

PHILADELPHIA'S EASTERN STATE PENITENTIARY:
THE DARKER SIDE OF GOOD INTENTIONS IN CRIMINAL PUNISHMENT

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When Eastern State Penitentiary opened its doors to receive its first inmate in 1829, the institution was a model for modernization in punishment. The institution exemplified the attempt to move away from the sanguinary punishments of old and create a punishment that had the capability to reform criminals who passed through its gate. Pennsylvania prison reformers, influenced by Quaker thought, held "a decided sentiment – in favour of a more humane and rational system" of punishment.¹ They believed there needed to be a change in the thought towards punishment, that instead "of connecting the ideas of crime and punishment, we ought rather to place together the ideas of crime and reformation; considering punishment as only one of the modes for effecting such reformation."² The penitentiary system allowed for such an attempt at reformation. Reformers believed that "uninterrupted solitary confinement at labor is the preferable [method of punishment], because the most humane, yet most effective mode, to which society can resort in punishing its unfortunate members."³ Francis Lieber noted the advantages of the Pennsylvania penitentiary systems in that "it is essentially both a stern and a humane punishment; stern, because solitude is stern in its character. **and** humane, because it is a privation rather than an infliction."⁴ This sentiment for calm and humane punishments is crucial to understanding the Pennsylvania system of punishment and why it was so remarkable in its time. The emphasis on moral reform as opposed to inflicting pain marked a new way in dealing with criminals, a way that hoped to remake the criminals into positively contributing members of society upon release. Advocates of the system noted the positive change in prisoners' demeanor after some time in the Pennsylvania penitentiaries:

¹ William Roscoe, *Observations on Penal Jurisprudence and the Reformation of Criminals* (London: T. Cadell, W. Davies, and J. and A. Arch, 1819), 86.

² *Ibid.* 10. Emphasis in original.

³ Francis Lieber, *A Popular Essay on Subjects of Penal Law and on Uninterrupted Solitary Confinement at Labor, as Contradistinguished to Solitary Confinement at Night and Joint Labor by Day* (Philadelphia: Published by the Order of the Society, 1838), 6.

⁴ *Ibid.* 62-63.

We remark generally, that at first the prisoner indulges in morose or vindictive feelings, and is guilty of turbulent and malicious conduct; but after a few weeks, he adopts a more subdued tone, becomes reasonable, and his countenance indicates a more amiable state of mind; is disposed to talk of his past life as one of misery and folly; begins to think that the barrier between him and a good reputation is not impassable; and there are those in the community, whose prejudices against the condemned are not so strong as to induce the withholding of a friendly countenance to his attempts at restoration.⁵

These views on the goals of penitentiary punishment illuminate the idealistic objectives of the reformers who truly believed this was an improvement in punishment. Even some prisoners saw the positive aspects of the penitentiary in their incarceration. In an interview with Alexis de Tocqueville and Gustave de Beaumont in 1831, inmate No. 28 told the visitors "that his mind is changed; he finds a kind of pleasure in solitude, and is only tormented by the desire of seeing once more his family, and of giving a moral and Christian education to his children – a thing which he never had thought of, when free."⁶ The two observers noted that inmate 56 "loves, he says, solitude; he wishes to lose sight of his former companions, and form no new ones: shows his Bible, and assures us that he draws his greatest consolations from this book."⁷

With this indication of admiration and respect for the penitentiary system, it appeared that the reformers, with their emphasis on solitude, labor, reformation, and no physical punishment made a breakthrough in criminal punishment. The Philadelphia Society for Alleviating the Miseries of Public Prisons and the inspectors of Eastern State Penitentiary had embarked on a path that had the potential to reduce crime in the state through their rehabilitative style of

⁵ George W. Smith, *A Defence of the System of Solitary Confinement of Prisoners Adopted by the State of Pennsylvania with Remarrs on the Origin, Progress and EEtension of this Species of Prison Discipline* (Philadelphia: E.G. Dorsey, 1833), 96.

⁶ Alexis de Tocqueville and Gustave de Beaumont, *On the Penitentiary System in The United States and Its Application in France* (Philadelphia: Carey, Lea & Blanchard, 1833), 187-88.

⁷ *Ibid.* 189.

punishment. Not all views of the penitentiary, however, provided glowing and positive observations of the institution.

In 1842, Charles Dickens journeyed to Philadelphia and toured Eastern State Penitentiary. His observations proved to be anything but positive. He wrote in his *American Notes*, "The system here is rigid, strict, and hopeless solitary confinement. I believe it, in its effects, to be cruel and wrong. In its intention, I am well convinced that it is kind, humane, and meant for reformation; but I am persuaded that those who devised this system of Prison Discipline, and those benevolent gentlemen who carry it into execution, do not know what it is that they are doing."⁸ To Dickens, solitary confinement was not humane and would not produce the reform that the reformers so desperately desired. Instead, Dickens saw "this slow and daily tampering with the mysteries of the brain, to be immeasurably worse than any torture of the body" since "its wounds are not upon the surface, and it extorts few cries that human ears can hear."⁹ The solitary confinement had the potential to wreak havoc on the minds and souls of the prisoner who had no solace of human interaction. While reformers hoped the solitude would cleanse the soul of the convict of any criminal tendencies, Dickens saw the same solitude as an agency for mental debilitation.

Dickens' observation of the admission of the criminal to the penitentiary is especially poignant. He wrote, "Over the head and face of every prisoner who comes into this melancholy house, a black hood is drawn; and in this dark shroud, an emblem of the curtain dropped between him and the living world." The author considered the isolated inmate to be "a man buried alive; to be dug out in the slow round of years; and in the mean time dead to everything but torturing

⁸ Charles Dickens, *American Notes for General Circulation* (New York: Penguin Books, 2000), 111.

⁹ *Ibid.*

anxieties and horrible despair."¹⁰ Again, the images evoked by Dickens' words indicate terror, death, separation, isolation, anonymity, and anxiety. These negative words differ greatly from the idealistic observations of the reformers noted above, illustrating an apparent disconnect between theory and practice in the discipline system at Eastern State Penitentiary.

Though Dickens' observations were written in the 1840s, several years after the focus of this study, the haunting descriptions nonetheless still accurately portray the situation of ESP in the mid 1830s, only a few years after its opening. In late 1834 and early 1835, the institution became subject to a state investigation into the abuse of cruel and unusual punishments inflicted at the penitentiary. The differing opinions of the reformers and observers of the institution's procedures illustrate the discrepancies between the idealistic goals of the prison reformers and the reality of those goals in practice. These disturbing differences raise a series of questions regarding the institution and the ideas of convict discipline at Eastern State Penitentiary. Why did the plans of the prison reformers to create a humane form of punishment in the style of the penitentiary devolve so quickly into a horrifying experience for the prisoners of Eastern State thus causing the legislative investigation? How does this investigation explain the relative "success" or "failure" of the institution in fulfilling the goals of the reformers? How did these physical punishments fit into the overall rehabilitation schema and punishment theories of the Philadelphia Society for the penitentiary?

While there has been much written on the rise of the penitentiary systems in the United States and the evolution of penology theories over the course of American history, there is a more limited historiography of the history of Eastern State Penitentiary and the legislative investigation. The historian, Negley K. Teeters, wrote extensively in the 1930s through 1950s on the Philadelphia experience with prisons in three books, *The Cradle of the Penitentiary*, *The*

¹⁰ Ibid. 112-113.

