside the prison to get arrest warrants for the two guards. They were accused of grand larceny, embezzlement, and aiding and abetting a prisoner to escape. Directors Report (1854), 8.

54 Warden Report (1855), 11-12.

55 Laws LIV (1857), 128.
ex-convict and how the prison system institutionalized the prisoner. These factors combined to force the ex-convict back into a life of crime. In 1850 Warden Dewey remarked on the harshness of a society that would not forgive or help the struggling released inmate. Dewey categorized the main reasons for lawlessness: intemperance, orphanage and ignorance. Alcohol robbed the senses and left men open to committing horrible crimes. Without the guiding hands of parents, young men easily fell into vice and crime. Ignorance closed paths that could provide opportunities and success. Dewey wrote, "And perhaps it should not be regarded as too great a stretch of philanthropy, to view criminals, in the majority of cases, as unfortunate men, and bear ourselves toward them accordingly, and make strenuous and persevering efforts to lead them . . . ."  

Dimmock observed that the number of years a convict was sentenced to prison directly correlated to the number of times the prisoner could be reconvicted. He reasoned that two to five years was the optimum sentence to both punish and reform the criminal. Dimmock believed that too long a sentence, more than five years, would cause the prisoner to be released physically enfeebled and mentally deteriorated. Under these conditions, the convict would not be able to carry on successfully in the outside world and might end up

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back inside. The prisoner would also carry the damaging stigma of his criminal past. With too short a sentence, one year, any possibility of reform would not have had time to be made effectively. The inmate would instead learn the criminal ways of the more hardened prisoners and take these new skills into the outer world to become an even better criminal.57

Warden Dimmock was not the only warden to expound on the disadvantages to the prisoners. In 1855, Warden Buttles blamed the recommitment of prisoners to the heartlessness of a society that saw the cheap prison release suit and refused to give the ex-convict a real opportunity to establish a new, lawful life. Because of this lack of societal compassion, the ex-convict seldom had any options for survival except to revert to his old criminal activities.58

In his 1857 report, Warden Van Slyke noted approximately the same disadvantages that Dimmock had of long sentences, six to ten years. Van Slyke expressed his reasoning more sympathetically though. He believed that the prisoner was not a potentially reformed convict, but a pitiful, broken down, maladjusted creature that would lapse back into his old ways because he would not be able to get a job or make new friends, and ultimately, would end up


spending the rest of his life behind bars. Van Slyke cried, "Justice and humanity call aloud for a remedy! Will the call be responded to?" The 1884 Report to the General Assembly of Ohio on Convict Labor echoed Van Slyke's concerns. It said that the convicts were released in a seasonal prison suit, which did not include an overcoat, and a few dollars. No prearranged place existed outside the prison to receive him, nor were there any jobs readily available. As a result, he was forced to hide his prison life in trying to find work, relying on any skills learned in prison. Should he run into any former convicts, who had known him in prison, he was open to being exposed as an ex-convict to his employer or coerced into resuming his life of crime.

To help young offenders, the directors and wardens throughout the 1850s called for the establishment of a House of Refuge for youthful law breakers, some of whom were only thirteen. An institution devoted to those twenty-one and under would have several advantages. One would be the separation of first time, impressionable youth from hardened adults who could teach them better ways to commit crimes. Other advantages included giving the young offenders an

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education, teaching them a trade, and rehabilitating these children, thus providing them skills to survive honestly outside the prison. The number of youths incarcerated was considerable, about twenty percent of the prison population. However well-meaning the earlier wardens and directors were on the juvenile issue, by the end of the decade the call for a House of Refuge was for more pragmatic reasons -- overcrowding.  

Though each year the legislature appeared deaf to these pleas, in 1854 they passed a law to separate youthful prisoners from the rest of the convict population in the workplace. The law stated that as far as it was practical, the warden was to classify the convicts according to their age, disposition, and moral characters, placing all young men under the age of twenty-one years (unless the character and conduct of some forbid it) in a shop by themselves. The wardens complained in every subsequent year about the inconvenience and sheer impracticality of this requirement. They disliked retraining whole groups of boys to do the new work, which cut down on the profitability of the prison

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61 Directors Report (1850), 8; Directors Report (1851), 8; Directors Report (1852), 5; Directors Report (1853), 6; Warden Report (1855), 11; Warden Report (1856), 25; Warden Report (1858), 13; Warden Report (1859), 13.
industries. It was 1857 before this law could effectively be put into action.\footnote{Warden Report (1854), 15; Warden Report (1855), 11; Warden Report (1856), 24; Warden Report (1857), 7; Warden Report (1859), 12.}

The Fifty-First General Assembly enacted other laws to help the younger prisoners. In 1854 it made the chaplain responsible for the instruction of the ignorant in "the art of reading, writing, arithmetic, and geography in such hours as might be found most conducive to the interests of the Institution."\footnote{Laws LII (1854), 58.} The legislature stiffened this law in 1856. The warden was required to send to the schoolroom for instruction, during three of the working hours of each day, at such time as he might think best calculated to promote the interests of the Institution, and at such additional time, other than working hours, as he may see fit, every such convict under the age of twenty-one years of age as does not possess a good knowledge of reading, writing and arithmetic.\footnote{Laws LIII (1856), 130.}

The chaplain or his assistant oversaw this education. Beginning in 1856, the prison hired an assistant teacher to help the chaplain, who still had the primary responsibility. An 1857 law expanded the scope to send all illiterate and poorly educated convicts regardless of age to classes for two hours in the evening of each workday from October to April and one and one half hours each working day for the
remainder of the year. Additionally, as a benefit to the prisoners, the prison provided a school for those who wanted to get an education after work. A significant portion of the inmates were either totally illiterate or only marginally able to read, while some could only sign their names. The legislature and the prison management viewed the school as a reformatory gesture to send the released prisoner out with some educational skills.

However well-intentioned the idea for the school, implementation on a regular basis proved to be more difficult. The school was supposed to be a day school. This worked for the spring and summer months, with their long days of sunlight, but the short days of fall and winter forced the classes to be suspended. Alternate times in the fall and winter were not workable. For a while the chaplain worked with each inmate individually in his cell, but eventually this was discontinued, as was school, until the spring. By 1855 the school was still offered only during the summer months. The prison officials requested money to build a regular classroom that would provide space to teach and gas light to see. The Directors Report of 1856 made another request for a lighted classroom and suggested that

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65 *Laws* LIV (1857), 29.
66 *Directors Report* (1854), 7.
classes be taught at night instead of during the day. The directors reasoned that since the workday in winter was shorter and prisoners completed their work requirements earlier, several hours of potential idleness existed before lights out. If prisoners attended the school at night, the state would get a full measure of work during the day and give the prisoners something constructive to do during the long evenings.\textsuperscript{68}

An outbreak of typhoid fever in 1858 suspended school. Once the school was reestablished, the chaplain requested the legislature appropriate funds to buy new books covering scientific and literary subjects that would be instructive to the students.\textsuperscript{69} The purpose of these provisions was to help the inmates with obtaining an education and skills before they exited the prison.

One other technique to impose discipline and reform at the prison occurred in 1856 when the legislature passed a good time law. Under its provision:

\begin{quote}
\textit{every prisoner who shall have been sentenced to a term of years, who shall at the end of the month have no infractions of discipline so recorded against him, shall for the first month be entitled to a diminution of one day from the time sentenced to the penitentiary; and if at the end of the next month no infractions of discipline is recorded against him, he shall have two}
\end{quote}

\textsuperscript{68}\textit{Directors Report} (1856), 4.

\textsuperscript{69}\textit{Warden Report} (1858), 12.
This continued until four days were given for consecutive months of good behavior. If the prisoner passed his whole sentence in good stead, he would be rewarded with a pardon from the governor.\textsuperscript{71} In 1858 the General Assembly increased the number of days to five days that could be removed from a prisoner's sentence. In a later set of laws, the legislature added a proviso concerning the punishment for breaking the good time pact. Any violation of the printed rules gave the directors the authority to deduct any or all of the good time days accumulated.\textsuperscript{72} Various warden's reports praised the law as an effective tool to positive prison discipline.

\textbf{IV. REBUTTAL TO DIMMOCK AND BUTTLES}

The dry reports of the directors, wardens and legislative committees often hid the human qualities at the Ohio Penitentiary. R. S. M'Ewen, Clerk of the Ohio Penitentiary, brought the prison to life in his \textit{Mysteries, Miseries and Rascalities of the Ohio Penitentiary}. It covered the period May 1852 to April 1856 and reported, from

\textsuperscript{70}\textit{Laws} LII (1856), 133-134.

\textsuperscript{71}Ibid.

\textsuperscript{72}\textit{Laws} LV (1858), 142.
M'Ewen's point of view, the double dealings of Wardens Asa Dimmock and J. B. Buttles. Certainly M'Ewen had an axe to grind in the portrayals of these Wardens because he was indicted in March 1856 for embezzlement. His booklet tried to disclaim these charges. However, he backed up some of his accusations with evidence from less biased sources such as legislative testimony and excerpts from the State Auditors Report.

M'Ewen accused Dimmock of political machinations, plundering the prison funds, abusing convicts, and procuring bad provisions for the prison. In maneuvering for the appointment of warden, M'Ewen wrote, "Dimmock conceived the idea that he could accomplish by strategy what he was unable to do by fair play." With the promise of the prison clerk's position as a reward, Dimmock brought M'Ewen into his plan to become warden. M'Ewen infiltrated the camp of Dimmock's rival for the position, ex-Warden Van Hook, and reported back to Dimmock on their strategies.

Meanwhile, friends in both camps badgered Governor Wood to appoint their slate of candidates to the prison's Board of Directors, who would then appoint the warden. Frustrated

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74 M'Ewen, 6.

75 See Chapter 3 pages 77-84 on the investigation of Warden Van Hook.
by these petitioners, the Governor escaped to Cleveland. Finally he decided to support the Van Hook contingent. Once Dimmock heard of this, M'Ewen and Dimmock's friends went to the Governor and pretended that the new appointees were really on Dimmock's side. In a reversal, the Governor struck those names and put in the candidates Dimmock had wanted all along.

With the Dimmock group as directors, he was duly appointed Warden of the Ohio Penitentiary! Dimmock's hometown paper, Mount Vernon Banner, observed sarcastically:

The newly created directors of the Ohio Penitentiary, recently appointed A. G. Dimmock, Warden. They were doubtless influenced in their selection by the consideration that it takes a rogue to watch a rogue. Having fled justice in a neighboring State, when an indictment for a high crime was pending against him, it is but rational to conclude that the Penitentiary is entitled to its victim.\textsuperscript{76}

In his 1852 report to the Board of Directors, Dimmock derided Deputy Warden John Huffman for being too easy on the prisoners and allowing them to have personal belongings.\textsuperscript{77} Huffman had been retained by Dimmock from the prior

\textsuperscript{76}Mr. Dimmock, as a young man, became involved in a business in New York that went bankrupt. He was suspected of defrauding the company. There was an indictment, but rather than wait around for trial, Dimmock fled New York. With the aid of friends with money, the indictment was nullified.; Ibid., 8.

\textsuperscript{77}Warden Report (1852), 27-28; see above on pages 117 and 118.
administration of Warden D. W. Brown. While Deputy Huffman recuperated from being stabbed five times by an inmate, Dimmock had gotten a different man, R. W. Watson, approved as the new deputy warden. Instead of telling him in person, Dimmock wrote a letter saying Huffman's "services were not longer needed."  

Watson and Dimmock colluded together to plunder the prison. They had a hauling business that used convict labor. The business carried wood to the prison. The prison paid two and a half to three dollars for each load. However, the carts hauled less than the minimum capacity. Thus, the prison paid Watson and Dimmock for hundreds of spurious cords of wood.  

In two separate incidents, Dimmock used his position to abuse the convicts. The punishment of a black inmate, Toliver Coker, brought an investigation by the legislature. Coker had been a model prisoner. His prison job was to clean Deputy Warden Watson's room. Watson accused him of stealing money out of the room. To try to coerce a confession from Coker, Dimmock had him "catted" on three separate occasions for a total of twenty-five lashes. According to the rules of the prison, every punishment had to be entered into the Black Book. The entries for Coker

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78 M'Ewen, 12.

79 Ibid., 13.
were completely false; he was accused of stealing from the workshops, not Watson's room. Some members of the legislature heard of Coker's treatment and formed a special committee of five members to investigate. The committee found Dimmock and Watson had abused Coker, and that no evidence established that the prisoner had stolen any items. Later, it came out that Watson's brother took the money. After his release, Coker sued Watson, but Watson died before the case came to trial. Coker also sued Dimmock, but settled the case out of court.  

In another incident, Dimmock shot an inmate, Charles P. Clifton. Clifton had been a model prisoner until a disagreement occurred with one of the guards. Dimmock ordered him to be "catted." Clifton stayed in his cell and refused to come out. Dimmock brought a gun, put it between the bars, and shot the prisoner twice. Clifton was hit in the leg and taken to the hospital, where he suffered for six months. He was still in prison in 1856, at the time M'Ewen finished his booklet.  

Finally, Dimmock bought tainted beef from a Cleveland business. The meatpacker sold to the prison leftover chunks

80Ibid., 27-32; Journal of the House of Representatives Appendix "Report of the Select Committee Appointed to Investigate the Circumstances Connected with the Cruel Treatment of a Convict in the Ohio Penitentiary, by Deputy Warden Watson" (1854), 298-315.

81Ibid., 43-44.
of beef, called "the refuse," that had been formed into five pound pieces and salted. The Warden served this meat to the prisoners.

After all these problems, the Board of Directors replaced Dimmock in July 1854. His successor, Samuel Wilson, died after a brief tenure and J. B. Buttles became the warden in February 1855. M'Ewen remained the Clerk of the Penitentiary until March 1856, when he was indicted for embezzlement. In his Mysteries, M'Ewen devoted less space to Buttles than he had to Dimmock. M'Ewen's dislike of Buttles was shown more in sarcasm than in any verifiable accusations. However, M'Ewen's complaints about prisoners' food does have the sound of truth to it.

As noted above, Warden Buttles experimented with the food fed to the prisoners and he congratulated himself on the prison's savings on meat costs. M'Ewen related how the experiment was received by the prisoners. For nearly a year, the prisoners ate the same menu every day -- cold corn cake and coffee sweetened with molasses for breakfast, corn cake, water, meat, soup or vegetables for dinner, and cold corn cake and water for supper. According to M'Ewen, Buttles refused to listen to the prisoners' complaints about the food. Finally, after a legislative investigation, the

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82 See pages 107-108.
warden was forced to put more meat back into the men's diet.\textsuperscript{83}

To further support his opinions of Buttles, M'Ewen listed all the misdeeds of the Warden. These wrongs concerned mainly manipulating the buying of prison's food and pocketing the profit. M'Ewen accused Buttles of taking foodstuffs out of the prison's supplies for his own use and not reimbursing the kitchen accounts. Buttles also had the convicts plant potatoes in one of the prison's fields. However, bad weather flooded the potato patch causing diseased potatoes. He fed the rotten potatoes to the prisoners anyway and bought, with prison funds, good potatoes for himself and his family. Finally, Buttles manipulated the price of corn so the prison paid for corn at one price and Buttles paid a lower price to the vendor and took the difference for himself.\textsuperscript{84}

M'Ewen's \textit{Mysteries, Miseries and Rascalities of the Ohio Penitentiary} may not be an unbiased account, but it is interesting. The people of the penitentiary become real with foibles like everyone else. The pamphlet does tell the story of the prison from a different perspective.

\textsuperscript{83}Ibid., 61; \textit{Journal of the House of Representatives Appendix} "Report of the Committee on the Penitentiary in Relation to the Interests of the Institution" (1856), 37.

\textsuperscript{84}Ibid., 65-68.
V. PRISON LABOR

In 1852, the directors and the warden were very concerned over the problem of the convicts' employment. The General Assembly tied the prison's hands in 1846 by forcing it to have prisoners available to work on the State House and in 1848 by demanding that any labor contract needed approval by the General Assembly. Because of the legislature's inattention, the prison was perilously close to having its only income from one contractor, William Burdell and Company that employed fifteen workers. This left 468 convicts available for the state projects.

In their 1851 report to the legislature, the directors pointed out that without provisions for employment the only alternative was solitary confinement for everyone, which, of course, was out of the question. The directors attempted to engage temporary contracts. However, the outlay of money for machinery and fixtures by the contractors was prohibitive under those conditions. Therefore in June 1851 the directors initiated contracts on a temporary basis, with the understanding that these contracts, upon approval by the legislature, would be continued over a period of years. The following companies renewed their contracts: Peter Hayden to use one hundred and fifty workers in saddle-trees, harness,

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85Directors Report (1851), 5-6.
coach and saddlery hardware, and iron wire; the Ohio Tool Company to use one hundred convicts to manufacture strap hinges, shovels, spades, plane irons, rules, try squares, and other carpenters' and coopers' tools; and finally, Brown, Witherbotham and Company to use one hundred prisoners to make scythes, snaths (long, curved handles of scythes), hoes, manure and hay forks, potato diggers, and other garden tools. The contractors were to pay forty cents per day per prisoner.86

Apparently the legislature confirmed these contracts because the Warden’s Report of 1852 showed all of the above manufacturers (plus Burdell’s fifteen workers). In addition, between December 1851 and June 1852, the General Assembly approved contracts for Stitts and Merick, S. Foght, and Columbus Stone Dressing Company. All the while, convict labor was still being used for building the State House and other state projects.87 The prison continually complained about the parsimony of the legislature in paying the prison the cheaper per day convict rate for labor on the state projects.88

86 "The Report of the Standing Committee on the Penitentiary" included the resolution of the General Assembly on these three contracts and included the entire contract for the Ohio Tool Company Journal of the House of Representatives Appendix (1852), 55-56.

87 Warden Report (1852), 7-9.

88 Directors Report (1852), 4.
Starting in 1854, the state legislature completely changed its opinion on contracting out convict labor. Its new policy was that prisoners' labor should be "sold to the highest reputable bidder" and "in such a manner as they (the directors and warden), in their judgment may think most conducive to the interest of the State." The management of the prison jumped at the chance to make more money from the new legislative decision and they advertised for new contractors. These new contracts paid the prison various amounts per day per prisoner. New contracts at the prison included W. T. and S. D. Day and Company who were to employ twenty-five convicts for five years making wood type at sixty cents a day and Jacob Strickler who was to employ twenty-five convicts for five years at stone cutting. Strickler's workers would be paid sixty-one cents for the first year and one dollar for the next as experienced labor. These contractors would furnish their own shops and fuel.

The 1854 law caused some problems for the warden and directors. A contractor (not named in the report) with a coopering business bid sixty-three cents for convict labor and was rejected by the prison management. The reason for the rejection was that there was not enough shop space for the necessary lumber and that there would be a challenge

89 Laws LII (1854), 60.
90 Directors Report (1854), 5-6.
from free labor in this industry. Unhappy that his contract had been turned down, the contractor took the prison to court. A decision had not been made as of the 1854 report.91

Other problems arose from the same 1854 law. In an effort to separate younger offenders from older, more hardened criminals, the law specified that the warden should classify the prisoners according to age and disposition; placing all young men under twenty-one years of age (unless the conduct of some shall forbid it) in a shop or shops by themselves, and give them such work as will be most beneficial to them when discharged; and persons convicted of the higher crimes, or who shall be convicted a second time of penitentiary offenses, or whose conduct may require it, shall be worked in a shop by themselves, at such employment as the Warden may deem most fitting for them or profitable to the state.92

Warden Samuel Wilson begged the legislature to see the total impracticality of this section. With over 500 prisoners and more coming and going every day, the prison could not fulfill this portion of law in any reasonable period or fashion. Also, the separation of younger and older convicts in the shops would take away experienced workers and replace them with inexperienced workers, which would be counterproductive to both the state and the contractors.93

91Ibid., 6.
92Warden Report (1854), 15.
93Directors Report (1854), 4-6.
Despite such complaints, by 1857 this provision was put into effect. Boys under the age of twenty were placed together in the cooper shops and the turning and plate shops. These shops gave the boys a skill in demand outside the prison and helped provide them with a lawful occupation after their term was up. In 1859 Warden Van Slyke made a further suggestion to completely separate the young men into rooms of their own.

On the other hand, the same law's provisions aided the inmate. One such section allowed the prisoner to "overwork," which let him work for himself or for his family after putting in a regular work day. The warden kept the extra money and either forwarded it to the family or saved it until the inmate was released. However, the 1854 Directors Report pointed out to the legislature that the workers on the State House were not included in the law, but out of fairness, Warden Wilson arranged for "good prisoners" to receive a certain amount of money as overwork.

The State House continued to be one of the ongoing sources of tensions between the state and prison management. This battle lasted for most of the 1850s. The main disagreement had to do with the payment, or lack thereof, to

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96 Directors Report (1854), 7.
the prison for convict labor. An 1850 law required that all prisoners not employed on contracts should be working on the State House. The number of convicts working on the State House varied from as few as thirty-five to over 200. These laborers were only able to work in summer and parts of spring and fall, which left a considerable number of men without employment during the colder periods of spring, fall and winter. Therefore, they were unprofitable to the prison.

Originally the legislature made no provisions to reimburse the prison for this work. In 1850 the Directors strongly suggested that the legislature should appropriate funds needed to supplement the prison's income not being provided by contracts. By 1852 prison management called upon the State House Commission, who oversaw the building of the State House, to pay for the prisoners' labor on the same kind of basis as the contractors, i.e., an amount per convict per day. An agreement between the State House Commission and the Directors settled on forty cents a day, which was comparable to what outside contractors were paying.  

The directors and wardens had another motive for making the state pay for convict labor on the State House. Now they could make the prison look more profitable.

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97 *Directors Report* (1850), 6.
rather than a drain on the taxpayers.\textsuperscript{98} Aside from these monetary concerns, disciplinary problems arose caused by jealousy among the prisoners not allowed to work outside the prison.

By 1854 the State House Commissioners had become rather impatient with the prison administrators demands. The Commissioners pointedly told the Directors that they could command as many workers as the State House needed. But the Directors showed that while the prison was being paid forty cents a day for unskilled labor and from one dollar to one dollar and fifty cents for a few highly skilled stone cutters, if the same number of prisoners had worked at a contracted price of sixty cents a day, the prison would make more money than it was being paid by the state. In other words, the prison was losing money and the directors were not happy about it.\textsuperscript{99} The prison management made the same exact complaint in 1855.\textsuperscript{100}

Another dispute regarding the State House arose over the expenses and problems in trying to guard the prisoners away from the confined security of the prison. The annual reports up to 1856 continually presented concerns about the costs of hiring more guards to keep the prisoners secure.

\textsuperscript{98}\textit{Warden Report} (1852), 15.
\textsuperscript{99}\textit{Directors Report} (1854), 5.
\textsuperscript{100}\textit{Directors Report} (1855), 1-2.
The wardens worried about the number of escapes caused by not having enough guards for complete control the convicts. The prison spent money trying to recapture these escapees. The state expended twenty-eight cents per convict per day in extra costs to transport and guard the prisoners working outside the prison. Other problems mentioned in the reports were the contacts of the inmates with outsiders. Free labor smuggled alcohol to some of the prisoners, making additional worries both outside and inside the prison. Also, inmates stole items from the job site and sold them to make money.¹⁰¹

A new twist occurred in 1856. The Directors tried to make the argument that paying forty cents a day for convicts actually cost the state twenty-eight cents more a day per convict than if free labor was used.¹⁰² In 1856 Warden Ewing made a detailed expense accounting of the actual cost of using convict labor on the State House. Ewing showed the cost to the prison for supporting idle prisoners in the off season was thirty-eight cents per prisoner to guard them, plus the forty cents a day that each prisoner would have been making on a labor contract. All totaled, the state's cost was really seventy-eight cents to one dollar and fifty-

¹⁰¹Directors Report (1850), 6; Directors Report (1851), 7; Warden Report (1852), 15; Directors Report (1854), 5; Directors Report (1855), 6; Warden Report (1856), 24.

¹⁰²Directors Report (1856), 7.
seven cents per prisoner per day. The following annual reports did not mention the State House, either because the building was finished or because the labor disputes had been settled.

Work for convict labor within the prison expanded dramatically in the later part of the 1850s. In 1856 Warden John Ewing gave a list of old and new contractors. The old contacts were with: Peter Hayden to use one hundred and fifty convicts to make saddlery items at forty cents a day; the Ohio Tool Company to use one hundred men to make joiners' and coopers' tools at forty cents a day; Hall, Brown and Company to use one hundred convicts to make gardening tools at forty cents a day; W. T. and T. D. Day and Company to use forty men to make wood type at sixty cents a day; and A. W. Hall and Company for twenty men making agricultural implements at forty-five cents a day. The expiration date of each of these contracts varied.

The prison entered into several new contracts with: A. W. Ayres and Company for fifty men at forty-eight cents; A. W. Hall and Company to use one hundred men at forty cents a day in two separate contracts; Peter Hayden to use 150 men at forty cents a day in three contracts; and the Ohio Tool

\[^{103}\text{Warden Report} \ (1856), \ 6-7.\]

\[^{104}\text{Journal of the Senate} \ "Report of the Select Committee on the Proposed Contract for Hall, Brown and Company, for Convict Labor" \ (1854), \ 131-132.\]
Company to use one hundred convicts at forty cents a day in two contracts. The new agreements were for five years to end in 1863. In 1857 a new business at the penitentiary, the A. M. Denig Company to manufacture toys and willow ware, employed twenty convicts at forty-five cents a day. The willow ware industry did not interfere with the state's free manufacturers. Another business contract signed in 1859 with Samuel Doyle and Company would use fifty convicts to make boots and shoes at fifty-three cents a day. A limitation was written into this agreement that these products could not be sold at local retail.

By 1859 the industrial personnel within the prison numbered 1,000 officers, contractors, foremen, and convicts in an area of eight acres containing shops, machinery and materials. This kind of congestion limited any expansion in prison manufacturing. A planned enlargement of the penitentiary was needed for workshops as well as for new inmates.

VI. CONCLUSION

\(^{105}\)Directories Report (1856), 7-8; Directors Report (1857), 3.

\(^{106}\)Directories Report (1859), 7.

\(^{107}\)Ibid., 3.
The 1850s found the Ohio Penitentiary dealing with many changes associated with a maturing penal system. For one, the political nature of the appointment process left prison officials confused and inconsistent. Each legislative and gubernatorial election altered the penitentiary management. During the 1850s, the General Assembly passed several penitentiary governance acts to codify the rules and regulations for running the prison. With every new legislature, came new rules. The politics of the state government was reflected in the appointments to the boards of directors who in turn appointed the wardens. This ten year period produced nine different wardens and twenty-three new board members. Every warden had his own vision on how the prison should be run, and succeeding wardens did not necessarily have the same vision.

The physical maintenance of the prison became an ongoing concern. Prison managements wanted the buildings completely repaired and the legislature wanted the problems patched. Each year the warden and directors' annual reports pleaded with the legislature to appropriate money for various maintenance needs. The roofs, cells, workshops, kitchen, and sewage system required complete overhauls to make them fully functional. The legislature addressed some of these needs, but not all.

Prison discipline changed significantly during the 1850s. The prison instituted new ideas on the control of
prisoners. For difficult convicts, solitary confinement replaced corporeal punishments, such as the "cat" and the shower bath. To reform the character of the inmate, educational opportunities were offered for illiterate and barely literate, giving them new skills to use towards an honest life after release.

Prison labor gave many of the inmates a trade. Convict labor supported the costs of maintaining the prison. The boards of directors wanted to have the authority to sign contracts for the prisoners' labor. The legislature wanted the same thing. From 1846 to 1856, contract approval was restricted to the legislature. The boards of directors complained that the legislature ignored the monetary needs of the prison because the number of contracts did not keep pace with the amount of income required to run the prison. An 1856 act allowed the directors to hire out the convicts more profitably. Profit was really what both the prison and the legislature wanted.
The battles between the state government and the Ohio Penitentiary’s managers continued throughout the Civil War and post-War eras. At issue was the legislature’s increased micro-management of prison affairs. Those citizens who also wanted the prison to be run on a professional basis also took issue with the use of the prison as a patronage plum.

The Civil War also brought changes to the penitentiary. The prison now accepted U. S. Military prisoners. The first group of these inmates was General John Hunt Morgan and some of his men. Their presence in the cell block would have bold repercussions for the prison.

I. POLITICS

From 1834 to 1850, the legislature generally left running the prison to the directors and wardens. The General Assembly regularly passed acts defining the governance of the prison. However, by the 1860s, the laws
became increasing more detailed.\textsuperscript{1}

In 1860 the legislature gave the directors the power to lease fifty convicts per contract to the highest bidder. With precise instructions on advertising for the contractors, the rest remained to the prison administration as "they deem most conducive to the interests of the state."\textsuperscript{2} By 1866 the directors and wardens felt a rising frustration. In their reports to the General Assembly, the Directors complained bitterly about their inability to act independently in directing the convicts' work. They pointed out that a labor agent in the private sector could anticipate the vagaries of the marketplace, but the directors did not have the same type of freedom. The prison administration faced the same variability of the market and use of temporary labor as a private sector agent. In addition, the wardens dealt with the necessities of guarding

\textsuperscript{1}The penitentiary was not the only target for legislative regulations. A few acts passed included: in 1861 a bill was enacted forbidding competing railroad lines to discrimination in charging rates; also in 1861 banks were taxed on their capital stocks, undivided profits and term deposits; the Adair Law of 1870 tightened the restrictions on liquor sales that made any building owner selling alcohol liable for any damages caused as a result of drunkenness; and finally, women benefited from legislative reforms. In an 1861 act, a married woman could own real estate, any property that belonged to her before her marriage or attained afterwards, inherited, or earned herself. This property could not be confiscated to pay her husband's debts. Eugene H. Roseboom, \textit{A History of Ohio: The Civil War Years, 1850-1873} (Columbus, Ohio: Ohio Archaeological and Historical Society, 1844), 117, 140, 229, 236.

\textsuperscript{2}\textit{Laws} LVII (1860), 101.
and controlling the convicts. Without the authority to deal effectively with all these limitations, the directors concluded that the legislature did not trust them to act in the best interests of the state.³ "The Directors and officers are necessarily restrained, in making their contracts and transacting their business, by legislative provisions, and deprived of the exercise of any considerable discretion." ⁴

An 1867 the Fifty-Seventh General Assembly enacted "An Act to Regulate and Govern the Ohio Penitentiary" left little to the imagination. The act detailed explicitly each level of management within the institution. The section on the warden listed his duties including exactly what he could and could not do. Every department was equally well defined. However, the most restrictive section in the law covered the contracting of convict labor containing three pages of instructions on convict labor alone. The law's most limiting requirement placed the convicts' minimum wage at seventy cents per day.