Prison at Philadelphia Cherry Hill, and They were in Prison. These monographs offer a detailed narrative of the history of the penitentiary system in Philadelphia, from its inception in 1790 at Walnut Street Jail, to the subsequent construction of Eastern State Penitentiary in 1829, through the middle of the 20th century. Furthermore, They were in Prison examines the history of the Philadelphia Prison Society and its actions for reform in the criminal justice arena. While the books provide a solid history of the institutions, they concentrate on the founders and officials rather than the inmates' experience. In the 1980s, Jacqueline Thibaut added to the historiography by writing a brief article detailing the prisoners' experiences in Eastern State Penitentiary, especially regarding their torturous punishments.¹¹ Michael Meranze, in his 1996 book, *Laboratories of Virtue*, places the history of Philadelphia criminal punishments and prisons into the broader historical context of the early American republic, and he artfully illustrates how the Philadelphia experience fits into wider attitudinal changes in society towards punishment and what level of interaction was acceptable between the public and criminal justice. These works, however, leave the questions raised earlier still unanswered. By concentrating specifically on the investigation, I hope to shed light on the success or failure of the institution by examining the practices during this turbulent time and reconciling how the cruel punishments that diverged drastically from the reformers' goals and theories actually may have fit into their rehabilitation plan set forth by the Pennsylvania system of punishment.

By examining the writings of the reformers and the influences on their thoughts, and then comparing their ideas to observations of people who visited, investigated or had daily interaction in the prison, the disconnect in theory and practice between the two camps becomes quite apparent. This paper contends that prison officials resorted to physical punishment because it

¹¹ Jacqueline Thibaut, "'To Pave the Way to Penitence': Prisoners and Discipline at the Eastern State Penitentiary, 1829-1835," *Pennsylvania Magazine of History and Biography* 106, no. 2 (1982): 187-222.

produced obedience, and helped to return the refractory prisoners to the path of rehabilitation. With the overall goal of obedience and reformation, it does not appear that the officials intended pain through the punishments. Rather, the punishments rendered the inmate uncomfortable, thus prodding them quickly back to obedience of the prison's procedures. These punishments may have allowed officials to believe in the goodness of the process of the Pennsylvania system because they helped to produce obedience and continue rehabilitation. Furthermore, the difference between theory and practice at Eastern State calls into question the relative success of the institution as a whole, as the highly idealistic nature of the reformers' goals made them difficult to attain, causing the need for more coercive treatment of inmates. This reversion to physical punishment pushed the limits of what could be deemed humane treatment and illustrates how the goal of rehabilitation may have blinded the officials into considering physical punishment to be part of the reform procedure, thus justifying its use.

INFLUENCES ON THE DEVELOPMENT OF THE 'PENNSYLVANIA SYSTEM'

Before delving specifically into Eastern State Penitentiary's procedures and environment, it is necessary to understand how the state's history of criminal punishment evolved from the colonial period to the opening of Eastern State in Philadelphia in 1829. Originally, Pennsylvania modeled its legal system after England's, including the use of "trial by jury, public punishments, and pardon through character references."¹² To utilize England's legal system was understandable since that was the system with which the colonial authorities were most familiar. However, since the English system identified over two hundred capital offenses including

¹² Michael Meranze, *Laboratories of Virtue: Punishment, Revolution, and Authority in Philadelphia, 1760-1835* (Chapel Hill: University of North Carolina Press, 1996), 19-20.

forging bank notes and horse thievery in a terrifying criminal code, it is also understandable that the Pennsylvania system was simplified greatly and reduced the number of public punishments.¹³

At its founding in 1682, Pennsylvania only punished murder with death, and other crimes resulted in penalties of monetary restitution, whipping, imprisonment, and even being forced to wear an 'A' on one's clothing if convicted of adultery.¹⁴ At the time of Pennsylvania's formation, the colony had the "mildest criminal code of any of the colonies."¹⁵ Pennsylvania's Quaker heritage, with benevolence and pacifism engrained in its teachings, also helped to explain this low number of crimes punishable by death.¹⁶ Penn's 'Great Law' of 1682 showed a marked difference between practices and theories of punishment in Pennsylvania as compared to other colonies and England.¹⁷ The Quaker distrust of courts led them to settle disputes without the need for legal courts, but "social realities in the colony and political struggle over Penn's control of it resulted in changes toward greater severity as early as 1700."¹⁸

It appeared that the idealism and emphasis of peace and conciliation advocated by the Quakers was somewhat unsuccessful when dealing with criminal proceedings. Between 1718 and 1794, the number of crimes that resulted in the death penalty fluctuated.¹⁹ The Act of 1718 codified much of the English criminal law as Pennsylvania law, with many of the harsh

¹³ Ibid. 19-20. Douglas Hay, "Crime and Punishment in Eighteenth- and Nineteenth-Century England," *Crime and Justice* 2 (1980): 50. Hay discusses the high number of capital offenses and provides several examples of capital offenses. A website for the promotion of using primary sources in schools provided by the library of Durham University in England provides another list of capital crimes under the English Bloody Code, including offenses of tree cutting, destroying turnpikes, arson, and "being out at night with a blackened face." From, "The Bloody Code," *Crime and Punishment in Durham, 1750-1900*, <http://www.dur.ac.uk/4schools/Crime/Bloodycode.htm>.

¹⁴ Kathryn Preyer, "Penal Measures in the American Colonies: An Overview," *The American Journal of Legal History* 26 (1982): 336-337.

¹⁵ Ibid. 336.

¹⁶ Louis P. Masur, *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776-1865* (New York: Oxford University Press, 1989), 74.

¹⁷ Harry Elmer Barnes, *The Evolution of Penology in Pennsylvania; A Study in American Social History* (Indianapolis: The Bobbs-Merrill Company, 1927), 31.

¹⁸ Preyer, 337.

¹⁹ Meranze, 21.

punishments common to the English code.²⁰ In 1786, the state removed robbery, burglary, and sodomy from punishment by death; by 1794, only first-degree murder remained a capital crime.²¹ In general, these capital offenses were part of a "larger penal system geared toward the public display and seizure of the body."²² The public punishments allowed the masses to be educated on what would happen if one committed a crime, and the rituals and painful punishments were supposed to deter individuals from committing crimes in the future.

After breaking with England in 1783, the overall attitude amongst citizens and reformers shifted again regarding criminal punishments. William Bradford, Attorney General of Pennsylvania from 1780 to 1791 and Attorney General of the United States from 1794 until his death in 1795, recognized this shift from contentedness with sanguinary punishments. He observed that while Americans were connected "with Great Britain no reform was attempted: but, as soon as we separated from her, the public sentiment disclosed itself, and this benevolent undertaking was enjoined by the constitution."²³ After the American Revolution, the reduction of the number of capital crimes and a move towards imprisonment as a means to punish criminals might correlate with the overall desire to break from English customs, as the new United States wanted to create a new identity. Reformulating the legal system and criminal codes was one way to accomplish that goal. In the post-Revolution years, "penal reformers questioned the morality and efficacy of these [public] punishments, which were suitable for monarchies but not republics."²⁴ The failure of deterrence, evoking sympathy from the masses

²⁰ Preyer, 343.

²¹ Masur, 71.

²² Meranze, 22.

²³ William Bradford, *An Enquiry into How Far the Punishment of Death is Necessary in Pennsylvania* (Philadelphia: T. Dobson, 1793), 20. Dates of his service as Pennsylvania and United States Attorney General from "Penn in the 18th Century," University of Pennsylvania Archives, http://www.archives.upenn.edu/histy/features/1700s/people/bradford_wm.html.