This directive became the directors' nightmare. The Directors Report and a Special Report to the Legislature for 1868, both complained to the legislature that the limitation was adopted against the earnest remonstrance of the Board, and is a departure from the

³Directors Report (1866), 4.
⁴Ibid.
uniform practice of the State since the establishment of the Penitentiary. The value of prison labor always had been and will always be dependent . . . [upon] all kinds of productive labor . . . It is difficult to perceive on what principle the price of convict labor can be prescribed.®

In the same year, the Warden, in a groveling tone, apologized for having to remind the legislature that one of his responsibilities included the financial well being of the prison. The statutory fixed-rate for labor prevented this since he could not keep all the prisoners working. One hundred and fifty to 200 convicts remained idle without contracts.® Things did not change much in the following years. With the 1867 requirement to contract labor at seventy cents per day was still in force and the economic difficulties and the available marketplace were not as generous as when the law passed, in 1873 the directors took the General Assembly to task over its failure to grant them some discretion and the overbearance of the legislature.®

The tone of the reports made these exchanges interesting. The directors were indignant, if not hostile, to the legislature. These binding and undignified restraints made the prison management feel the government did not trust them to manage the prison affairs competently.

®Executive Document "Directors Report" (1868), 276.
®Executive Documents "Warden Report" (1868), 285.
®Directors Report (1873), 23.

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This was not the only political discussion concerning the prison and the legislature. The Board of State Charities first began in 1867. The unpaid five-member board had the responsibility of overseeing and offering suggestions for improvements of the state penal system, but it had no power to act upon those suggestions.

The Board's 1869 Third Annual Report of the State Charities discussed in detail political manipulation of the penitentiary. It emphasized that there had been fourteen different wardens in the prison's thirty-five years, making an average term in office less than three years. Before a warden could get enough practical experience to truly be effective, he was out and a new one was in. The Board of Charities and Corrections lambasted the General Assembly in its handling of the management of the prison. It wrote,

Party politics, and, even worse, party cliques or rings, have too long controlled the appointments and consequently the management of the Ohio Penitentiary. 'To the victors belong the spoils' is the accepted but oftentimes fatal dogma of cliques and parties. These interests can never be converted into the spoils of party with out injury to the State. It strikes at the very foundations of our political economy, social progress and moral elevation.

The legislature abolished the organization in 1872, but reorganized it in 1876 as the State Board of Charities and Corrections. Reiterating much of the same conclusions of

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"Executive Documents "Third Annual Report of the State Board of Charities" (1869), 774."

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the 1869 Annual Report, the Board of Charities 1877 report again brought up political patronage at the penitentiary. The Board of Charities practically sighed that no relief seemed in sight.®

The House of Representatives Special Report of Convict Labor in 1877 also commented on the prison and party politics. Since the politicians wrote the report, it was more circumspect in its criticism. Instead of specific examples, a general statement urged that the appointments of prison management should be beyond party politics. The report suggested that the penitentiary needed competent managers that could most effectively carry out reformation and still achieve a financially profitable institution.¹° Whatever calls, both loud and soft, for fundamental changes in the appointment process at the penitentiary, nothing happened. Entrenched political spoils did not go away easily.

II. MORGAN'S RAID

No history of the Ohio Penitentiary during the Civil War period would be complete without including the exploits of Brigadier-General John Hunt Morgan, known as the

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®State Board of Charities and Corrections (1877), 7.
¹°House Journal "Special Report on Convict Labor" (1877), 16.
"Thunderbolt of the Confederacy." In March 1863 the Ohio Legislature agreed to "receive all criminals sentenced to the penitentiary by authority of the United States, and to keep them at hard labor." However, the prison did not take any military prisoners until July 1863 with the confinement of General Morgan. After a request from the Union General Ambrose Burnside, Governor David Tod accepted Morgan and his thirty men into the Ohio Penitentiary. This number soon increased to seventy. From 1863 to 1865 over 200 military prisoners passed through the Ohio Penitentiary. Some stayed for only a few days on their way to a military prison camp while others remained at the penitentiary.

These Confederate prisoners lived in a separate section of the new cell block. Their terms of commitment were usually one year or less. Soldiers assigned only to confinement did not work for their keep. With such short sentences, the military prisoners that worked had little monetary value to the prison. The prison could charge the Federal Government for expenses at forty cents per day for board and clothing, though the actual cost for clothing amounted to twenty dollars a year, and one dollar per month for the costs of the federal prisoners. Whether working or not, guarding this group of prisoners involved substantial

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11 Executiv... "Warden Report" (1864), 551.
costs. The directors sent the additional charges to the United States government for payment, but the government refused to accept the bills. The Directors wanted the legislature notified of this disparity.

General Morgan found himself at the Ohio Penitentiary because of his raid into southern Ohio. Confederate General Braxton Bragg ordered Morgan to march into Kentucky. General Bragg did not give Morgan permission to cross the Ohio River. On July 8, 1863, Morgan and about 2,000 men landed in Ohio. The Confederate troops ran through the southern portion of Ohio raiding public and private property. The Union Army captured some of these Southerners on July 13, but not General Morgan and the 800 men still with him. Finally on July 23, 1863, the Union soldiers took them trying to cross into West Virginia. The raids had no strategic significance for the Confederacy, since Morgan attacked no military posts, arsenals, communications, or transportation centers. The cost of Morgan's raids to Ohio was over $1,000,000.

Ohio had two military prison camps, Camp Chase and Johnson's Island. However, neither of these would be the final destination for Morgan and thirty of his men.

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13 Directors Report (1865), 9-10.
14 Executive Documents "Directors Report" (1864), 546.
15 Roseboom, 425.
General Burnside did not believe either camp was secure enough for the captives.

On July 31, 1863, the military prisoners came to the Ohio Penitentiary. Warden Nathaniel Merion accepted General Morgan and twenty-eight of his men: one colonel, three majors, seven captains, four lieutenants, and thirteen privates. The eastern cell block housed them. The design of the block covered a hall 160 feet long, twenty feet wide and forty feet high. There were five tiers of cells with thirty cells in each tier. One officer wrote of his introduction into the prison,

> When we entered this gloomy mansion of 'crime and woe', it was with misery in our hearts . . . It was not the apprehension of hardship or harsh treatment that was so horrible; it was the stifling sense of close cramped confinement. The dead weight of the huge stone prison seemed resting on our breasts.\(^\text{17}\)

Once inside the penitentiary, the Confederate prisoners underwent the normal incoming procedures of showering, having their hair and beards cut, and of being locked into their cells. The prison suspended some of its rules for the military prisoners. These men did not have to wear prison stripes, but could wear civilian clothes. The Confederate

\(^{16}\)"The Ohio Penitentiary: General Morgan's Escape" Columbus and Central Ohio Historian #3, 45.

\(^{17}\)David Roth, "John Hunt Morgan's Escape from the Ohio Penitentiary" quoted in Blue and Grey (October, 1994), 18; The name of this officer was not included in any source.
inmates did not work. They had meals delivered to their cells by regular convicts. While the Southern soldiers had free time together in the corridor, regular prisoners cleaned their cells. At a Directors meeting on November 3, 1863, the Directors and Warden Merion requested that the federal government take over the care, custody and control of the Confederate prisoners. One of the Directors said, "Let the Goddamned rebels clean their own cells." This idea became the key for Confederates' escape.

Beginning soon after the explosive November directors meeting, Captain Lorenzo Hockersmith and Captain Sam Taylor hatched a plot to break out. The idea of tunneling out came from Hockersmith's reading Victor Hugo's *Les Misérables*. Captain Henry Hines, General Morgan, Captain Ralph Sheldon, Captain Gustavus Magee, and Captain Jacob Bennet joined the plan. The seven started digging a hole in Hine's cell floor. Now that the Confederate prisoners worked cleaning their own cells, whatever debris brought up from digging could be disposed of easily. Though Captain B. F. Roberts was not one of the them, he helped in passing along any useful information to the plotters. A regular prisoner, Serniago De Montie, aided the group. De Montie's cell abutted the Robert's cell and he rigged a 'telegraph' between the two cells using a piece of wire that tapped

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18 *Blue and Grey* quoted page 26.

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messages back and forth about the layout of the ventilation shafts.\footnote{Blue and Gray, 61; Released in 1866, De Montie confessed to helping in the escape, not because of any sympathy for the Confederacy, but from the monotony of prison life., Ibid.}

The outer wall of the hole was eighteen inches wide, three feet high, and twelve feet long. By the third week of November, they finished the tunnel and scheduled the escape for Thanksgiving. However, a full moon made it too bright. November 27, 1863, became the new date. Around midnight the men went into the tunnel, with clean clothes tucked under their shirts, and came out inside the walls near the women's quarters. This wall rose twenty feet high. Taylor scaled twelve feet up the wall and threw over a rope attached to a rock. Each member pulled himself up to the roof of the women's quarters, and ran over the roof to the top of the main wall and into the empty sentry box. In the box, the men changed into their clean clothes and went over the wall. All this happened in an hour.

Once outside the prison, the men made their way to the railroad tracks and split up into pairs, except Magee. Each pair slipped off into the night. Sheldon and Taylor were the only pair recaptured. Morgan, Hines, Hockersmith, and Bennet boarded the 1:25 a.m. night train to Cincinnati. In either a bold or stupid move, Morgan sat next to a Union officer and chatted throughout the trip.
While the Confederate soldiers escaped, inside the prison the alarm sounded during the two o'clock bed check. A note found in Hine's cell addressed to Warden Merion. It said,

Hon (!!) N. Merion. The faithful, The Vigilant.

Castle Merion, Cell No. 20.
Nov. 27, 1863

Commencement - Nov. 4th, 1863.
Conclusion - Nov. 20th, 1863.
No. of hours for labor per day - 3.
Tools - Two small knives

"La patience est amere, mais son fruit est doux."
(Patience is bitter, but its fruit is sweet.)

By order of my six honorable Confederates.

T. Henry Hines
Captain, C. S. A. 20

Morgan and Hines got separated crossing the Tennessee River. By Christmas Eve, Morgan was in Columbia, South Carolina.

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20 quoted *Blue and Gray*, page 58.
The epilogue for Morgan and Warden Merion was not very happy. Morgan paid for disobeying orders. General Braxton would not give him a new command. Morgan raised his own troops, but they were never successful. He returned to Greenville, Tennessee. On September 4, 1864, Union troops slipped into town. Morgan was alerted and ran out of his house. Union Private Andrew Campbell demanded that Morgan halt. He did not. Private Campbell shot Morgan in the back.

Warden Merion did not get off lightly either. Governor Tod ordered the Warden to take full responsibility for the escape. The Warden offered $1,000 reward for the capture of all seven escapees. U. S. Secretary of War Stanton raised the total to $5,000. By March 1864, the rest of the prisoners brought in with General Morgan were transferred out of the Ohio Penitentiary, including the recaptured Sheldon and Taylor. The escape of the Confederate soldiers was the stuff of legend. To show how famous Morgan became, the prison turned his cell into a tourist attraction.

III. CONCLUSION

Merion remained warden until May 1865, when he was replaced by John Prentice, who had been warden from 1859-61. No mention was ever made of Morgan's escape in the wardens' reports, directors' reports, or legislative committees on the penitentiary for any year. According to official records, the escape never happened.

Ibid., 11-24, 52-62; A History of Ohio, 423-426.

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The 1860s and 1870s the Ohio General Assembly and the prison administration fought over control of the prison. In the 1860s the legislature expanded its power over the running of the penitentiary. The rules and regulations, periodically enacted by the legislature, had in the past stayed relatively brief, allowing the prison management an amount of latitude in implementing them. During this period, however, the governance acts issued detailed and specific instructions. This took away most of the discretionary power of the prison management and left them figuring out how to reconcile the difference.

The state government also included politics in the prison oversight. Acting as an advisory organization to the General Assembly, the State Board of Charities formed in 1867. It complained about the lack of stability within the Ohio Penitentiary administration and recommended that the legislature appoint prison personnel based on abilities instead of political connections.

Politics brought notoriety to the penitentiary with the escape of Confederate General John Hunt Morgan. On November 27, 1863, Morgan and six of his men tunneled out of the prison and returned to the south. His story grew into a legend and the legend into a tourist attraction.
For the Ohio Penitentiary in the 1860s and 1870s, overcoming stagnation became a major challenge. The institution had aged over the years and needed substantial repairs. The question was which improvement to address first. Ventilating the old cell block was a primary goal for the prison administration. Bad air had health repercussions for the inmates and the penal authorities wanted the legislature to pay attention to this. Other elements added to the smells surrounding the facility. Sanitation problems were also on the list of things to fix.

Besides the physical demands of the penitentiary, new debates with free labor, over the old conflicts of convict labor and reformation, became prominent in the 1870s. The directors and wardens believed that work was an integral part of reformation. The prison administration wanted to know what evidence did free workers have that the contractors unfairly hurt their businesses? Free labor wanted to know how the prison could justify the old contract labor system? Both groups asked what alternatives were
available and could reformation make any progress in this work climate?

New discussions arose on prison discipline and topics such as the classification of inmates, the indeterminate sentence, and building an intermediate prison. The institutions management looked at new ideas in trying again to resolve, which was most important - money or reform?

I. IMPROVEMENTS

By 1860 the penitentiary was thirty-five years old and housed more inmates than designed to hold. Maintaining the facility remained an ongoing project. The prison administrators constantly badgered the legislature for authority and money to keep the facility from falling down around their ears. The legislature viewed each improvement or repair as finite and not parts of a whole plan. So tension always existed between the two.

The facility received few major repairs or improvements and it desperately needed expansion. Finally the General Assembly relented and authorized more room. An act, passed in 1860, gave specific directions for the expansion, and approved the plans of the architect.

The legislature gave the directors authority to accept the bids from the contractors and the hiring out of convict
labor for the actual construction. The prison management gave the contracts for building the shops to companies that had long service at the prison: Hall, Ayers and Company, Peter Hayden, and Denig, Ide and Company. The dining hall, kitchen and bake house went to another prison company, Auld and Miller.

The prison was to build a new cell block onto the east wing for the accommodation of male convicts. The dining hall and kitchen also needed enlargement to provide for the growing population. The cell block, kitchen and dining hall used stone taken from the quarry owned by the state and fashioned to complement the existing facade. Two large, new workshops, which could hold one hundred convicts each, rose two stories with brick walls thick enough to withstand the weight of the machinery and covered with a slate roof. Once the new shops were built, the prison would tear down the old shops.

Not included in these plans for improving the prison was any mention made of the existing cells. With the new cells being built of the latest design, the old ones became a priority for renovation by the prison management, but not the legislature. Since the 1850s, the directors and wardens

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1 *Laws* LVII (1860), 57-59.


3 See Chapter 3 pages 90-92 for the acquisition of the limestone quarry by the state.
had tried getting the General Assembly to adequately ventilate the old cells. Every year in their annual reports, the prison officials tried pleading, shaming, bullying, and every other way imaginable to get the legislature to literally act. Occasionally the state submitted a feeble set of plans or ideas, but these never provided the solution the prison administrators had in mind. They did not include a steam engine that the prison considered mandatory equipment, so nothing happened. The state wanted to patch the problems and the prison wanted to solve the problems.

The steam engine debate raged on for many years. The 1860s found the prison administration of one voice in this endeavor. This machine could ventilate the old cells, grind the grain for bread, provide heat to the wash shop, move water up to the cells for better sanitation, and help extinguish fires. In other words, a steam engine would modernize the prison.

As late as 1865, the prison still used a hand pump engine. This brought a great deal of embarrassment to the management. To make their point, the directors observed,

The State mainly relies on an old hand-engine, which was cast aside some fifteen years since, by the city of Columbus. There is not a private establishment of one-half the magnitude of the Prison, in the State or country, which, under the same circumstances, would be permitted,

*See Chapter 4 pages 105-106.