²⁴ Mark E. Kann, *Punishment, Prisons, and Patriarchy: Liberty and Power in the Early American Republic* (New York: New York University Press, 2005), 5.

for the criminal, and the potential for desensitization of people towards murder and crime by viewing public punishments proved to be reasons to change criminal punishment systems.²⁵

Changes in Pennsylvania criminal law after the Revolutionary War promoted the idea that criminals could be reformed. Corporal punishments "aimed to restrain criminal behavior through pain and shame" but the new laws "hoped to reform the habits and manners of the prisoners through continual labor and reeducation."²⁶ The longer punishments of labor and imprisonment (as opposed to the short duration of public pain and humiliation) would hopefully cause criminals to take time to reflect and realize the consequences of their criminal behavior and choose to remain a law-abiding citizen in the future. When the punishment was over, the convict could return to society as rehabilitated. This initial change in attitude towards punishment for Pennsylvania reformers led to the birth of the penitentiary system that would reign over the state's criminal punishment system for over a century.

To contextualize the reforms made by Pennsylvania in its criminal codes, examining historical theories and attitudes towards punishment is useful. Comparing the colonial era with that of the Jacksonian period elucidates the differences between the two eras' attitudes towards punishment, and how the shift to a more 'reforming' punishment took place. Colonists "did not associate crime with the structure of their community. They did not endeavor to eliminate crime; rather, they accepted crime as a part of society."²⁷ Their emphasis on crime as a sin denoted the extreme relationship between society and religion. This was especially present in how officials dealt with crimes, namely using "harsh corporal and capital punishments" as a response.²⁸ This may seem ironic, as religion is usually viewed as redemptive and forgiving. However, the

²⁵ Ibid.

²⁶ Meranze, 176.

²⁷ Michael Welch, *Punishment in America: Social Control and the Ironies of Imprisonment* (Thousand Oaks, CA: Sage Publications, Inc. 1999), 3.

²⁸ Ibid.

colonial perspective on religion deemed sin, and by extension crime, to be social ills that should be dealt with swiftly and harshly to end those behaviors.

The emphasis on sin as the basis for crime in the colonial era shifted to a concentration of crime as a result of social problems during the 1820s and 1830s. The anxiety over a growing social disorder with criminals, the poor, and the mentally ill led to the "emergence of institutionalization" which originated after the American Revolution when the country struggled with the development of a new nation and stresses over "social disorder and economic instability."²⁹ Institutions such as the penitentiary, poorhouses, and insane asylums took these social miscreants who threatened order and removed them, thus strengthening society. The idea of institutionalization fits into the theory that "punishment is but a device to enforce protection" for society.³⁰ Removing the troublemakers from the streets provided protection for the law-abiding citizens and fulfilled the purpose of protection as well as strengthening civil society, while public punishments, provided the crime was not a capital offense, left the criminal back on the streets, with possible temptation to commit crimes again.

French philosopher Michel Foucault's work, *Discipline and Punish: The Birth of the Prison*, chronicled the shift in punishment styles from the concentration on the body through corporal punishments to an emphasis on the punishment of the soul as a major shift in punishment theory. Foucault argued in his discussion of the Pennsylvania penitentiaries, "between the crime and the return to right and virtue, the prison would constitute the 'space between two worlds' the place for the individual transformation that would restore to the state the subject it had lost."³¹ Foucault recognized the trait of the Pennsylvania prisons emphasizing reform and rehabilitation of the inmates. In a system where punishment was institutionalized,

²⁹ Ibid. 4. Emphasis in original.

³⁰ Louis N. Robinson, *Penology in The United States* (Philadelphia: John C. Winston Company, 1922), 19.

³¹ Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1995), 123.

the inmates had the chance to become upright citizens again, so "work on the prisoner's soul must be carried out as often as possible."³² Foucault noted this major divergence from previous physical punishments and the changing purpose of punishment, where "one punishes not to efface the crime, but to transform a criminal (actual or potential); punishment must bring with it a certain corrective technique."³³ These aspects help to explain why the Pennsylvania system was so different and innovative in terms of punishment, thus creating a modernized model of punishment for the nation and world to consider as an alternative to corporal punishments.

The Quaker influence on Pennsylvania's criminal code also shaped the direction in which the colony, and later state, was to move. The Quaker heritage and tenets provided Pennsylvania with beliefs that allowed her to approach criminal punishment in an innovative way, a direction that moved towards the ideals of criminal reform and rehabilitation. Quakers tended to be sensitive to suffering because the "Friends themselves were often poor, often imprisoned, and occasionally pushed to the verge of insanity during the early days of persecution." In addition, due to the silent nature of their worship, the Quakers could reflect on societal concerns and problems that they might not have considered without the time of silent reflection.³⁴ The emphasis on silence and reflection played a considerable role in the development of the Pennsylvania system for penitentiaries later.

³² Ibid. 125.

³³ Ibid. 127.

³⁴ Margaret H. Bacon, *The Quiet Rebels: The Story of the Quakers in America* (New York: Basic Books, Inc., 1969), 123.

EARLY YEARS OF PENAL REFORM IN PENNSYLVANIA

William Penn's colony of Pennsylvania provided a safe haven for the Quakers and led to an experiment in reform and religious freedom, ideas that challenged authority and traditions.³⁵ In terms of prison reform, Quakers had specific ideas about what should be done to improve the institutions and took a lead in Philadelphia in working to alleviate this problem. Many viewed prisons as "breeding-places of crime" because inmates all lived together in crowded rooms in the jails.³⁶ More importantly, the Quakers took a new approach to penology, notably that "imprisonment should not be viewed as a punishment, but as a means to reform."³⁷ Their conception of the criminal was also quite different from traditional attitudes. The criminal was "partially a victim of conditions created by society, and the deduction that he therefore had certain claims upon this same society, and that society was under moral obligation to do what it could toward his reform."³⁸ This faith in the rehabilitation of human nature, and the possibility for moral reform in criminals illustrated the ongoing Quaker idealism and optimism about the possibilities of improvement of society, which was so crucial to the development of the penitentiary. Finally, "the aversion of the Quakers to unusual cruelty, suffering and the shedding of blood, led them to substitute imprisonment for the death penalty, in all cases except murder, and for the more barbarous types of corporal punishment."³⁹ The belief in non-corporal punishments was unique of the penitentiary systems touted by Quaker reformers in Philadelphia.

After the Revolutionary War, Philadelphians still held concerns for the inmates of their city. On May 8, 1787, the Philadelphia Society for Alleviating the Miseries of Public Prisons (presently known as the Pennsylvania Prison Society) organized. Early on, the group moved to

³⁵ Auguste Jorns, *The Quakers as Pioneers in Social Work* (New York: The Macmillan Company, 1931), 46.

³⁶ *Ibid.* 165.

³⁷ *Ibid.* Emphasis in original.

³⁸ *Ibid.* 170.