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for a single season, to be without so necessary a means of performing these various services.®

In the same year, the warden, appealing to the more practical side of the legislature, added that a steam engine would save enough money on fuel alone to quickly pay for itself.® Without an answer from the General Assembly, again the prison management made an even stronger appeal in 1867. This time they pulled no punches.

The officers of the Penitentiary have been embarrassed, and the interests of the State prejudiced, by the unwise and parsimonious policy of withholding generous appropriations for repairs and improvements . . . if an individual had a similar establishment, he would be charged with stupidity if he did not avail himself of steam power.™

This time the complaints did not fall on entirely deaf ears. Finally in 1869, the legislature passed an appropriation bill for a steam engine, boilers and necessary machinery to fulfill the needs of the prison.®

In the main cell block building, workshops and other structures built around the outside of the cell block kept fresh air from coming inside. Each cell door had only an eighteen-inch square opening. This small opening could not accommodate any movement of air. The stagnation inside the

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®Directors Report (1865), 5.
®Warden Report (1865), 12.
™Executive Documents "Directors Report" (1867), 282.
®Ibid., 164.

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cells caused health problems for the prisoners. Prison physician's Report from 1867 remarked on the fact that Mondays' sick lists contained more names than any other day of the week. The doctors believed the reason was that prisoners stayed in their cells all weekend breathing the same air. Warden G. S. Innes, in his 1874 report to the legislature, gave a detailed and graphic description of the cells. Each cell measured seven feet long, three and one-half feet wide, and six feet nine inches high. The cell block held 350 men. Outside the building a ten foot wall rose further limiting the amount of air that could flow into the cell block. The Warden succinctly stated,

> When we consider the importance of atmosphere to all air-breathing animals, we must concede that even criminals should have all of it necessary to keep them healthy and strong. It is no part of their sentence to be murdered by inches in unhealthy, non-ventilated apartments.\(^9\)

Finally after all the begging from the prison, in 1875 a Joint Legislative Committee inspected the conditions of the cells. Going from the solitary confinement cells in the dungeon to the top tier of the main cell block, the Committee found appalling quarters. Finding the dungeon cells in such bad shape, the Committee wrote, "Without doubt, the former punishment inflicted by lash, barbarous

\(^9\)Warden Report (1874), 14.

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and abhorrent as it was, would be preferable."\textsuperscript{10} Not only were the cells filthy and without stools or beds, but the air within the cells choked anyone coming in because there was no circulation or accessible ventilation for fresh air.

An ironic aspect of the Committee's \textit{Report} came from their supporting testimony. This legislative panel, after having ignored the directors, wardens and physicians reports for over a decade, used those same reports to validate their position. The Select Committee quoted at length from these annual prison officials reports on the conditions of the cells.

The conclusions and recommendations of the Committee also had ironic elements, considering the emphasis by the legislature on having profitable prison industries. One recommendation suggested that the profits made by the prison should fund any improvements.

\texttt{The Legislature [should] give back to the prison only that which it annually pays as surplus earning into the State Treasury. The State should be satisfied if the Penitentiary were only self-supporting. Profits arising from the labor of convicts are incidental, or from good management, and not an object of their imprisonment.}\textsuperscript{11}

Were this approach adopted, the prison's profit for 1875, more than $23,000.00, could make many repairs. Of course as

\begin{flushleft}
\textsuperscript{10}\textit{Executive Documents} "Report of the Joint Select Committee" (1875), 859. \\
\textsuperscript{11}\textit{House Journal} (1875), 863. 
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legislators, the next suggestion did have a practical dollars and cents outlook. Since the prison had many idle convicts, putting them to work on improving the ventilation system would solve both problems. The Committee acknowledged that the prison management, in their reports, conveyed the true conditions within the prison.\textsuperscript{12}

A new complaint against the existing cells came in 1875. Over the last twenty years, the convicts repainted the cells with whitewash instead of oil paint. Embedded in the whitewash were bedbugs and other insects, making the whole place intolerable. The only solution seemed to tear down the cells and completely replace them.\textsuperscript{13}

Finally in 1877, the General Assembly passed the appropriate acts to update the cells. The directors suggested tearing down the old cell block, since the repair costs were more than rebuilding. The state did not want to hear any more about cells. In 1877 Warden John Grove proposed putting the worst inmates in the old building and those prisoners capable of reform in the new one. This would begin a system of convict classification.\textsuperscript{14}

Another long term desire, starting with Warden Dimmock in 1852, was new housing for insane convicts. Dimmock

\begin{footnotes}
  \item[12]Ibid., 858-864.
  \item[13]\textit{Warden Report} (1875), 15.
  \item[14]\textit{Warden Report} (1877), 13.
\end{footnotes}
reported that, if kept in the hospital, these convicts disrupted the care of the sick and, if left in their cells, they came to an early death. The prison took the responsibility of keeping any insane prisoners when their sentence expired or helped get them into some asylum. Though no statistics confirmed their beliefs, the directors and wardens believed that the percentage of unbalanced inmates within the prison walls exceeded that found in the public. Because the lack of space for special accommodations, the prison confined them in their cells all day. Starting in 1860, petitions from the prison officials urged the legislature to provide new housing for this class. In 1863 Warden Nathaniel Merion boldly noted that the pressure of the insane inmates had now become unbearable. He reminded the legislators that the courts sent the insane to prison and the prison must deal with them. Though the unbalanced convicts seemed normal during the day, at night they tore their clothing and bedding into shreds. They disturbed the other inmates with their howling, screaming, swearing, and hysterical laughing. Another problem was the cells. Their design did not allow for continuous occupation. However, letting the insane convicts walk freely about the grounds was dangerous and disconcerting to the rest of the people living and working at the

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15 Warden Report (1852), 23.
institution. In italics, Merion stated, "These gentlemen, are only part of the reasons which compel me to say that no want by which business here is embarrassed equals the want of proper building for the use of the insane."\(^\text{16}\)

Finally the legislature relented and provided the necessary money, $10,000, in 1864 for a building that could hold between twenty-four and thirty insane convicts. The State Architect prepared plans combining adaptability, ventilation, space, and security. The brick structure rose two stories high and measured fifty-five feet long and thirty-five feet wide, roofed with slate and floored with stone. The twenty-four cells sat in double tiers with special wrought iron security bars that allowed the inmates to be completely separated from each other.\(^\text{17}\) The legislature divided the contracts into convenient parcels and opened the bidding. The directors placed advertisements in the daily newspapers in Columbus, Cincinnati and Cleveland for three consecutive weeks. Information included in each bid was style, a time frame, materials needed, and a completion bond. The directors and warden chose the lowest reputable bid.\(^\text{18}\)

\(^{16}\)\textit{Warden Report} (1863), 9.

\(^{17}\)\textit{Executive Documents} "Warden Report" (1864), 550.

\(^{18}\)\textit{Laws} LXI (1864), 21.
The new building for the insane only briefly relieved the problem. In the 1876 Directors Report made another request for more room and better accommodations for the demented convicts. Current conditions did not allow proper care for these inmates. After finishing the new cell block, the prison officers intended to adapt the building connected to the hospital, thus putting the insane under the eye of the physician.19

As the prison and population expanded, the prison built a variety of new structures. The gas works, discussed at length in the later part of the 1850s, was finally realized in 1873. It could produce gas for the prison, State House, Deaf and Dumb Asylum, and Blind Asylum. The contractor, Robert Cartwright of Cleveland, hired convicts not on contract.20

Other necessary repairs began with the roof on the front building. It leaked badly into the building resulting in several problems. After much fuss, the directors put on a new roof. The prison built a new mill that enabled it to grind its own grain. A huge storehouse was constructed allowing the prison to buy provisions in bulk. Together these additions allowed the prison to save money.

19Directors Report (1876), 9.

20Directors Report (1873), 29-30; Warden Report (1873), 35; See Chapter 4 pages 109-110 for a discussion on building the gas works.
Provisions were a major financial consideration. In 1873 and 1874 the wardens listed the amount of food required to feed the institution for an average month. The amounts were overwhelming. To name a few: almost 110,000 pounds of meat, over 430,000 pounds of wheat flour, 10,000 pounds of sugar, 165 dozen eggs, and almost 2,500 pounds of salt. The average amount of food given to each convict included approximately three-fourth's pound of meat, one pound and five ounces of wheat bread, seven and one-half ounces of corn meal, and eight ounces of vegetables. Also given to the prisoner were allowances of butter, cheese, coffee, tea, sugar, fruit, and so forth. The cost of this diet averaged out to thirteen and one-half cents per convict per day. The total cost per prisoner per year, including the guards salaries, added up to just over $167.00.\(^\text{21}\) A refrigerator purchased in 1877 kept the dairy, meat and vegetables fresher longer.\(^\text{22}\)

The most unusual new improvement was the bucket house. Disposing the waste of over 1,000 convicts, staff, contractors, and overseers took on epic proportions. The night buckets in each cell needed emptying every day. The stench of these buckets added to the miasma that enveloped the prison. In 1865 the prison built a new outhouse,

\(^\text{21}\)Warden Report\ (1874), 23.

\(^\text{22}\)Warden Report\ (1877), 38-39.
because the old one attached to the hospital was smelly. The new outhouse reestablished the symmetry of the yard and helped the purity of the well near the dining hall. A bucket house was built that took the night buckets and dumped them cleanly. Jets of water flushed the refuse into the sewer line and away from the prison. This made the whole prison less offensive and more sanitary.

A new sewer line was added in 1866. The old sewage line put the refuse into the wrong place. It emptied in the river and settled in an eddy outside the prison. In the summertime the odor was extremely offensive.

II. DISCIPLINE

Much of the debate between prison administrators during the 1860s and 1870s centered on reconciling the twin objectives of prison discipline and prison reform. Though the framework of the Auburn Model, congregate work during the day and solitary confinement at night, the directors and wardens explored new options of reformation as the prison population grew. Some topics broached included classification of prisoners, a new intermediate prison, the

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23 *Directors Report* (1865), 8.
25 *Directors Report* (1866), 12.
Irish system and its adaptability to Ohio, and the indeterminate sentence. The objective was not to punish the inmates too severely nor too arbitrarily, but neither was it to allow too much freedom.

It will not be doubted that punishment which does no good, does harm; that putting a man into a dark cell to make him do right, and turning him out before he even promises to do so, does no good; that keeping him there unreasonably, damages his health . . . and does harm.26

This fine line inspired both the directors and wardens to air their hopes and fears through the annual reports.

No one doubted the necessity of punishment. Criminals went to the penitentiary for that purpose. To maintain control, the prison administrator's primary duty was to guide with a firm hand the inmate through his life in prison. The desired result focused on getting the prisoner to follow the rules willingly and voluntarily. The difficulty revolved around getting the convicts to want to reform. Not every prisoner felt the desire for personal improvement. For these men, getting and keeping their attention relied on curtailed privileges and determined punishment.

However, punishment alone did not answer all the penal needs. Reformation of the prisoner's character benefited both the man and society. How to do that consistently and

26Directors Report (1863), 8.
for the greatest number remained the question. Most prisoners were deemed to possess some worthwhile qualities. Christianity paved the way to finding those qualities. In report after report, Christian values were seen as the solution, "Whatever discipline is required . . . Christian influence is one of the most powerful agents which can be employed." 27

One potential source of help in exploring new ways of discipline and reform was prison congresses. In 1872 and 1873 the directors' reports mentioned both the national and international congresses. They felt these conferences had no value, unless the meetings helped change public opinions concerning prisons. The directors sarcastically pointed out how speeches and publication seemed all that the congresses produced. 28

One of the ideas debated in the prison conferences was the advantages of having an intermediate prison, which held those convicts capable of reform and young offenders. In their first report of 1867, the Board of Charities called for building a new intermediate prison. 29 The estimated optimum size of a prison was 600 inmates. The best minds in

27 Executive Documents "Directors Report" (1872), 553.
28 Directors Report (1873), 32.
29 Executive Documents "First Annual Report of the Board of Charities" (1867), 236-8.
prison management agreed upon this number. The Board believed that the new prison should include a graded classification system based on the dual objectives of privileges and leniency on one side and, on the other side, sternness and restrictions. This strategy put the prisoner's fate in his own hands.

A new intermediate prison became an integral part of establishing a system of classification. In the *Reformatory Penitentiary System Report* of 1868, the legislator, B. L. Hill wanted a Board of Classification to develop an individual history and character analysis on each prisoner to determine the criminal's assignment to a prison and his convict class. The number of classes available needed to be as inclusive as necessary.

One system of classification looked at by the Board of Charities was the Irish prison system. The Irish prison system involved graded prisons, prisoner classification and punishment. First, a prisoner was placed in solitary confinement. During the day, he received moral and religious instruction. After a period of adjustment, the convict could work, in a congregate setting, either for the

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31"Annual Report of the Board of Charities" (1867), 242.
state or learn a trade. Simultaneously, every attempt for reformation of the prisoner tried, "to inculcate that feeling and self-reliance which will enable them successfully to struggle against the temptations and difficulties they must encounter in their future connection with the world." Each prisoner had a debt of marks equivalent to the severity of his crime. These marks ranked the classification levels with the prisoner working off each mark. The convict went first to a prison where he was strictly watched. There he worked in congregate and slept in solitary, while working toward early release or the intermediate prison. Once upgraded to the intermediate prison, the convict worked under close supervision and lived in a dormitory. At this stage, any violation of discipline sent the prisoner back to the first prison and required him to start all over. If he continued working on his reformation, he could get tickets-of-leave for brief periods out of the prison or parole under police supervision. An English report on the Irish System raised the question: What do we do with our convicts? The answer was:

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32 Executive Documents "Third Annual Report of the Board of State Charities" (1869), 779.

33 John Phillip Resch, "Ohio Adult Penal System, 1850-1900: A Study in the Failure of Institutional Reform" Ohio State Archaeological and Historical Quarterly vol. 63, 244; Executive Documents "Annual Report of the Board of Charities" (1869), 779-780.

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KEEP YOUR PRISONER UNDER SOUND AND ENLIGHTENED DISCIPLINE UNTIL THEY ARE REFORMED - KEEP THEM FOR YOUR OWN SAKE AND FOR THEIRS. THE VAST MAJORITY OF ALL WHO ENTER YOUR PRISONS AS CRIMINAL CAN BE SENT BACK INTO OUR WORLD AFTER NO UNREASONABLE TERM OF PROBATION, HONEST AND USEFUL CITIZENS. LET THE SMALL MINORITY REMAIN, AND IF DEATH ARRIVES BEFORE REFORMATION, LET THEM REMAIN FOR LIFE.34

The intermediate prison became a subject of much debate, especially between Representative B. L. Hill and Warden Charles Walcutt of the Ohio Penitentiary. Both men provided several sharply worded reports to the legislature. Hill reported to the House of Representatives on Reformatory Penitentiary System. The mandate given to him by the House was "that the penitentiary system of laws be so amended and enlarged and reorganized as to adequately provide for the proper classification and treatment of convicts with respect to age, sex, character, and probable reformation."35

Ostensibly Hill's report looked into the viability of classification, reformation and a new intermediate prison. Part of the report did address these issues. However, the real agenda for Representative Hill was the LOCATION of this potential prison. In what can only be considered a flexibility with the facts and a diatribe against Warden Walcutt, Hill wanted the prison built in northern Ohio around the Lake Erie, his district.

34"Third Annual Report of the Board of Charities", 780.
35Hill, 46.
In arguing for a northern penitentiary, Hill drove home the cost effectiveness of this placement. Hill put together a table of comparisons on the transportation costs, procuring building supplies, and provisions for the convicts between Columbus and the lake district. His conclusion was that "every article to which the price is affixed is above the lake shore price - some but slightly, and others, as the above will show, enormously, ranging from 15 to 300 per cent."\(^\text{36}\) Transportation of convicts from their point of conviction to the Columbus prison was a major cost for the state. Interestingly, Hill claimed, that the forty counties in northern Ohio, sent forty-four percent of all the convicts to Columbus and, in twenty-five years, could save between $250,000 and $300,000 by having the new prison in the northern part of the state.