³⁹ Barnes, 32.

end cruel and humiliating public punishments still utilized by the state. Dr. Benjamin Rush, founding father and philanthropist, became one of the prestigious members of the society. Rush advocated strongly against public punishments, including capital punishment, as he noted that "all public punishments tend to make bad men worse, and to increase crimes, by their influence upon Society" and as they are "always connected with infamy, it destroys in the criminal the sense of shame which is one of the strongest outposts of virtue." Additionally, these current punishments are "of such duration as to produce none of those changes in body and mind, which are absolutely necessary to reform obstinate habits of vice."⁴⁰ Clearly, Rush felt strongly about the need for alterations in the way Pennsylvania punished crimes, especially if reformers expected any sort of rehabilitation in the criminals. Rush's sentiments exemplified a larger trend of moving away from corporal, public punishments as they were seen as a symbol of tyranny, not a symbol that the United States wanted to promote.⁴¹ The emphasis on humanity and reform were aspects of this democratic, republican view of punishment for the new country.

On April 5, 1790, Rush's and the society's requests to end public punishments succeeded, and the state enacted private punishment of solitary confinement with work, officially commencing the Pennsylvania penitentiary system.⁴² Walnut Street Jail in Philadelphia became the first penitentiary, even though it had already been functioning as a jail since 1784.⁴³ The isolation of the inmates and the policy of silence changed the way this jail operated. Through their prison reform efforts, the Society helped make the state's penal institutions a model for the modernization and restructuring of punishment systems for others states and nations to emulate.

⁴⁰ Negley K. Teeters, *The Cradle of the Penitentiary: The Walnut Street Jail at Philadelphia, 1773-1835* (Philadelphia: Sponsored by the Prison Society, 1955), 29. Benjamin Rush on public punishments.

⁴¹ See notes 23 and 24 above for references on the political origins of the trend away from corporal punishments.

⁴² Teeters, *Cradle*, 31.

⁴³ Ronald J. Pestritto, *Founding the Criminal Law: Punishment and Political Thought in The Origins of America* (DeKalb: Northern Illinois University Press, 2000), 40.

Rush played an integral role as a charter member of the Philadelphia Society. He combined Enlightenment thought of utilitarianism in punishment with the deep belief in a system of criminal law that could "deter future crime and reform criminals," an idea that prison reformers in Philadelphia embraced.⁴⁴ Rush advocated against the "contention that bodily suffering leads to the reform of the soul" and instead promoted the idea that "solitude and prayer are the means of reform" in order for punishment to "prepare the individual for a return to society."⁴⁵ These ideas promoted by Rush became formative tenets for the Pennsylvania penitentiary system, meshed well with prominent Quaker views on punishment, and illustrated the idealistic and optimistic attitude these early reformers took towards punishment. The influence of the Enlightenment movement also appeared in Rush's emphasis on reason in the use of punishments, in that "reasoning with offenders – persuading them that they have acted wrongly – is the best punishment" and solitude allowed a means to accomplish this by giving criminals ample opportunity to reflect on their actions.⁴⁶ Many of Rush's views on penal reform continued to be advocated by members of the Philadelphia Society, long after his death in 1813.

While Rush may be the most nationally recognizable member of the Philadelphia Society, Roberts Vaux became very influential in the Pennsylvania prison reform movement, joining the Philadelphia Society in 1808.⁴⁷ He could be viewed as a 'second generation' member of the society. In his many benevolent efforts, Vaux worked hardest in education and prison reform, seeing a correlation between education and reducing criminality in society. His Quaker heritage may help to explain his advocacy of the isolation set forth in the Pennsylvania system,

⁴⁴ Ibid. 21.

⁴⁵ Ibid. 22.

⁴⁶ Ibid. 25.

⁴⁷ Negley K. Teeters, *They Were in Prison: A History of the Pennsylvania Prison Society, 1787–1937, Formerly the Philadelphia Society for Alleviating the Misery of Public Prisons* (Philadelphia: John C. Winston Company, 1937), 155.

seeing it as a less violent punishment that could reform the soul.⁴⁸ In the Philadelphia Society, Vaux served on the Acting Committee for his entire career with the organization, held the post of corresponding secretary, and had a small stint as a vice president until 1832 when he retired from public life.⁴⁹ His term as corresponding secretary saw a dramatic proliferation of letters and essays exchanged between reformers in Philadelphia and those abroad, debating the finer points of incarceration and the aspects of the Pennsylvania system. In 1821, Vaux "was appointed by the Legislature of Pennsylvania one of the commissioners to devise a plan and assist in the supervision of the erection of the new State Penitentiary in Philadelphia" which was to become Eastern State Penitentiary. As a commissioner, Vaux promoted the system of solitary confinement with labor, which was to become the Pennsylvania system of punishment used at Eastern State.⁵⁰

THE 'PENNSYLVANIA SYSTEM' OF DISCIPLINE

The Pennsylvania system, which was in effect total isolation with convicts at work in their cells, differed from New York's approach where inmates worked together in silence during the day and then were separated at night. Both systems, however, kept inmates from communicating with one another through their silence.⁵¹ Furthermore, the Pennsylvania approach to prison labor consisted of "trades and industries suitable to private employment" thus aiding full isolation of inmates.⁵² Interestingly, a unique feature of the Pennsylvania system was

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid. 156.

⁵¹ Andrew Skotnicki, *Religion and the Development of the American Penal System* (Lanham, MD: University Press of America, 2000), 52. Mark Colvin, *Penitentiaries, Reformatories, and Chain Gangs: Social Theory and the History of Punishment in Nineteenth Century America* (New York: St. Martin's Press, 1997), 82-84. Colvin describes the difference between the Pennsylvania separate system and the Auburn congregate system where inmates worked together during the day, in silence, and were separated into individual cells at night.

⁵² Skotnicki, 58.

"the concentration on each inmate's particular reformation." The Pennsylvania system "reformed those consigned to its care and did so much more effectively than the Auburn method."⁵³ The emphasis on reformation and rehabilitation plays a crucial role in understanding the treatment of inmates at Eastern State.

Several reasons emerge as to why the Pennsylvania reformers believed their system of incarceration was superior to other systems of imprisonment. A major reason was the system's emphasis on the humanity of the prisoners and the fact that the jail disdained physical punishment towards criminals. Francis Lieber believed that punishment "ought to be calm in its character; it ought calmly to operate, and keep the true mean between trifling leniency and harsh cruelty."⁵⁴ This statement expresses the heart of the belief of the Pennsylvania reformers: the penitentiary was a new system that evoked punishment but was humane as well. Lieber continued on to remark that "punishment ought to be so that it does not prevent moral effects, or positively produces bad ones." He also admonished the state to avoid harsh punishment, noting that the state "must never sink to the level of the offender; hence punishment increased by cruelty are inadmissible, for they originate from wrath and hatred, not from justice."⁵⁵

Even the physical appearance of the penitentiary spoke to the recognition of the prisoners' humanity. Vaux noted, "The solitary chambers at the penitentiary in progress near Philadelphia, are on the surface of the ground, judiciously lighted, ventilated, and adapted in every other way, to protect the health of the prisoner."⁵⁶ Clearly, the reformers held the physical being of the prisoner to be important, something to be protected. In addition, in an 1832 report

⁵³ Ibid. 55.

⁵⁴ Lieber, 36.

⁵⁵ Ibid. 40.

⁵⁶ Roberts Vaux, *Notices of the Original and Successive Efforts to Improve the Discipline of the Prison at Philadelphia and to Reform the Criminal Code of Pennsylvania with a Few Observations on the Penitentiary System* (Philadelphia : Kimber and Sharpless, 1826), 59-60.

the Inspectors of Pennsylvania prisons recorded that "pains are taken" to teach illiterate inmates to read and to instruct inmates in a trade. Additionally, the report noted that the prisoners' treatment was "marked by its kindness and firmness, and punishment is rarely inflicted, and the lash is never used."⁵⁷ These remarks note the seemingly humane treatment of the prisoners, a concern for their education and vocational skills, and their lack of corporal punishment in the prison, a trademark of the Pennsylvania system. Even when punishments needed to be dealt to refractory inmates, the penitentiary promoted "denying the refractory individual the benefit of his yard, by taking from him his books or labour, and lastly, in extreme cases, by diminishing his diet to the lowest rate."⁵⁸ While these actions could be viewed as harsh, the dedication to nonviolent punishments is important to consider. The belief that humanity and kindness were best evoked in a form of solitary confinement reinforced the idea that the Pennsylvania system was one of the more humane styles of punishment. Samuel Miller of the U.S. Marines noted, "I have witnessed the happiest effects of kind treatment to those in solitary confinement. It has called forth the warmest effusions of gratitude, which continued to be manifested after their release, by the most cheerful and prompt attention to duty."⁵⁹ With such outside admiration of the system, it is little wonder that the reformers felt justified and proud in their approach, one that they hoped would be viewed as a beacon of modernized and improved criminal punishment.

Paralleling very closely the emphasis of humanity and at the heart of the reformers' benevolent system was the desire of the reformers to evoke repentance and moral reform in their

⁵⁷ Annual Report of the Acting Committee of the Philadelphia Society for Alleviating the Miseries of Public Prisons (Philadelphia: Published by the Order of the Society, 1833), 10. This report is for the year 1832.

⁵⁸ Richard Vaux, Brief Sketch of the Origin and History of the State Penitentiary for the Eastern District of Pennsylvania at Philadelphia (Philadelphia: McLaughlin Brothers, 1872), 25. Also found in Roberts Vaux, Letter on the Penitentiary System of Pennsylvania Addressed to William Roscoe, Esquire (Philadelphia: Jesper Harding, 1827), 10.

⁵⁹ John Sergeant, Observations and Reflections on the Design and Effects of Punishment by John Sergeant, and Col. Samuel Miller; also, The Opinion of the Keepers of the Penitentiary and Bridewell at Philadelphia on the Separate Confinement of Criminals (Philadelphia: Jesper Harding, 1828), 8. This quote is from a letter from Samuel Miller to Roberts Vaux.

inmates. This particular goal illustrated the deep conviction that punishment did not have to be cruel and painful, but could have a positive effect on those criminals who experienced the penitentiary system. The promotion of reform and rehabilitation of inmates by reformers constituted the difference between the Pennsylvania system of imprisonment and others, and the reformers touted this characteristic as one that made the Pennsylvania system superior to other forms of punishment. Many reformers had opinions on the aspect of solitude and reform in the Pennsylvania prisons. Philadelphian physician James Mease noted that an inmate:

left to himself, his own reflections will be melancholy and depressing; his evil propensities, instead of being confirmed by the unrestrained intercourse with his more wicked companions, will infallibly be checked; the good advice he may have received from pious parents, will recur to his mind with a force it perhaps never possessed before, and thus, instead of being more vicious, as at present, when emerging from prison, than when he entered it he will be chastened, and disposed to follow his trade, and to lead a regular and sober life.⁶⁰

Mease eloquently described what the reformers had in mind for their penitentiary, notably the recovery of the inmates' souls and a new dedication to a law-abiding life through the isolation in the prison.

Other reformers also spoke out on this subject. Political scientist and prison activist Francis Lieber promoted the agency that reform achieves through solitude, writing that "solitude is the weightiest moral agent to make the thoughtless thoughtful - to reflect, and the only one sufficiently powerful for the criminally thoughtless." He advocated that solitude was "the only means to bring the offender to a more rational course. Labor united with solitude gives steadiness to the thought, and makes it possible to support solitude with ease for those who have not been accustomed to abstract reflection before."⁶¹ Lieber noted that the Pennsylvania system

⁶⁰ James Mease, *Observations on the penitentiary system and penal code of Pennsylvania with suggestions for their improvement* (Philadelphia: Clark & Raser, 1828), 17.

⁶¹ Lieber, 63.

had "an elevating character" in that the punishment "touches the man in the convict, not the brute."⁶² This idea relates to the emphasis on humanity in the penitentiary system but also the deep commitment by the reformers to help the inmates cleanse the evil behaviors out of their hearts and minds before re-entering society. George Smith, in his essays on solitary confinement noted that solitude evokes the "respective guilt of each convict; each individual will necessarily be made the instrument of his own punishment - his conscience will be the avenger of society."⁶³ By making the prisoner the instrument of his punishment, not only is the hope that he will reform himself, but it also theoretically takes away the need for any physical punishment while the inmates are in the system. The rehabilitation of prisoners proved to be a trademark of the Pennsylvania system, a characteristic that reformers turned to in promotion of their system.

A third very interesting benefit of the Pennsylvania system that the reformers touted was the idea that the penitentiary's solitary confinement reduced moral contamination of the criminals and took away social stigma by adhering to anonymity amongst inmates while inside the institution. Separate confinement removed the chance of interaction with other prisoners because each prisoner was "placed beyond the possibility of being made more corrupt by his imprisonment, since the least association of convicts with each other must inevitably yield pernicious consequences in a greater or lesser degree."⁶⁴ Furthermore, "the prisoners will not know who are undergoing punishment at the same time with themselves, and thus will be afforded one of the greatest protections to such as may happily be enabled to form resolutions to behave well when they are discharged, and be better qualified to do so."⁶⁵

⁶² Ibid. 64.

⁶³ Smith, 71.

⁶⁴ Richard Vaux, Brief Sretch 25; Roberts Vaux Letter to William Roscoe, 10.

⁶⁵ Ibid.

The reformers aimed to protect prisoners through anonymity. While total isolation may seem severe, the system did not permit inmates to associate with one another. In theory, released criminals would go about their lives in a quiet, private fashion, without other inmates or the wider public knowing there were former prisoners in their midst. In an 1829 letter from Dr. Franklin Bache, great-grandson of Benjamin Franklin, to Roberts Vaux, the author explained why solitary confinement is a positive way to punish. Bache noted that the only way a prisoner was to become reformed was through separate confinement because "in a community of criminals, every member of it approaches to the state of the most depraved individual which it contains. There is no redeeming influence of the less criminal over the more hardened portion: all rapidly tend to grow worse."⁶⁶ Separate confinement would reduce these problems significantly. Bache also addressed the issue of stigma, writing that released prisoners were "returned to his friends at the expiration of his sentence, at least not rendered worse than at its commencement, and his disgrace is known to comparatively few."⁶⁷ This lack of association protected prisoners and returned to them some part of their personhood and identity upon release.

Opponents of the Pennsylvania system brought issues of concern towards the Quaker influenced institution to public light. The most damning of these was the potential physical and mental injury to inmates brought on by total isolation. Objections to solitary confinement included the fear that convicts would become "maniacs, if it does not destroy them" completely.⁶⁸ Opponents stated that total isolation would lead to severe loneliness and that "solitude drives to despair."⁶⁹ Many of the reformers argued against this, pointing out that the

⁶⁶ Franklin Bache, *On the Penitentiary System* (Philadelphia: Jesper Harding, 1829), 4. Bache acted as prison physician at Eastern State Penitentiary from 1829-1836. David L. Cowen, "Bache, Franklin," *American National Biography Online*, <http://www.anb.org/articles/13/13-00060.html>.

⁶⁷ Bache, 8.

⁶⁸ Mease, 45.