Warden Walcutt countered with an open letter to Representative Hill. He referred to Hill as a select committee of one "not only to deride him, but resort to pettifogging misrepresentation for the purpose of gaining his case."\(^\text{37}\) His letter repudiated point by point Hill's accusations. Warden Walcutt objected to the building of a new prison. He accused lobbies and selfish self-interest leading the charge. The Warden refuted the idea that having

\(^{36}\text{Hill, 56-7.}\)

\(^{37}\text{Charles Walcutt, }"\text{Letter from Warden Walcutt}"\text{ Executive Documents (1869), 1.}\)
a prison in the Lake Erie district saved transportation costs. Walcutt reminded Hill a reformatory prison needed to serve the needs of the whole state, not just the northern part.\footnote{Executive Documents "Warden Report" (1867), 285.} Therefore, how could transporting convicts to such a remote part of the state save money?

It seems strange that a gentleman . . . would assume that by dividing the convicts by placing them in two prisons, thereby duplicating the expenses, it would result in pecuniary profit to the State. I fear you have made your figures to suit your purpose.\footnote{Walcutt, 5-6.}

Though the Ohio Penitentiary had reached its population limits, the number of prisoners was less than in the past. From the Warden's 1868 \textit{Annual Report}, he pointed out that the last two or three years the number of prisoners had fallen off precipitously.\footnote{Warden Report (1868), 9.} Hill sarcastically took from this statement,

It is refreshing, and perhaps consoling, to be informed through such an authentic source, over his official signature, that our great State has all at once become so very moral, that henceforth, though we steadily increase in population we will have a decrease in crime!\footnote{Hill, 50.}

Walcutt responded by saying Hill obviously had not looked carefully at the prison records, though "it is not far from the State House to the Penitentiary, and the Standing
Committee of both Houses, on Finance and the Penitentiary" were welcome to come and see the reports since they were open for scrutiny.\textsuperscript{42}

Another disagreement centered on convict labor. In his 1867 Annual Report, the Warden Walcutt found himself with 150 to 200 idle convicts. He believed the legislative requirement, a minimum seventy cents per day per convict, limited the number of contractors willing to invest in prison labor. True Walcutt did not like the law, but he complied with it. However, he pointed out the seventy cents was for able-bodied men and the prison had men at different stages of abilities. The invalid, old and minors now received fifty cents instead of thirty-five cents.\textsuperscript{43}

Here again Representative Hill pushed his agenda. He alleged that in the northern part of the state, where convict labor had not saturated the market, prisoner labor could command more than seventy cents and there would still be a demand.\textsuperscript{44} Walcutt responded by doubting that the prisoners in a northern prison would be any more able-bodied, skilled or interested in working than in Columbus.\textsuperscript{45}

\textsuperscript{42}Walcutt, 1.

\textsuperscript{43}Executive Documents "Warden Report" (1867), 285.

\textsuperscript{44}Hill, 55.

\textsuperscript{45}Walcutt, 6.
A potentially serious discussion on various ways to accomplish prison reform became a forum for private agendas. Representative Hill made a case, regardless of how spurious it was to advance his own district. Warden Walcutt was on the defensive, but he managed to slip in various problems facing the penitentiary and his solutions. The sniping of these two men took a very important subject and turned it into a personal vendetta.

Warden Walcutt and Representative Hill had a frivolous argument over prison industries and reform. However, in the late 1860s serious discussions arose. In 1867 the Board recommended conditional pardons for some inmates and an indeterminate sentence for others. The Board of Charities in their 1869 Annual Report discussed extensively new approaches to criminals and criminal law. They devised a plan for

the treatment of the criminal, rather than the treatment of the crime. It looks upon the man as morally and socially disordered . . . the demands of society and the claims of the criminal would be alike subserved by treating the crime as a more disorder, after the manner . . . of treating mental disorders.

Achieving this goal required a complete change in the existing penal legal practices. The Board found that

\[^{46}\text{Eugene H. Roseboom, A History of the State of Ohio: The Civil War Era, 1850-1873 (Columbus, Ohio: Ohio State Archaeological and Historical Society, 1944), 253.}\]

\[^{47}\text{Executive Documents "Annual Report of the Board of State Charities" (1869), 777.}\]
judges, even within the same districts, gave out widely varying sentences for the same crimes. To alleviate these inequities, petitions addressed to the governor asked for redress. Granting pardons put a constant burden on the executive office to make judgements that overturned judicial decisions.

The Board set up a series of guidelines. The first suggestion limited the judges in their sentencing discretion and interpretation of the law. Secondly, this change relieved the governor from the endless requests for pardons. Thirdly, the Board wanted to make society responsible for getting rid of those who would abet crime and criminals. Finally, they recommended supporting the state in all its attempts to separate those prisoners capable of reform from the ones unwilling or unable to reform.  

Prison sentences remained a central topic in the 1870s. The directors agreed with the Board of Charities reports that judges did not assign the same number of years in the penitentiary for the same crime. The way the laws were written offered widely disparate sentencing options. In 1876 the Directors Report presented several pages showing the range of punishments for various crimes. For example, robbery sentences ranged from three to fifteen years, forgery convictions could be from three to twenty years, and

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bigamy verdicts ran from one to seven years. This unfairness made prison discipline very difficult. With these kinds of inequities, the prisoner's sentence relied more on the judge than on the crime. The Directors asked how any reformation could exist in this situation?49

The legislature considered the indeterminate sentence as new reformatory measure. This sentencing method placed redemption directly into the hands of the prisoner. By his conduct, an inmate had the power to shorten his sentence. The directors did not accept the idea of a convict staying in prison for an indefinite length of time, instead of a specific sentence. In their 1870 report, they were cautious, if not hostile, to the indeterminate sentence. According to the report, the governor and legislature would appoint a Board of Commissions composed of ten men and "some women" that would decide whether a prisoner had reformed and could leave the penitentiary. What mainly concerned the Directors were the political implications. One set of commissioners might believe crime was a disease. Therefore, the prisoner was not responsible for his action. At another time, different commissioners might interpret the law more strictly and change the rules. The next election could find yet another reversal in the guidelines. The results would either allow the guilty out too soon or crush the

49Executive Documents "Directors Report" (1872), 555-559.
spirit of the convict with its unfairness. In any case, a prisoner might be subject to acts of desperation. The directors asked several questions.

What would be the effect if the sentence was imprisonment for life? . . . If these men were thus confined for an unlimited time . . . would it not necessarily and inevitably convert our penitentiaries into school for the education of hypocrites?

How can a person look into the mind of a convict and decide whether he has reformed or not?

Despite the directors aversion to the idea of the indeterminate sentence, the Board of State Charities supported the idea wholeheartedly. The 1877 Report of the Board saw no problem with putting a maximum of years in the sentencing procedure. This still allowed the prisoner power over his length of stay. The warden would keep a daily record on each prisoner's conduct. For the first few weeks or months the convict remained in solitary confinement, giving him an opportunity to adjust to the prison environment. When ready, he could ask for work as a privilege. Once at work, the prisoner learned that if he worked hard and followed the rules cheerfully, he could shorten his sentence and relax the severity of his treatment.

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50 Directors Report (1870), 8-9.
51 Second Report of the Board of State Charities and Corrections (1877), 11.
The indeterminate sentence allowed the prisoner to control his time in prison. However, if an inmate died behind bars, the facility controlled the disposal of his body. Prison management rarely discussed the subject of deceased convicts. The institution buried the dead inside the walls. In 1868 a new concern emerged about the deceased inmates. Internment lasted only BRIEFLY. Immediately after the ceremony, the gravediggers took the body out of the grave and sent it to a hospital for dissection and other medical experiments. The directors asked if it was too much to leave the dead in the ground for at least one day.\textsuperscript{52} The living prisoners knew what happened to the dead. This knowledge demoralized the inmates, because they feared dying inside the walls. Since the convicts lived outside society, this knowledge made them feel even more alienated.\textsuperscript{53}

In 1869 the Directors addressed the burial question again. With each expansion of the grounds of the prison, the management needed to consider a new location for the cemetery. The cost to move the graveyard outside the city limits would be nominal and solved part of the problem. Additionally, the deceased prisoners should remain buried and not used for experimentation. "Not only Christianity, but humanity, and a decent respect for the grave of a

\textsuperscript{52}Directors Report (1868), 5-6.

\textsuperscript{53}Ibid.
savage," the Directors concluded, "ought to be sufficient to induce the State to purchase and protect from disturbance the graves of those who die in this custody."\textsuperscript{54}

The 1875 \textit{Directors Report} mentioned that the prisoners' graveyard was now on prison owned land several miles outside town. No longer victims of the hospital, the deceased could rest in peace.\textsuperscript{55}

\textbf{III. PRISON LABOR}

The era of the Civil War was a desperate time for the Ohio Penitentiary. These years saw financial failure at the prison. Each year the institution's expenditures far exceeded its receipts. Directors and wardens complained that the legislature set the price of convict labor too low. Whatever revenue the prison brought in, it did not cover the costs of running so large and expensive a facility. As a result of so many men enlisting in the military for the war effort, fewer prisoners were coming in and they were not profitable. They entered without skills and stayed uninterested in working for their keep. Warden Merion in 1864 added a snide comment, "the uselessness of the prisoners arriving seems to indicate that the prosecuting

\textsuperscript{54}\textit{Executive Documents} "Directors Report" (1869), 164.

\textsuperscript{55}\textit{Directors Report} (1875), 19.
attorneys for the State have remitted the practice of bringing able-bodied men to trial.”

In 1859 the Directors appointed John Prentice as the new warden. His 1860 Warden Report questioned the propriety of past administrations counting in their earnings column work done by the convicts for the prison or state and charging the going day rate. Because no detailed accounting of this work existed, any true value remained impossible to correctly estimate. Prentice concluded these amounts created delusory profits.

Prentice had other monetary problems at the prison caused by the economic uncertainty of the Civil War, which idled between 200 and 300 men. This left the prison management and the legislature burdened with the cost of supporting these inmates. New contractors hesitated to sign long term commitments at any price. Businesses already involved in manufacturing at the prison were only marginally interested in taking on even cheap part-time labor. The existing nine contractors paid from thirty-five to fifty-three cents per convict per day. Even those employed, found themselves occasionally out of a job.

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56Executive Documents "Warden Report" (1864), 549-550.

Advertisements ran for new employers, but no one believed there would be any interest. Real fears arose about the future, when the current contracts ran out. These fears concerned the costs of maintaining such a large institution on stingy legislative appropriations. Equally important was keeping order and discipline with almost 900 bored convicts.\footnote{Warden Report (1861), 9, 17.}

Fortunately, the expected calamity never happened. The prison officials signed new contracts, mostly with existing contractors, and the idle convicts went back to work. Out of 768 inmates, 535 had jobs, leaving over 200 unemployed men. The current contractors hiring the prisoners included: Peter Hayden to use one hundred convicts for five years, fifty for four years, fifty for three years, and fifty for two years at thirty-five cents a day; Hall, Brown and Company to use fifty prisoners for five years at thirty-five cents a day; Ohio Tool Company to use twenty-five men for five years and twenty-five for three years at thirty-five cents a day; and A. M. Denig to use thirty convicts for three years at fifty-five cents a day. The new contractors at the penitentiary were John Hall to use thirty-five convicts for five years at thirty-five cents a day and Brotherlin, Halm and Company to use twenty-five prisoners for three years at thirty-five cents a day. The expenses
from 1863 totaled approximately $15,000.00 short of profits.\textsuperscript{59}

Though the monetary needs of the institution grew, in 1863 the state legislature required the prison officials award contracts to the highest bidder. The law gave final approval for these agreements to the General Assembly. The directors wanted the power to reject any bids. Since they were more aware of the contractors' activities, the directors could guard against any cooperative efforts by firms to drive down the price of inmate labor. The state legislature ignored the prison management and kept the power.\textsuperscript{60}

There were no changes in obtaining new contracts, but once the Civil War was over convict labor production increased. In 1867 the penitentiary's income finally exceeded expenses. In the same year, the Fifty-Seventh General Assembly enacted another new penal reform bill that made sweeping changes in prison regulations. It fixed the price of inmate labor at seventy cents per day per convict.\textsuperscript{61} This did not mean that all labor suddenly reached that level. Existing labor prices remained the same until the contracts expired. The contractors paid amounts

\textsuperscript{59}Directors Report (1863), 4-6.

\textsuperscript{60}Executive Documents "Directors Report" (1863), 241-3; Executive Documents "Warden Report" (1863), 244-245.

\textsuperscript{61}Laws LXIV (1867), 95.
ranging from thirty-five cents to seventy cents. The prison administration did not greet this new requirement well. In 1867 Warden Charles Walcutt felt obliged to explain to the legislature that men coming inside the prison did not usually work outside the walls. Since convicts came without work skills and were forced to work as a punishment without compensation, their value did not meet this seventy-cent figure. There seemed no happy medium. The thirty-five cents did not pay enough, but seventy cents charged too much.®

The institution's prosperity overshadowed the prison management's frustration with these new regulations in the law. New contracts flooded into the penitentiary. By 1869 the number of contractors had increased to fifteen with thirty-seven separate contracts employing over 800 inmates. The amounts of compensation for these convicts varied between forty-five cents and seventy-six cents per day per convict, averaging sixty-four and one-third cents. The 1869 profits from the penitentiary was over $32,000.00."higher.

The success of prison labor continued even as the country went into a depression in 1873. The 1874 prison officials' reports remarked on this panic. Though the prison remained self-sufficient, many more men than usual were unemployed. Part of the dilemma stemmed from a lack of

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®"Executive Documents" "Warden Report" (1867), 285-286.

*Executive Documents* "Warden Report" (1869), 7.
manufacturing supplies and out-of-date, unsafe and dilapidated machinery. To attract new business, the prison needed to make major repairs. Advertising for new contracts had produced no results. Nevertheless, an enamel hollow ware business proposed a new venture to the prison administration. This company would employ thirty convicts and this new industry to the state did not interfere with free labor. The manufacturer paid the expenses of building the necessary shops and was reimbursed by the legislature. If everything worked out well, the hollow ware company promised to increase the number of convicts to 150.64

The depression, still on in 1877, finally began to seriously influence the prison. Several contracts expired that year throwing 725 convicts out of work, all working at the minimum seventy cents a day. In addition, 345 inmates that worked for the state or hired out as temporary labor were unemployed. Advertisements went out to employ 1,900 convicts, but the prison leased out only 216, with just fifteen hired out for one year at seventy cents a day. The contracts for the remaining convicts were for lesser amounts, averaging about forty-three cents, since these prisoners were not considered able-bodied. They consisted predominantly of those with less than a year left on their

64 Directors Report (1874), 6, 10, 16.
sentence, minors, infirm, and aged. Though the legislature realized the severity of the prison's financial situation, it did not appropriate money to run the penitentiary. However, the directors received the authority to hire out able-bodied convicts, with sentences of one year or less, at the same price as minors and aged. The directors would have liked to lease the rest of the unemployed convicts at the lesser price, but that required approval of the legislature, which was not forthcoming.

The tensions between the prison management and the legislature were not the only concerns the institution faced. In the 1870s directors and wardens extensively discussed problems of free labor versus prison labor. The free mechanics of Columbus, in a formal declaration, said that "the contract system of prison labor, as commonly practice, is prejudicial alike to discipline, finance and the reformation of the prisoner." James L. Bates, Stanley Matthews and George Harsh, Directors of the prison, questioned several of these allegations. They argued from a pragmatic position. Convict labor profited both the men, who learned a trade and received money from overwork, and the state, which released the taxpayer from supporting the

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65 *Directors Report* (1877), 8.

66 Ibid., 11.

67 quoted in the *Directors Report* (1870), 10.
prison. The declaration did not specify what kind of contract nor explain the term "commonly practiced." In defending the contract labor system at the penitentiary, the Directors laid out their rebuttal.

They addressed the first charge, "prejudicial to discipline." The Directors were unsure what connection existed between discipline and contract labor. Since the courts sentenced the prisoners to hard labor, they had to work. A contractor did not have any authority over the discipline, command, reward, or punishment of the inmates. He could only instruct and supervise the prisoners on the job.®® In the governance laws issued by the General Assembly and the rules and regulations posted by the Board of Directors, the state had the power of discipline over the convicts. Therefore, this objection had no validity.®®

The second argument against the contract labor system was that it was "prejudicial to finance." The Directors explained that the work of more than 1,000 inmates supported the expenses of maintaining the institution. Other prisons in the United States such as the Detroit House of Correction and the Illinois Penitentiary at Joliet did not have convict labor contracts and were constant drains upon the people of their states. The Detroit House of Correction charged the

®® Laws LXIV (1867), 96-98.
®® Directors Report (1870), 10.
inmates for their own incarceration! The Illinois Penitentiary had its inmates' work for the state and annually ran up deficits close to $100,000.00.

The Directors argued that if the Ohio Penitentiary canceled its labor contracts and worked only for the state, the opportunities for political machinations and graft opened. Agencies, more interested in their own survival and advancement than the pecuniary interests of the prison, would run the prison industries. Also, the taxpayer would support the costs of the facility. Therefore, until a better system proved successful, the present, lucrative contract system of the Ohio Penitentiary would stay.

Thirdly, the prison management disclaimed that the contract system was "prejudicial to the reformation of the prisoner." The Directors believed this to be the most severe charge. They asked if all these years the prison fought against reformation and damaged the potential of the inmates? The directors argued that work was a useful element in reformation and the courts sentenced criminals to hard labor. The prison's contractors deserved the prisoners' work, since they paid a specific amount per convict per day for ten hours each day six days a week.

However, in every other way, the prisoners were under the absolute control of the prison management. Should any contractor try to interfere, the directors would dismiss and ban him from the institution. Thus, free labor's charge
that reformation and prison manufacturing incompatible, was a fallacious conclusion. The institution made an easy target for individuals and companies to complain about the presence of prison industries. But, in an effort to allay fears, the Directors asked that the legislators look into convict labor and make any suggestions.70

The 1871 Directors Report again discussed the problems of free and prison labor. This time the Directors took a different tack. Instead of letting free mechanics set the agenda this time, the Directors set their own. Employing the prisoner in the mechanical trades fulfilled the contractors' needs. The only real disadvantage to free labor came if the contractors undersold their products on the open market. The prison administration understood this objection. However, the prison officials believed the contractors were more astute businessmen because they made better use of capital.

The use of prison labor was not without its pitfall; after all by definition the convicts were enemies of the state. The contractors signed up for able-bodied men that would effectively and efficiently produce. However, since most of the convicts were in prison because they did not want to work for a living, they were untrained and difficult. It was not unknown for a prisoner to set fire to

70Ibid., 10-14.
the workshop to get out of having to work. Fire achieved nothing for the contractor, but the costs of rebuilding and the loss of production time. Even under such circumstances, the contractor could not punish or even fire the offenders. Nor did the contractor have any say in selection of the prison management. The contractors dealt with the management in charge. In view of all this, the contractor did not really have such an advantage and, therefore, free labor had no ground for complaint.

In a clever explanation, the Directors gave a very simplistic example on just how uncompetitive prison labor really was with free labor. The prison carried on about twelve different kinds of mechanical production. There were about 900 convicts on contract. If the officials distributed the men evenly among the contracts, then only 75 convicts would be working at half price. How could this few number of men fundamentally effect any branch of mechanical labor outside the prison? Again the Directors asked the legislature to look into the complaints of free labor.

In 1877 two separate government committees did look into the penitentiary's labor system. These were not as sympathetic to contract labor as in the Directors Report of 1870. The first set of findings was published in a Special Report by the House of Representative committee, whose

71 Executive Documents "Directors Report" (1871), 443-448.
members were John Fehrenbatch, William Johnson, D. J. Edwards, Peter S. Stryker, and J. G. Meuser. The second investigation issued its conclusions in the First Annual Report of the Ohio Bureau of Labor Statistics. Each of these papers questioned if contract convict labor was in the best interests of the prison and the inmates. These two groups acknowledged that the free mechanics had complained of the contract system since it began at the penitentiary in the 1830s. Both reports included testimony from those within the prison and others outside the walls. Not surprisingly, both committees arrived at nearly the same conclusions.

The investigating committee asked if the prison's use of convict labor was detrimental to the inmate. The overwhelming answer was yes. Though the contractor or his representative had no authority to punish the prisoner, either could refer the inmate to a guard for correction.

The questions posed to the House of Representatives were: "1. the effect of contract convict labor upon the manufacturing interest of the State; 2. the effect of contract convict labor upon the interest of free labor; 3. the effect of contract convict labor upon the reformation of the convicts; 4. the profits of prison contractors, and their advantages over other manufactures; and 5. the feasibility of abolishing the contract system, and the adoption of the system whereby the profits of convict labor shall accrue to the state, county or city having control of any penal institution." "Special Report on Contract Convict Labor" House Journal Appendix (1877), 3. The Bureau of Labor Statistics asked, "1. Is it the best for the prisoner? 2. Is it the most likely to be self-sustaining? 3. Is it in the best interests of the community?" Executive Documents "First Annual Report of the Ohio Bureau of Labor Statistics (1877), 830.
Testimony from the prison chaplain, Dr. A. G. Byers, gave abusive examples. The guard put a prisoner in a dark, below ground cell, his feet chained to the floor, and withheld food. Another incident found an inmate chained to the wall so he could not move. The guards punished each prisoner for not doing the amount of work required by the contractors." From the House of Representatives report, one contractor, Alfred Thomas, testified that "I doubt whether it [the penitentiary] really exercises a reformatory influence upon the character of the men there." The Bureau came to the same conclusion.

The [convicts] are victims of the contract system. Out of hundreds, perhaps thousands, of dollars they earned over and above the cost of their maintenance, not one dollar is their's... certainly such a system is not for the benefit of the prisoner.\(^7\)

If the contract system was not beneficial to the inmate, what did the contractor receive as an inducement to invest in prison industries? The House Special Report enumerated several advantages for using this system.\(^7\)

\(^7\)Bureau of Labor Statistics, 840.

\(^7\)Special Report on Contract Convict Labor (1877), 7.

\(^7\)Bureau of Labor Statistics, 845.

\(^7\)In fact the committee enumerated the advantages: "1. they get their at a much less rate, in many instances they pay not more than one-fourth as much in the manufacture of certain kinds of goods as other manufacturers pay. Particularly in the case of the manufacture of hollow ware.; 2. they have no capital invested in real estate upon which their shops are located; 3. they pay no insurance on their
prison contractors did not pay for the capital investments to start a business for which noncontract manufacturers were responsible. Besides the capital reward, the real value of prison labor for the contractor was "when you get them [convicts] broke in, they don't leave you or strike on you; they are more steady - they are compelled to be." 

With the advantages of profits from prisoner labor both for the contractors and the penitentiary, could the institution replace this system and still be profitable? Would a new use of convict labor aid in reforming the inmates? The House surveyed wardens from other major penitentiaries to find out. Two former wardens of Sing Sing Prison in New York, Mr. Hubbel and David L. Seymour, General Pilsbury, warden of the Albany Penitentiary in New York, and Zebulon Brockway, the Superintendent of the Detroit House of Correction, uniformly agreed that the Ohio Penitentiary could achieve these goals by having the state control production. Their solution was to multiply the number of shops; 4. they pay no rent neither do they pay any taxes on their property. The state assumes their entire expense. In this particular alone they have a decided advantage over other manufactures, even if they paid the same prices for free labor." Special Report on Contract Convict Labor (1877), 3.


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industries within the prison walls; then no industry would be in competition with prison manufacturers.\textsuperscript{78}

Returning the control of prison labor to the management required taking politics out of the appointment process. Both reports agreed on that. Currently the warden's position lasted only two years or less before an entirely new administration came in. Ideally, the warden should be chosen based on a past record of business efficiency and the ability produce profits. He needed security, to be replace due only to mismanagement or malfeasance. The objective was to make the warden's position equal with a manager's position in private industry. In this way the warden would have a long term vested interest in the success of the prison industries.\textsuperscript{79}

If these recommendations were adopted, they would solve many old recurring problems with honest labor. The

\textsuperscript{78}Special Report on Contract Convict Labor (1877), 11.

\textsuperscript{79}The directors reports from 1866, 1867, 1868, 1870, 1872, and 1874 requested that the legislature increase the salary of the warden. The 1867 report stated the warden's salary at $2,000.00 per year. Their purpose was to make the compensation comparable to those in business outside the prison. Directors Report (1866), 5; Executive Documents "Directors Report" (1867), 280; Directors Report (1868), 4; Directors Report (1870) 10; Executive Documents "Directors Report" (1872), 561; Executive Documents "Directors Reports" (1874), 74.
prisoner would be open to reformation, because reformation, not profit, was the purpose of the prison.®

IV. CONCLUSION

The 1860s and 1870s found the Ohio Penitentiary still fighting the ongoing battle against an aging institution that needed major repairs. After decades of complaining about ventilating the old cell block, in 1875 the legislature finally investigated the prison and found the situation was as bad as the directors and wardens had reported. In 1877 the General Assembly appropriated money to ventilate these old cells. Other building projects included building new sewer lines and a bucket house. These helped make the facility more sanitary and held down the noxious odors that surrounded the buildings. In 1876 money was appropriated to build new quarters for the insane convicts.

Added to these concerns was the reformation of the prisoner. New questions arose concerning better ways to reform the criminal. One suggestion was to build an intermediate prison for young offenders and those inmates thought to be capable of reformation. This debate fueled a dispute between Representative B. L. Hill, who wanted the


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new prison built in his lake district, and Warden Charles Walcutt did not believe any new prison was necessary and Hill an opportunist. Classification of convicts and the indeterminate sentence were other topics of discussion as avenues of reform.

While the prison officials were contemplating new reform ideas inside of the institution, they faced opposition from outside the walls. Free mechanics of Columbus complained that the contract convict system gave unfair advantages to the prison's contractors. In 1870 the directors answered several accusations in favor of the present labor structure. They said that until a better way of working the inmates, the contract convict labor system remained. Investigations into these allegations caused a great deal of soul searching among the penal management, the legislature, the Board of Charities, and the newly formed Bureau of Labor Statistics. All debated the pros and cons of the labor system. The 1877 reports by the House of Representatives and the Bureau disagreed and completely reversed earlier opinions of the directors. Each organization condemned the use of contracted convict labor. Suggestions included changing the labor structure by returning control of the prisoners' work to the management of the penitentiary. Also, professionalize the warden's position by bringing men that had proven experience as a successful businessmen. The desire was to take party
politics out of control in running of the penitentiary. Without the influence of the contractors, the penal institution took full command over the inmates.

These questions of labor and reform stayed at the forefront of the debate. The groundwork began in the 1870s bore fruit in the 1880s. Sweeping changes in the operation of the prison soon began.
The 1880s began much like any other decade for the Ohio Penitentiary. Improvements to the facility were ongoing. New sources for water and sewage problems required attention. What to do and how to do it commanded most of the wardens and directors' reports. However, in 1884 the biggest changes came with a new governance act from the General Assembly. The legislature completely revamped the running of the prison. By 1885 the administration system of the Ohio Penitentiary in dramatic contrast to 1834 in terms of discipline and labor.

The new law affected all aspects of the administration of the prison, including the classification of inmates and the use of convict labor. For each alteration, a different set of troubles arose. Accomplishing prisoner classification and the expansion of the directors' duties was easier than reorganizing prison labor. The new laws banned contract convict labor from the prison and instituted a state-use system and a piece-price plan. But questions arose about what to do with the existing contracts and how
to carry out the new work programs.

I POLITICS

The bureaucratic tendencies of the prison administrations turned their annual reports from quirky to pedestrian. Before 1876, many directors and wardens' reports had passion. These annual messages to the legislature expressed their fears, hopes and desires for the present and future management of the Ohio Penitentiary. However, starting in 1876 and continuing past 1885, these reports changed. The personalities of the penitentiary's managing members no longer seeped through the pages. Only occasionally did prison officials tackle subjects with the enthusiasm of an earlier period. The reporting process itself increased along with the number of officers within the prison. Now besides the warden, chaplain and physician reports, a whole army of superintendents added their own sections to the warden's message. By 1884 there were seventeen difference departments within the prison, some of these included the superintendents of construction, the state shop, the gas works, printing, weaving, and so forth.

The General Assembly acts reflected the expansion of departments within the prison. Earlier governance laws passed by the legislature did not mention the procedure for carrying out the death penalty. Prior to 1884, executions
were performed in public. The new 1884 act included a short, detailed definition on how to carry out the death penalty.

The mode of inflicting the punishment of death shall be by hanging by the neck until the person is dead; . . . such punishment shall only be inflicted within the walls of the Ohio Penitentiary at Columbus, Ohio, within the structure to be prepared for that purpose; under the direction of the warden and board of managers.¹

The only other people allowed at the execution were a clergyman, five sheriffs from around the state, the coroner, three persons asked by the prisoner, and one reporter from the two major papers in the county. In all, seventeen observers and, of course, the victim were present.² The Superintendent of Construction, George Rowland, oversaw the building of the death house. It held twenty cells, a bathroom, water closet, a telephone connected to the guard room, reception room, and the necessities to make it self-sufficient.³

II. IMPROVEMENTS

Access to a cheap water source became a hot topic in

¹Executive Documents "Laws Relating to and Governing the Ohio Penitentiary" (1884), 223.
²Ibid., 223-224.
³Warden Report (1885), 94.
the first half of the 1880s. The costs of getting the prison's water supply from the Columbus Water Works rose sharply over the decades. In 1874 the price was $912.00. This amount increased to approximately $4,800.00 seven years later. The directors tried getting the municipal company to lower its prices for the prison, but without success. Realizing that the upward expenses would only continue, the prison officials wanted to build a water works inside the walls. These concerns were not frivolous.

The inmate population numbered 1,231 in 1880 and grew to nearly 1,500 by 1885. The institution continually needed fresh water to supply the wash house, baths, the bucket house, the workshops, fire protection, the new indoor water closets, sewage, gas house, and the slaughter houses. Water consumption estimates ranged from 300,000 gallons a month or over 3,500,000 gallons a year.*

From 1880 to 1885 the directors and wardens' requests for an independent water source became more insistent.® They estimated $25,000.00 in appropriations for construction.® Each year the prison management's reports

* Warden Report (1883), 18.

® Warden Report (1880), 21; Executive Documents "Directors Report" (1881), 237-238; Directors Report (1882), 16-17; Directors Report (1883), 17-19; Executive Documents "Directors Report" (1884), 206-207; Directors Report (1885), 20.

® Directors Report (1882), 16-17.

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noted the growing amount of money needed to build the water works and cautioned that waiting would only increase costs. The legislature never acknowledged these requests.