⁶⁹ Lieber, 71.

institution had few cases of insanity or that inmates entered the institution with a propensity for insanity already. Lieber himself noted that "there have ere been some men in perpetual solitary confinement, even without labor, without becoming insane."⁷⁰ Reformers seemed insulted by the insinuation that their humane system could drive men to insanity. George Smith in his defense of solitary confinement wrote that madness was not extraordinary, as "isolated cases of madness are among all classes of society: the prisoner in his dungeon is not more exempt than the monarch on his throne."⁷¹

In a letter to Roberts Vaux, Bache discounted the problem of insanity, writing, "Insanity may occasionally occur, when the depressing influence of incarceration on the mind and body, happens to operate on an individual predisposed to that disease" noting that a natural propensity to mental illness would be the main reason that insanity might occur in the penitentiary. He did not believe that "insanity would be more likely to occur as a consequence of this mode of treating prisoners."⁷² Even official reports of the penitentiary's inspectors and physicians denied insanity as a downfall of their system, as is evident in the physician's report of 1832 when Bache reported, "Prisoner No. 49 was laboring under insanity when received into the penitentiary, and that he committed the act of self-destruction under the influence of a paroxysm of that disease."⁷³ In this case of inmate suicide, Bache's report cleared the institution of any culpability. Some modern historians have also discounted the issue of insanity in ESP, noting that "the insanity claim and charges of ill health were probably more sensational than real."⁷⁴ While some cases of insanity existed within the inmate population, insanity may not have been as big of a problem as

⁷⁰ Ibid. 71-72.

⁷¹ Smith, 74.

⁷² Bache, 9.

⁷³ Smith, 100. A full report of the Physician for the year 1832 is found in *The Annual Report of the Philadelphia Society*, 1833, 29-30.

⁷⁴ Matthew W. Meskell, "An American Revolution: The History of Prisons in the United States from 1777 to 1877," *Stanford Law Review* 51, no. 4 (1999): 857.

nineteenth century opponents may have thought; or alternatively, the reformers did not want to admit that their benevolent style of punishment could produce such horrible effects on the mind.

Opponents of the Pennsylvania system also condemned what they insisted was cruel and unusual punishments. Similar to the response with the insanity issue, reformers opposed violent punishments and sought to prove that their treatment of prisoners was not cruel. This argument was especially pertinent when comparing the Pennsylvania system with that of New York, which used the lash. The whip, Pennsylvania reformers insisted, "degrades, irritates, exasperates, not to speak of the frequent abuse which must take place and does take place."⁷⁵ Using a whip or any corporal punishment ran against the Quaker ideal of nonviolence towards prisoners set forth by reformers. George Smith spoke out against the use of cruel punishments saying that "all cruel punishments are expressly forbidden, both by the letter and spirit of our constitution, as well as by every principle of reason, morals or religion."⁷⁶ Furthermore, Smith noted, "terror and pain may produce temporary submission; may apparently repress the manifestation of pride indignant at humiliation; but when the restraint is removed, the smothered fire will burst out the more fiercely with uncontrollable fury."⁷⁷ Pennsylvania reformers did not want to use physical punishments as they believed they were not a deterrent and only made inmates' behavior worse. Even though reformers argued against these oppositions and claimed they did not stoop to levels of physical punishment or that their system did not create insanity, the actual situation within the prison walls suggests otherwise, making the disconnect between punishment theory and practice apparent at Eastern State.

⁷⁵ Lieber, 87, 88.

⁷⁶ Smith, 68. Emphasis in the original.

⁷⁷ Ibid. 70.

EASTERN STATE PENITENTIARY: OPENING YEARS AND PRACTICES

Eastern State Penitentiary opened in 1829 after decades of work by the Philadelphia Society to develop a new system of punishment, one that focused on reform and rehabilitation rather than punitive, physical punishment. Eastern State proved to be a dominating, imposing building on the landscape of Philadelphia. Thomas McElwee, Pennsylvania legislature representative from Bedford County and member of the committee that investigated the prison, described the exterior which "impart[ed] a grave, severe, and awful character to the external aspect of this building."⁷⁸ Imposing stone walls, which surrounded the cell blocks left the public curious and fearful of what happened inside. To those condemned to experience the penitentiary as an inmate, the prison was a monument to terror and the unknown. Prisoners had no way of knowing what effects imprisonment would have on their bodies, minds, and souls. Inside the walls, in the "centre of the great courtyard is an observatory, whence long corridors, seven in number, radiate. On each side of these corridors, the cells are situated each at right angles to them, and communicating with them only by small openings, for the purpose of supplying the prisoner with food."⁷⁹ In addition, "light descends into them [the cells] through a small crevice or sky light in the ceiling."⁸⁰ Each prisoner was also provided with "a yard attached to each cell on the ground floor . [and] in the second story each prisoner is allowed an additional cell or bed room" to provide exercise space.⁸¹ Great pains were taken in the design of this prison to give inmates a chance to reform and reflect through the isolated and sparse accommodations. One can sense the humanity attempted in the reformers' designs and thoughts for the building itself,

⁷⁸ Thomas B. McElwee, *A Concise History of the Eastern Penitentiary of Pennsylvania, together with a Detailed Statement of the Proceedings of the Committee, Appointed by the Legislature, December 6th, 1834* (Philadelphia: Neall & Massey, 1835), 7. This compilation of testimony, legislative reports, and observations is an invaluable source to understanding the inner workings of Eastern State Penitentiary in its early years.

⁷⁹ *Ibid.* 8.

⁸⁰ "Eastern Penitentiary of Pennsylvania." *Hazard's Register of Pennsylvania* October 6, 1832, 10, 14.

⁸¹ McElwee, 8.

taking great care to consider the basic needs of the prisoners. However, the question remained what effect would the constant isolation have on the mental faculties of the inmates.

What happened to the inmates during their reception to the institution? Upon arrival, the inmate was "divested of his usual garments, his hair closely trimmed, and he undergoes the process of ablution. He is then clothed in the uniform of the prison, a hood or cap is drawn over his face, and he is conducted to his cell. The bandage is removed from his eyes, and he is interrogated as to his former life." The inmate learned the prison rules and was "then locked up and left to the salutary admonition of a reproofing conscience, and the reflections which solitude usually produce."⁸² The steps toward rehabilitation started immediately for the prisoners, as the process of admission took on a stripping effect of the former life, even including the inmates' wardrobe. The immediacy of isolation had an effect on the prisoners, as "ennui seizes them, every hour is irksome, and they supplicate for the means of employment with the most abject humility. They consider labour as a favour, not as a punishment, and they receive it as such. They are also furnished with a Bible, some religious tracts, and occasionally other works, calculated to imbue their minds with moral and religious ideas."⁸³ The reformers in the daily rituals of prison life constantly promoted the emphasis on religion, simplicity, and reflection; and it is apparent that they believed that adhering to the goals of solitude and reflection would have positive outcomes on these inmates. The first warden, Samuel R. Wood weighed in on the conception of prisoners as malleable human beings. He wrote, "We look upon them as men, (not as brutes,) as a part of the great human family with ourselves, and we consider it a duty incumbent upon us to use mild and persuasive measures, and endeavor by precepts of virtue, morality, and religion, to wean them from their vicious course, bring them to a deep and full

⁸² Ibid. 13.

⁸³ Ibid. 14.

sense of their guilt, and the consequent degradation and misery ever attendant upon crime."⁸⁴

The reformers seemed to view the prisoners as sinners like themselves, who, through reason and reflection could be broken of their sinful past and could be reborn into law-abiding citizens through religious education.