The managers, with the new powers given to them in the 1884 law, took upon themselves the authority to build the water works. The 1885 Managers Report explained, since no earlier request by them gained the attention of the legislature, that they had decided to go ahead and begin drilling water wells and installing stand pipes. Clear, sweet water went to the appropriate areas for use. The prison doctor pronounced the sulfur water found in one well medicinal for treating skin problems and an antidote for any epidemics that might occur. New pipes carried the sulfur water into a large tank to clean out the sewer lines. Two new pump houses and two steam pumps delivered from 800,000 to 1,000,000 gallons of water every twenty-four hours.

Finally the prison was totally independent of the Columbus Water Works. This saved the state $5,000.00 a year. After the completion of the works, the legislature decided to appropriate $10,000.00 to pay for the water system.

Another water problem which required constant attention was the disposal of sewage. More and larger sewer lines

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7Managers Report (1885), 21-22.
8Warden Report (1885), 96-97.
9Managers Report (1885), 22.
needed installation, especially with the water closets going into some of the buildings. A report on the prison's disposal system found that all these lines needed repair, some held sediment and filth, and others had noxious gases. The five current water mains carried 11,500 feet of pipe. A plan was drawn up showing the layout, depth and direction of the old lines and where to lay the additional 9,000 feet of new pipe.\(^{10}\)

Besides adding new sewage lines to modernize the prison, the gas works also needed updating. The gas works, constructed in 1873, now needed a great deal of repair. The General Assembly funded the building of two new houses for the gas works. One building held the machinery necessary to make the gas ready for use in the workshops. The other building held the meters and registers for managing and controlling the gas.

The gas works required refurbishing for expansion, and the kitchen needed renovation as well. Food, its preparation and storage, took the spotlight in 1881. The prisoners required more food because of the harsh winter. The costs for these provisions went up twenty percent, or over $8,400.00, for the last month of 1881 when compared with the same six months of 1880, though the population of the prison remained approximately the same. As an economic

\(^{10}\)Executive Documents "Warden Report" (1881), 253-254.
measure, the prison added a new, large refrigerator and a smaller one to handle the extra food and repaired the boilers for cooking and purifying the water.¹¹

III. DISCIPLINE

As the calls for reform at the Ohio Penitentiary increased, in 1884 the Sixty-Sixth General Assembly enacted a sweeping prison reform bill. This act covered an intermediate prison, classification of prisoners, indeterminate sentences, pardons, paroles, and the death penalty. A new title, manager, replaced director. In the past, the directors had little discretion to act independently. Any improvements, changes in running the prison, or convict labor required the directors to petition the legislature for authority. Now the five managers, with staggered five year terms, took on many new powers. They made up the rules and regulations for the penitentiary, oversaw the classification of prisoners, and decided which inmates got pardons or paroles.

It shall be the duty of said Board of Managers to maintain such control over all prisoners committed to their custody, as to prevent them from committing crimes, best secure their self-support and accomplish their reformation.¹²

¹¹Ibid., 242, 251.

¹²Laws (1884), 340.
The managers still appointed the warden and kept an eye on his administration. The warden's position changed too. He held his office for four years at $3,000.00 per year, and could be removed only for cause. The managers could not fire the warden for political reasons. Taking politics out of the position had been a long term goal. More than ever, wardens needed industrial management skills. With contract labor being phased out, the warden had to successfully run the prison industries.¹³

These major changes in the roles of the warden and managers also transformed the inmates' place in the prison. The prison began using a mark system. The institution's management assigned every prisoner the number of points that equaled the number of months of his sentence. Each month the convict could deduct points from the total amount. A total of nine points was available each month: three marks from demeanor, three for labor, and three for education. The warden kept a Conduct Ledger on each prisoner and recorded daily the number of marks the prisoner earned or lost. This ledger stayed open so the inmate could catch any error that way he could explain any lost points and clear up any suspicions on what was written in the ledger. Through the mark system, every inmate could rise or fall into a different grade.

¹³Ibid.
The mark system awarded points for attending school. Going back to 1854, when the legislature required the prison to educate the youngest of the convicts, and 1856, when the facility included all illiterate inmates in the classroom, these efforts were only partially successful. Throughout the history of the prison, part of the chaplain's duties included schooling. During the early 1880s, report after report explained to the state government that learning could not take place without adequate facilities. The prison lacked text books, teachers, and materials. In 1881 Chaplain D. R. Miller asked, "May not some organized system soon be inaugurated for the education of the illiterate who come to us?"14 By 1883 the question remained the same. "Our limited efforts in this important branch of prison reform are only incidental and without a system."15

Part of the reformatory agenda for 1884 was education. Over 500 illiterate convicts resided in the prison. To prepare them for readmittance in the outside world, the penitentiary converted a workshop into a school. The warden hired four instructors under the supervision of the chaplain. Two separate sections of classes held 250 students in each. Each section divided into four classes of about twenty-five each. On alternating evenings, the

14Warden Report (1881), 260.
15Warden Report (1883), 43.

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students attended school to learn reading, writing and arithmetic. Some inmates had a little knowledge of these subjects. There was no available space in the prison for these semi-literate students to have a classroom, so they got chalk slates for writing their assignments. These included arithmetic, reading books, and writing a composition giving opinions of these books. The teacher reviewed the slates, graded them, and gave mark system points. Praise for the educational system came from Governor George Hoadly, the prison officials, and citizens in Columbus.\textsuperscript{16}

Convicts' classification into different grades had been a long term goal of reformers. The reform law adopted three prisoner grades. The first grade was the highest. Prisoners in this level wore a blue suit. The second grade was the intermediate level. Inmates at this level wore a grey suit. The lowest level was third. Convicts at the third grade retained the black and white stripes. For the first and second grades, prisoners marched with a military step in two rows with their arms at their side. The third grade convicts walked in lockstep to and from their cells.

The classification system was not the only way for an inmate to get out early. Every criminal incarcerated for a specific number of years might shorten his sentence by the

\textsuperscript{16}Board of Managers Report (1884), 195; Warden Report (1884), 226.
good time law. Starting the first day in prison, a convict that followed the rules and regulations had seven days a month taken off this sentence. Without any breach of the rules for two full years, the inmate lost nine days a month and, after three years, the prisoner got ten days a month deducted from the sentence. An infirm convict, who did not cause his own injury, could still gain good time. The reverse was also true. Any violations of the prison's rules took away the good time days for the month. Serious offenses could take away most of the good time days accumulated.17

Along with the mark system and good time law, the convict had a third way to gain early release. A May 4, 1885, law gave the Board of Managers the power to parole prisoners. Parole applied to convicts imprisoned under indeterminate sentences. The managers could parole an inmate only between the minimum and maximum years. The prisoner could not be confined longer that the maximum sentence.18 The act defined which offenders qualified: any prisoner sentenced for any felony, except murder in the first or second degree; a criminal that had not been convicted of any earlier felony; and an inmate that had served the minimum years. Only a prisoner who followed the

17Ibid., 338-339.
18Board of Managers Report (1884), 22.

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rules and regulations during his term could petition the
Board of Managers for parole. The Board set up the rules
for paroling a prisoner.

The Board designed a form containing the particulars of
the parolee. This included the man's name, description,
occupation, residence, and sentencing information. After
refining the process, the Board paroled seven convicts on
July 4, 1885, and three more on October 9, 1885. However,
the State Attorney-General questioned the constitutionality
of giving the Board of Managers this much authority. His
decision was that any governor could pardon and that

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19 *Executive Documents* "Laws Pertaining to the
Penitentiary" (1885), 216.

20 1st. No prisoner shall be paroled who has not
been in the first grade, continuously, for a
period of at least four months.

2nd. No prisoner shall be released on parole until
satisfactory evidence is furnished the Board of
Managers, in writing, that employment has
been secured for such prisoner, form some
responsible person, certified to be such by the
Auditor of the county where such person resides.

3rd. No prisoner shall be paroled until the Managers
are satisfied he will conform to the rules and
regulations of his parole.

4th. Every paroled prisoner shall be liable to be
retaken and again confined within the enclosure
of said institution for any reason that shall be
satisfactory to the Board of Managers, and at
their sole discretion; and shall remain therein
until released by law.

5th. It shall require the affirmative vote of at
least four of the Managers to grant a parole.

6th. The parole provided for in said act, shall be in
the following form, signed by the President and
Secretary of the Board of Managers.

*Board of Managers Report* (1885), 22.

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conferring the power upon the Managers violated the State Constitution. The Board of Managers appealed the Attorney-General's conclusion to the State Supreme Court for a final answer. As of the 1885 report, the Supreme Court had not responded.\textsuperscript{21}

After the Board of Managers fulfilled all the requirements to parole an inmate, what happened to him then? There were no organizations to provide support for the ex-convict. When the prisoners were left to their own devices, many did not know how to adjust to civilian life. Freed men received only a cheap suite of clothes, an overcoat, and a few dollars.\textsuperscript{22} Discharged inside the Columbus city limits, the state did not even supply a means for returning to their homes and families.\textsuperscript{23} Warden Noah Thomas recommended the formation of some type of Christian society to help the released prisoners. His position came from a financial point of view. Every prosecution, conviction and transportation of a criminal to the penitentiary cost the state a considerable sum of money. A society aiding an ex-convict would save these charges.\textsuperscript{24} Some agency should meet

\begin{itemize}
\item \textsuperscript{21}\textit{Ibid.}, 23-24.
\item \textsuperscript{22}\textit{Report to the Commission on Contract Convict Labor in the Ohio Penitentiary} (Columbus: G. J. Brand and Co., 1884), 30; For a complete list of clothes given to released convicts, see below page 229.
\item \textsuperscript{23}\textit{Warden Report} (1881), 259.
\item \textsuperscript{24}\textit{Warden Report} (1883), 32-33.
\end{itemize}
inmates leaving the prison and give them a safe place to adjust to freedom before entering the outside world.\textsuperscript{25} In the 1880s, along with the prison administration, the Board of Charities and Corrections endorsed the formation of an aid society.\textsuperscript{26}

An advocate for this was Roeliff Brinkerhoff. He became a leader in penal reform during the 1880s. After the Civil War, Brinkerhoff became involved with several political activities. His Republican Party affiliations brought him onto the Board of Charities and Corrections in 1878 and he stayed until 1883. He prepared many of the Board's annual reports to the legislature, attended national conferences on charities and corrections, gave speeches, and wrote papers reporting on trips to other prisons and how they handled problems similar to those at the Ohio Penitentiary. At the 1883 National Conference of Charities and Correction meeting in Louisville, Kentucky, Brinkerhoff gave a paper on the "Post-Penitentiary Treatment of Criminals." This speech became part of the Annual Report of the Board.\textsuperscript{27}

In this paper to the conference, Brinkerhoff related


\textsuperscript{26}The subject of helping released convicts was discussed in Chapter 4 pages 126-128.

\textsuperscript{27}Roeliff Brinkerhoff, \textit{Recollections of a Lifetime} (Cincinnati: The Robert Clarke Company, 1908), 246.
his correspondence with Berwick Baker of Gloucester, England. Starting in 1878, the city of Gloucester commenced a new program for discharged prisoners called the "Gloucester System." One part of this system covered the indeterminate sentence. Convicts released under the indeterminate sentence reported monthly to the police, gave an account of their income, where and how they lived, and notified the police if they were leaving the county. Breaking any rule would put the prisoner back in prison to finish his sentence. This method made the local inhabitants feel safer and helped the police monitor the ex-convict's movements.

Gloucester's released prisoner program utilized law enforcement as a helping hand. Those ex-convicts without a job or housing could get aid from the local station house. A charity fund supported the freed prisoners without any money. The Gloucester township feared the amount of money needed to subsidize the fund. In reality the fund gave out only small payments. Brinkerhoff noted that the Gloucester System had worked very successfully in that part of England and, though Ohio was considerably larger, it could work here.28

After all of these new laws and discussion on how to reform the criminals, not all prisoners wanted to change.

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28Executive Documents "Annual Report of the Board of Charities and Corrections, Appendix A" (1883), 1379-1381.
Repeat offenders constituted enough of the prisoner population to concern those in charge of the penitentiary. There were demands for stopping these multiple offenders. In modern terminology, this idea is called a three-strikes-and-you-are-out law. After three felony convictions, a criminal would stay in prison for the rest of his life. The 1883 National Prison Congress endorsed this idea. This plan would keep convicts considered incorrigible off the streets. The 1885 Board of Charities also supported this idea. They suggested the prisoner get an indefinite sentence, after the third felony convictions. The warden would keep a daily record on the prisoner's conduct. Only after the convict had proven his reformation could the managers and warden recommend to the governor the inmate's release. Almost a hundred years later, the politicians recycled the idea.

IV PRISON LABOR

From 1834 to 1884 contract convict labor had been the source of the prison's income. Between the 1850s and 1884,

\[\text{\footnotesize 29Report on the Contract Convict Labor System (1884), 16.}\]

\[\text{\footnotesize 30Brinkerhoff, 303.}\]

\[\text{\footnotesize 31Executive Documents "Ninth Annual Report of the Board of State Charities" (1884), 502.}\]
the free mechanics of Columbus complained that this labor system adversely affected their businesses. Studies and reports made by the legislature and the Board of Charities and Corrections on this complaint tended to support the claims of free labor. Even with this evidence, nothing substantively changed in the way the prison worked its convicts. However, 1884 and 1885 saw huge changes affecting the role of prison labor.

The 1884 penal reform law abolished with the contract labor system and began a state-use program. In 1885, the piece-price plan was added. Many questions arose concerning how to set up quickly so radical a program and still fulfill contractual obligations, while continuing to make the facility profitable. The General Assembly had responded to the complaints by free labor be getting rid of the contract system and it now wanted to identify products that would be made by the institution which might interfere with free businesses. In truth, there were more questions than answers. A period of confusion lay ahead for the prison.

At the beginning of the 1880s, eleven contractors held thirty-one contracts employing 671 men. Nine of these contractors signed seventeen new contracts ranging from one to five years for a total of 570 men. Most of these agreements called for able-bodied workers. A few contractors hired minors, the infirm, and those with one year or less of time. The contractors paid an average of
about forty-two cents. Able-bodied workers earned the minimum required by law of seventy cents. ³² From the start, the government, directors, wardens, and, ultimately, the taxpayer, wanted the prison to support itself and make a profit for the State Treasury. Profits from contract labor were sizable. In 1880 the prison showed an excess of receipts over expenses of more than $12,500.00. ³³ The number jumped to $53,000.00 in 1884. ³⁴ After the law changed, the prison earned a little over $10,000.00 for the remaining contracts still in force. ³⁵

Contracting out labor had many advantages. Specifically it saved the cost of buying machinery and paying for instructors. However, the prison retained many responsibilities. One ongoing problem concerned the workshops used by the contractors. Earlier chapters noted the necessity of building, rebuilding or improving these workshops on an annual basis. Shops became too small, unsafe for the heavy machinery, or burned down by accident or intent. Prison officials constantly begged the legislature for money and the authority for doing the necessary work that would keep existing contractor happy and

³²Directors Report (1880), 14-16.

³³Ibid., 10.

³⁴Directors Report (1883), 9.

³⁵Executive Documents "Directors Report" (1885), 186.
attract new ones. Another duty was making sure the convicts worked diligently and without incident which might include the breaking of contractors' machinery or being unwilling or unable to complete the amount of production stipulated in the contract.

As the discussion of abolishing the contract labor system gained steam, not everyone relished the change. In his 1883 Annual Report, Warden Noah Thomas condemned the idea. He stated that any revision would adversely affect the profitability of the prison. Obviously he knew the legislature expected a financial return from the production at the penitentiary. Thomas also lambasted the politicians. He said that the reason politicians became interested in changing the labor system had nothing to do with either the free worker or the convict, but for selfish and narrow desires of votes. This has a familiar ring to it.\textsuperscript{36} Whether Warden Thomas liked the idea or not, convict labor was part of the major penal reform of 1884. A brief section of the law stated,

\begin{quote}
The contract system of employing convicts shall not exist in any form in the Ohio Penitentiary, but the prisoners shall be employed by the State, and in such way as to in the least possible manner interfere with or affect free labor, the Managers shall use every effort to so dispose of all merchandise as to avoid injurious competition with any business of citizens
\end{quote}

\textsuperscript{36}Warden Report (1883), 33, 41.
of the state.\textsuperscript{37}

Cancelling the labor contracts posed a giant question. What happened to the contracts in force with months or years to run? The prison management referred the problem to the Attorney-General for resolution. To save the institution from potential law suits, the Attorney-General decided to honor the existing contracts, but not sign any new ones.\textsuperscript{38}

This produced a new problem. With all the convicts still working on contracts, how did the prison begin state-use industries?

Using convicts to work for the state first began in 1867. The Fifty-Seventh General Assembly act decreed,

\begin{quote}
The Warden, under the direction of the Board, will employ a portion of the convicts in the manufacture of any article used by the State in carrying on the Penitentiary, and may also obtain machinery and prepare shop-room for that purpose, and employ such persons as may be necessary to instruct the convicts in such manufacture; if such person be employed, the terms of employment shall be fixed and determined by the Board.\textsuperscript{39}
\end{quote}

The first Superintendent of the State Shop, Samuel Desellem, in his 1868 report to Warden Charles Walcutt, wrote that the legislature wanted to show the value of convict labor by experimenting with them working for the state. The State Shop would charge the same price as contract labor and have

\begin{footnotes}
\textsuperscript{37}Laws (1884), 336.
\textsuperscript{38}Directors Report (1884), 190.
\textsuperscript{39}Laws LXIV (1867), 96.
\end{footnotes}

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access to able-bodied and minor workers. The numbers of workers varied tremendously, depending on how many convicts were not on contract. Those usually able to work in the State Shop were minors and the infirm. However, there were rarely enough to completely fulfill the needs of the prison. Since this was an experiment, all monies earned were strictly on paper and the amounts never turned over to the prison clerk. Products initially made included those items needed by the prisoners -- clothing, bedding, vests, socks, and underclothing. 40 By 1870 the State Shop continued producing for prison use. This report listed the outfits given to incoming and released prisoners. A new prisoner received "one coat, one pair of pants, two hickory shirts, one cap, one pair of shoes, one vest, one pair of socks, one woolen undershirt, one towel, one comb, one pair of suspenders, one handkerchief, and exchange of socks and underwear weekly." The discharged convict left with "one coat, one pair of pants, one vest, one pair of shoes, one hat, one pair of suspenders, one pair of socks, one shirt of material suited to the season." 41 Besides these articles, the State Shop repaired items, such as caning chairs. By

40 Warden Report, "Statement of the Superintendent of the State Shop" (1867), 16.

41 Warden Report, "Report of the Superintendent State Shop" (1870), 93.
1877 the shop began weaving their own cloth with four looms.\textsuperscript{42} In 1878 a book bindery was placed under the control of the Superintendent of the State Shop.\textsuperscript{43} For the decade of the 1870s, the State Shop produced for direct consumption by the prison.

The existing industries at the prison helped make a start. Since printing facilities were already operational, by improving and enlarging the machinery, production for the institution could begin quickly. The existing looms could continue weaving cloth for the new classification uniforms and readily provide employment. This necessitated buying more looms and yarn. An allied industry expected to be the largest at the penitentiary was woolen production. With the early success of wool, the directors asked for funds to build a woolen mill.

In effect the prison carried on two separate and distinct systems of labor use, contract and state-use. A third system went into the prison in 1885, piece-price. In 1884 the managers suggested using the piece system. The Directors, in their 1884 report, questioned the loss of the contractors' machinery, stock and other paraphernalia and the unemployment of trained convict labor. After their

\textsuperscript{42}\textit{Warden Report}, "Report of the Superintendent State Shop" (1877), 55.


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contracts expired, the contractor agreed to a new relationship with the prison. Under these new conditions, the contractors furnished all the necessary materials for continued production. The prison controlled all the manufacturing and the convicts. At the end of the month, the contractors paid the prison the same amount of money as they would have under the contract system. The institution assumed some new responsibilities. Now the penitentiary took over instructing the prisoners until they developed certain competency. Production had higher standards, since payment was based on per piece of a marketable item. With heavier costs, the prison charged more for each manufactured piece. Under this plan, the prison administration had more control over the prisoners' work, thus eliminating many abuses of the standard contract system. This ended up being a dual ownership of the production.  

With three labor systems, contractors still in the prison, and the institution's financial future still dependent upon contracted labor, things got more complicated instead of less. These prison industries were on a small scale. Once the law abolished the contract system, which industries should replace the contracted ones? Which ones least interfered with free labor? Conversely, the prison manufactures still needed to provide enough money to support

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the prison. What good was making a product if no one bought it? A storehouse full of unsold goods forced the taxpayer to pay the costs of the prison. How did the prison fulfill the section of the law requiring that all inmates under twenty-two years old work at a job that would allow them to learn a trade? This group of prisoners numbered almost 250. Whatever the good intentions not to influence free labor, the contractors still made products for the marketplace. So how did this help?

Three different labor systems did not satisfy free labor nor the politicians. In 1881 the Democratic Party conducted a study on free labor and contract labor. "Resolved, that the abuse of the present contract system in our State Prison, by which the products of criminal labor are brought into competition with the products of honest labor, to the great injury of the latter, is vicious and unwise, and should be corrected." Actually the report issued in 1881 reiterated another study made in 1877. The authors of both reports were the same: John Fehrenbatch, D. J. Edwards, J. G. Meuser, William Johnson, and Peter S. Stryker.

Included in the Democratic resolution, was a point by

45Directors Report (1884), 190.

point rebuttal of the Republican position. General Grosvenor of Athens, Ohio, in the Cincinnati Enquirer newspaper clipping, represented the Republican Party point of view. In this interview the General condemned the convict labor system, but he noted

I don't think any man dare go on the stump in a doubtful county and advocate abolition of the contract system. Nothing is offered in its place . . . The contract system must continue or else the convicts must be supported in idleness, at an expense that will stare the tax-payer violently in the face.  

The rest of the interview ran along the same lines. In response the Democrats asked,

Is the Republican Party, which we are told of often, abolished slaver, is this boasted party of progress, humanity, intelligence in favor of retaining in the bosom of Ohio this horrid cancer in the shape of a system of the worse form of human slavery and degradation?  

A bill sponsored by the Democrats intended to abolish contract labor, but the Republicans defeated it by submitting to committee. In an angry voice and bold print, the Democrats called upon voters to remember on election day which party advocated the abolition of contract convict labor.  

The harness manufactures issued its own fears on the new labor systems in the prison in 1885. The harness makers

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47Ibid., 15.
48Ibid., 16.
49Ibid., 15-20.
wrote a protest to the Board of Managers. They complained that the warden sold "large lots of jobbers and wholesale dealers" and the prison had become a retailer by "selling brooms by the single dozen, to hucksters, or anyone desiring to patronize him." "The Board of Penitentiary Managers issue their circulars, and invite dealers to call and examine their wares." Because convicts made the goods, they sold at "ruinous prices" driving free workers out of business. What really made the harness workers angry resulted from the prison manufacture of harness. "The local harness makers were urged to at once enter a protest against a further continuance of the war against honest labor." Further the harness makers wrote to Governor Hoadly asking him to intercede with the Board of Managers.\footnote{Protest of Harness Manufacturers (1885), 2-3.}

The Governor forwarded the letter to the Board of Managers. In response the Managers promised to cease harness production and sell off any remaining stock at higher than market price. This sounded good, but the harness manufacturers found that the prison continued making harness instead of selling off their stock. Additionally, the prison was buying raw materials and advertising harness at a discount of ten percent off for cash. The prices listed were considerably lower than that of free manufacturers. This deception infuriated the harness
makers. In bold letters at the end of their manifesto, the free harness manufactures wrote, "HAS THE OHIO PENITENTIARY BECOME IN NAME, AS IT IS IN FACT, A RIVAL BUSINESS HOUSE, AGAINST WHICH THE WARDEN INVITES HONEST LABOR TO COMPETE? . . . Reform is necessary. Turn the rascals out!"\textsuperscript{51}

IV CONCLUSION

The beginning of the 1880s started out much like any other period of the Ohio Penitentiary. The wardens and directors' reports gave the usual problems of running so large an institution. There was no indication in any of the official records that big innovations were on the way. These radical changes affected every part of the prison. The directors, now called managers, received new duties and responsibilities that only the legislature controlled up to 1884. The managers could now carry out improvements without asking permission from the General Assembly. To test these powers, the managers ordered new water works for the prison, which would save money in the future. The legislature voted appropriations covering the cost of the finished work. The managers also had control over realizing the new parole system. In October and November 1884, the managers granted their first paroles.

\textsuperscript{51}Ibid., 5-8.
The General Assembly in governance laws of 1884 and 1885 described the discipline changes to be instituted at the penitentiary. Practical application of these reforms would follow in the ensuing years. The mark system was introduced. Each prisoner was assigned a number of marks every month that needed to be worked off his sentence: three marks for conduct, three for education and three for work. Classification of inmates was also tied up with the mark system. Convicts were divided into three classes. The first class was the highest level an inmate could reach. The second grade was the intermediate level and the third class was the lowest.

Classification played a part in the good time and parole systems for early release of the prisoners. Good time allowed the convicts to have days taken off their sentences for good behavior. Parole of prisoners was part of the new sentencing method called the indeterminate sentence. Instead of being given a conviction of a specific number of years, the indeterminate sentence gave a range of years which allowed the convict a flexibility to become eligible for parole after the minimum years had been served.

In addition to the authority over the upkeep of the facility and parole, the managers had to figure out how to get rid of contract convict labor and start-state use and piece-price systems. Questions of what to do with the current agreements arose and the decision was to complete
the contracts, but not to sign any new ones. Instead of one system of convict labor, three different ones were in place. Simplicity gave way to confusion.

The reasons for these changes in working the prisoners came from the legislative committees and investigations into contract convict labor in the 1870s. They brought forth the complaints of free labor. The abandoning of contract labor was to answer these arguments. However, free labor did not appreciate the effort. New grievances arose and the solutions by the prison administration added fuel to the fire and solved nothing.
CONCLUSION

The development of the Ohio Penitentiary presented a microcosm of penal theories prevalent during the nineteenth century. Using the viewpoint of the prison administrators, this study provides a different aspect by which to understand the problems of reconciling the twin objectives of profit and penance. The Auburn model was the discipline introduced into the Ohio Penitentiary. The Auburn model put criminals in solitary confinement at night, but during the day they worked together in silence. By having the prisoners work in congregate, the Auburn method adapted itself to the emerging factory system and was more profitable for the prison. Not surprisingly, the Auburn prison system became the most prevalent model adopted for new prisons including the Ohio Penitentiary.

The reformers of the period believed work accomplished both reformation and discipline. Since the prevailing belief was that the inmate came to prison because he was idle, work cured the idleness by its constancy, taught discipline and skills, and effected the reformatory measures. Christianity and employment were the ways to turn the life of a prisoner around. The Auburn System and, therefore, the Ohio
Penitentiary adopted these ideals. Productive work equaled the social values of the early Ohio frontier and fulfilled the Christian ideal that toil was reformatory.

These ideas of reformation did not become part of the first Ohio Penitentiary. The 1815 prison built in Columbus was a small, two story, wooden building that held only thirty prisoners and functioned more like a jail than a prison. This facility had neither a formal discipline nor a profitable method of working the convicts. After building a new penitentiary in 1834, the Ohio Penitentiary adopted the Auburn system of prison discipline and began using contracted inmate labor.

Once the discipline and contracted labor started, from 1834 to 1885, four major themes dominated the penitentiary's development: politics, improvements, discipline, and prison labor. Politically, the wardens and boards of directors had to interact with the General Assembly. The legislature enacted bills of governance that gave the parameters in which the prison administrators could manage the facility. Making the penitentiary profitable was the real ambition of the General Assembly. Any reformatory measures took a secondary position to the revenue generated by convict labor. The legislature also used its position to investigate the management and policies of the prison. Government committees probed any alleged dubious practices of the management and acted on their findings.
Another central issue, physical improvements at the prison, created additional tension between the penitentiary administration and the legislature. The inmate population grew steadily throughout the decades of this study. New cell blocks, modernizing existing structures, accommodating insane prisoners, more effective sewage systems, larger kitchen and eating facilities were some of the expanding needs of the prison. They were all very costly. The General Assembly reluctantly appropriated the funds to make any improvements. To renovate the old cell blocks, the prison officials repeatedly asked for money to improve the ventilation. Only after an investigation by the Legislative Standing Committee on the Penitentiary uncovered the horrible conditions did the General Assembly make funds available for ventilating the cells. Since the prison received from the courts many unbalanced criminals, specialized apartments were a necessity. Adequate accommodations for insane prisoners required that this group be separated from the general population of inmates. In a cost-effective measure to feed the convicts, the prison bought new equipment to better prepare and store food and cut the per convict expenditures. With such a large population of inmates and outsiders working inside the prison, disposal of sewage was a monumental task. A miasma of odors surrounded the institution and the prison doctors believed these smells caused many illnesses. The
administration tried several times to install new refuse pipes and mains that took the waste away from the prison. There was an ever-growing list of things that needed fixing or building at the prison.

As the Ohio Penitentiary grew and changed, the discipline used to control and organize the convicts also changed. Punishment of the prisoners caused much discussion between the wardens and directors. A cat-o-nine-tails whipped those convicts that either broke the rule of silence, did not produce for the contractors, or disrupted the order of the prison. The prevalent use of corporeal discipline gave way to correcting inmates in a solitary confinement or "dark" cell located in the basement. A prisoner ate only bread and water. The conditions in these cells were horrible. When the Standing Committee for the Penitentiary saw the "dark" cells, one member remarked that the "cat" was a kinder punishment.

Using discipline to control the prisoners was also important in convict labor. The Ohio Penitentiary began using contracted inmate employment in 1834. This system put the burden of supplying the raw materials, machinery and disposing of the manufactured goods on the contractor. He could not correct the inmates for shoddy work, breaking the machines, or disrupting production. The contractor paid the prison a per convict per day price. This use of prisoners brought the institution enough money to support the facility
and transfer any remaining amounts of capital to the state. In its governance acts, the legislature set the daily rate for the convicts. In 1867 the General Assembly fixed a per day charge of seventy cents for contracted, able-bodied prisoners. The warden and directors complained that seventy cents was too high and finding contractors willing to pay that amount would be difficult. Free labor complained about the competition of cheap, contracted convict labor. Until the 1870s, the prison officials nor the legislature took seriously free labor's arguments against the contract system. In the 1870s, however, the state government looked into the grievances of free labor and how the Ohio Penitentiary could change its labor policies. The 1884 reform act ended contracted convict labor and introduced the state-use and piece-price plans. The state-use system had prisoners making products needed for the penitentiary and other state institutions. The piece-price plan was a variation on the contracted labor system. An outside contractor paid a preset price to the prison for each manufactured, saleable item it produced. In this model, the prison provided the raw materials, machinery, and trained the workers.

Through the major themes of politics, physical improvements, discipline, and prison labor, An Administrative History of the Ohio Penitentiary from 1815 to 1885 charts the evolution of the prison through the reports
of the organizations most intimately connected with it. By investigating penal theories and practices thorough the microcosm of one institution, it explains the social values of work and reformation of the larger society.
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