Furthermore, the inmate was made anonymous by being issued a number as his identity in the prison. The number prevented "one convict from learning the name of another, and prevents that humiliation which invariably pursues a man when liberated, if he is known to have been an inhabitant of a penitentiary . . . Thus they are cut off from association after their discharge, and one convict cannot reproach or recognize another."⁸⁵ While this thorough removal of the personhood of the inmate by taking away his birth name could be viewed as degrading, the numbering system could also be viewed in a humane light. The numbers protected inmates from each other, and gave them a chance at leading a quiet life when discharged.

Annual reports of the inspectors and warden promoted the early successes of the institution. Excerpts from the first annual report, printed in *The Register of Pennsylvania* on February 13, 1830, noted the appointment of Samuel R. Wood as warden on June 29, 1829, and that in the first months of the penitentiary's career, "no prisoner has died, escaped, been pardoned, or discharged; nor has any sickness occurred, except in one instance."⁸⁶ The warden himself spoke glowingly of the penitentiary, championing the state for providing prisons "where the reformation and improvement of the criminal and protection of society, are grand objects" and that the inmates themselves "have been hitherto obedient and exemplary in their deportment. They appear anxious to obtain employment, and when it has been furnished, they have performed their labor with cheerfulness and assiduity." To the point of discipline and silence in

⁸⁴ Samuel Wood, "Eastern Penitentiary," *Hazard's Register of Pennsylvania* June 6, 1835.

⁸⁵ McElwee, 15.

⁸⁶ "Eastern State Penitentiary, First Annual Report," *The Register of Pennsylvania* February 13, 1830.

the penitentiary, Wood added, "I feel, therefore, much pleasure in adding, that experience has convinced me that the structure and discipline of this penitentiary have completely accomplished his great desideratum. Conversation and acquaintance are physically impracticable to its inmates."⁸⁷ Positive reports to the state and public continued in subsequent annual statements.

In 1830, Dr. Bache noted that "the effect of the separate confinement on the mind has been attentively watched. No instance has occurred of the production of mental disease. Its moral effects are encouraging, and are in strong contrast with the contaminating influences, arising out of the association of criminals."⁸⁸ Warden Wood corroborated Bache's observation, noting, "If we are in error [in terms of punishment] the system is too mild, particularly where the term of imprisonment is only for a year. In relation to the supposed injurious effects of the discipline on the minds and bodies of the prisoners, that the very reverse has been the case in every instance."⁸⁹ The third, fourth, and fifth annual reports, for the years 1831, 1832, and 1833 respectively, continued to discuss only the positive effects of the system and illustrated a continued belief in the rehabilitative process of the prison system.⁹⁰ Similarly, the sixth annual report, for the year 1834, noted once again by Wood that Eastern State exemplified the "superiority of the Pennsylvania system of prison discipline over all others."⁹¹ Furthermore, Wood observed, "The Pennsylvania system is one of privations rather than punishments; such it certainly has been during the last year, for very few cases have occurred requiring severity of treatment; with an increased number of prisoners, we have had fewer cases of refractory

⁸⁷ Ibid. Warden Report written December 5, 1829.

⁸⁸ "Eastern State Penitentiary, Second Annual Report," *The Register of Pennsylvania* Feb. 5, 1831.

⁸⁹ Ibid.

⁹⁰ "Third Annual Report," *Episcopal Recorder* April 21, 1832. "Eastern Penitentiary, Warden's Report," *The Friend; A Religious and Literary Journal* February 9, 1833. "Warden's Report," *The Friend; A Religious and Literary Journal* July 26, 1834.

⁹¹ "Report of the Eastern Penitentiary," *Hazard's Register of Pennsylvania* May 9, 1835.

conduct."⁹² Once again, there is a clear faith that the Pennsylvania system of isolation and work was far better than other punishment measures and that the process was successful. One must wonder, though, whether the reports fashioned for the state government and the public told the true tale of experience inside the prison or whether officials exaggerated the positive effects to obtain continued support for the work at Eastern State because the reformers truly believed that their system had the potential to rehabilitate criminals.

Wood's background raises some questions regarding his role in the imposition of punitive punishments. Wood was born on August 25, 1776, in Montgomery County, Pennsylvania, was a Quaker and a member of the Philadelphia Prison Society. He inspected the Walnut Street Jail and was a member of the Building Commission of Eastern State Penitentiary.⁹³ Alexis de Tocqueville and Gustave de Beaumont, in their observations on the prison system, remarked that Wood was "a man of superior mind, who, influenced by religious sentiments, has abandoned his former career in order to devote himself entirely to the success of the establishment so useful to his community."⁹⁴ Other early memorials to Wood also spoke of his good qualities for the position of warden. Francis Lieber wrote, "I have never found a superintendent of any penitentiary of a more humane disposition, and clearer mind on all subjects of the penitentiary system than Mr. Wood."⁹⁵ The Prison Society and other observers held Wood in high esteem for his character and believed he would guide the prison towards the benevolent ideals set forth by the society. Before Wood took the position of warden to Eastern State in 1829, he owned a farm near Norristown, Pennsylvania, and was a businessman in a stone and lead mill.⁹⁶ From his

⁹² Ibid.

⁹³ Negley K. Teeters and John Shearer, *The Prison at Philadelphia, Cherry Hill The Separate System of Penal Discipline*, 829-93, (New York: Published for Temple University Publications by New York University Press, 1957), 86.

⁹⁴ Ibid.

⁹⁵ Ibid. 87.

⁹⁶ Ibid. 88.

earlier jobs, there appears to be little link between the previous occupations and that of a prison warden; but perhaps skills of organization and leadership in his business ventures prepared him for the leadership role in the penitentiary. In any case, Wood's background in the Quaker religion and affiliation with the prison society would have schooled him in the religious influences and humane goals the prison society created for the penitentiary. Wood would have been fully aware of the emphasis on nonviolent punishment and the efforts for rehabilitation as he began his role as the warden for Eastern State.

The warden's journal, the daily records of admissions, discharges, visitors, and extraordinary occurrences, provides a glimpse into the actual practices of the penitentiary and Wood's role in this. The journal supplies information on the punishments dealt to prisoners for breaking the prison rules, mainly silence infractions or episodic instances of derangement that needed to be "cured." Excerpts noted below offer an indication of the punishments inflicted and the mechanical tone used by Wood in the journal:

January 26, 1833: We had No. 100 put into a dark cell all night.

February 6, 1833: Took No. 100 out of punishment and put no. 94 into dark cell.

February 8, 1833: Nothing occurred except No. 148 was a little stubborn we cured him with the straight jacket in a few hours.

June 27, 1833: No. 102 having on several occasions got the men next him talking, and being detected in the act last evening I ordered the straight jacket on no. [number is blacked out] and the gag on No. 102. This I saw put on about 8 ock. About 9 ock I was informed by Wm Griffiths that they had found him warm but with no pulse. We tried to bleed him, and used amonia and many other things but life was extinct. Dr. Bache was to see him but could do nothing. Wm Hood & Judge Coxe here.

June 28, 1833: Dr. Bache out and made a post-mortem examination of No. 102 and found that he had died of appoplexy and gave a certificate accordingly.

November 9, 1833: Before 8 ock No 196 became very unruly 7 noisy and I thought but to put him in one of the old cells - If he is not crazy he acts well - he broke the sky light and made much noise.

November 11, 1833: Dr. Bache visited the sick. Much trouble with 196 he dirtied his cell and behaves like an insane man.

January 23, 1834: No 198 very noisy & troublesome. Stripped himself and threw water over his clothes. Had him removed to a cell without water.

January 28, 1834: No 196 so bad we had to put him in the tranquilizing chair.

August 6, 1834: Put No. 247 into dark cell for making a hole in his cell wall with a view to escape.

January 11, 1835: received a note from No. 284 stating that No. 181 (Howe) & 270 (Gill) and another who I took to be No. 4 had agreed on a mode of escape & that 270 would begin to cut his door after dinner next the [illegible.] We watched & caught him in the act & found a rope made from his sheets. We also found a rope made of sheets in the cells of No 181. Ordered them both into a dark cell leaving No. 4 until tomorrow.

January 23, 1835: Dr. Bache here. No 210 behaved refractory & had quite a scuffle with him to get him to dark cell: put No's 255 & 280 also into other cells for misconduct.

February 2, 1835: Had No's 210 & 255 returned to their cells. No. 205 behaves very refractory and had him by Dr's. orders put into dark cell. He made a great noise in the dark cell & professed to be deranged. We discovered he had a knife with him & [illegible word] what he would do.

July 4, 1835: No. 146 behaved very badly had him placed in a dark cell.

July 13, 1835: Dr. Bache here. Had the straight jacket put on No. [number blacked out].

September 6, 1835: No. 285 has for some days been very refractory & he made so much noise that I had to go to him; he refused to give me the cup with which he made the noise & was otherwise impudent. I took J. Blundin & J. [illegible name] went in took it from him & gave him a little warning with a small stick.

November 27, 1835: Dr. Bache here. No 532 was yesterday found attempting to break his cell lock to get out. Ordered him into dark cell.⁹⁷

Several things are at play here in these excerpts. One is the emphasis on the "dark cell" as a mode of punishment for refractory behavior. According to Thomas McElwee, this punishment was "a common cell, from which the light is excluded. The prisoner is locked up in total darkness, with nothing but a blanket to cover him, and in some cases he is even deprived of that covering."⁹⁸ To the prison officials, this punishment was viewed as humane because the inmates were not exposed to physical pain as a punishment for their misdeeds. In addition, it

⁹⁷ "Warden's Journal." 1833-1835. Eastern State Penitentiary Papers. Record Group 15, Justice Department Records. Pennsylvania State Archives, Harrisburg, Pennsylvania.

⁹⁸ McElwee, 16.

continued the process of solitude and reflection, alas without the light or the basic comforts of their own cells. This punishment related to Wood's view that the Pennsylvania system was one of privations rather than physical punishment. Although the dark cell could have been a terrifying experience, one that could lead to madness, it does not appear that the officials or warden saw it as such. Rather it was a way to subdue the prisoners in order to return them to their cells. In several cases, where the sanity of inmates was doubted, it appeared that the dark cell was a way of calming these prisoners, to return them to the path to reform.

Other punishments used by the prison officials could also be seen as subduing practices rather than having the initial intention to cause pain. The use of the straight jacket and tranquilizing chair exemplify again the need to make the inmates docile or to calm them in order for them to return to their rehabilitation in their own cells. McElwee's description of the tranquilizing chair noted that it:

was a large box chair, constructed of plank. . . The prisoner was placed in the chair, his arms above his elbows were fastened by straps to the back of the chair. A strap was passed round his body, through holes in the chair, and fastened there. His hands were linked together by hand cuffs. Straps were passed around his ankles and firmly fastened to the lower part of the chair. He had no resting place for his feet, there being no foot board. It was impossible for an individual thus manacled to move any part of his body or limbs.⁹⁹

Furthermore, McElwee described the straight jacket as a punishment that:

consisted of a piece of sack or bagging cloth of three thicknesses, with pocket holes for the admission of the hands in the front part of the inside. In the back part rows of eyelet holes were worked similar to those in a lady's corset. . . The jacket was forced over the head of the prisoner and his hands inserted in the pockets. It was then laced tightly behind with a cord. . . The collar fitted about the neck, but the head was left free.¹⁰⁰

⁹⁹ Ibid. 17-18.

¹⁰⁰ Ibid. 18.

Most likely, these punishments produced severe pain for the prisoners; but the warden's journal did not note any indication of pain. There is a sense from the journal that these punishments had no initial intention of causing physical pain, but was rather meant to make refractory prisoners docile and well-behaving again. If the punishments subdued the prisoners and allowed them to go back to the cells to continue to rehabilitate, the inmates will have learned a lesson not to behave badly in the prison. Such punishments, useful as they were to the overall goal of rehabilitation, were justified. The spirit of experimentation appeared to be at play in Eastern State, where the outcome of the punishments was not as much of a concern but rather the reaffirmation that the overall process of the Pennsylvania system was good and true. Additionally, when considering these punishments used by prison officials, there could potentially be a link to the idea of making prisoners uncomfortable rather than inflicting direct pain such as by a lash. Making inmates uncomfortable provided prison officials with a way to reaffirm who was in control and to prove that the inmates could not misbehave without some consequence. By not directly inflicting pain, these punishments seemed to allow officials to continue to promote the Pennsylvania system as superior and humane, without feeling culpable of causing any pain exhibited by inmates.

With that being said, how does one account for the occurrence where the warden gave the prisoner "a warning with a small stick" or the infamous iron gag incident in 1833? The "warning" instance does not say the prisoner was struck with the stick, but it illuminates the problem that the temptation and facility to use physical violence was readily available in the penitentiary. In addition, one might question if the warden's journal is fully accurate and trustworthy or if some incidents where physical punishment was used were conveniently left out of the journal.

Of all the punishment, the iron gag incident on Matthias Maccumsey, prisoner #102, clearly resulted in physical pain and led to the inmate's death. Again, McElwee's description of this device is valuable. He wrote that the iron gag:

was a rough iron instrument resembling the stiff bit of a blind bridle, having an iron palet in the centre, about an inch square, and chains at each end to pass round the neck and fasten behind. This instrument was placed in the prisoners mouth, the iron palet over his tongue, the bit forced in as far as possible, the chains brought round the jaws to the back of the neck; the end of one chain was passed through the ring in the end of the other chain drawn tight to "the fourth link," and fastened with a lock; his hands were than [sic] forced into leather gloves in which were iron staples and crossed behind his back; leather straps were passed through the staples, and from thence round the chains of the gag between his neck and the chains; the straps were drawn tight, the hands forced up towards the head.¹⁰¹

To any reader, this description evokes a severe sense of painfulness; and in Maccumsey's case, it resulted in death. However, once one steps away from the horrific fact that this punishment caused a death, a clear violation of physical punishment in Eastern State, one should understand that the iron gag could be viewed as just another instrument to subdue and restrain in order to get the prisoner back to the goal of reflection and rehabilitation. Like the straight jacket and tranquilizing chair, albeit a much riskier device, the iron gag did not necessarily have to result in pain, if the prisoner quickly calmed himself and remained still.¹⁰²

¹⁰¹ Ibid.

¹⁰² There is a great deal at play in considering these punishments, making the understanding of motive behind the use of these particular punishments difficult to entirely explain. Further research could be completed on several aspects to elucidate the use of these potentially painful punishments of Eastern State. Understanding the difference in nineteenth century conceptions of pain and discomfort may illuminate the way in which prison officials at Eastern State may have understood the purpose of these punishments for refractory prisoners. Furthermore, a deeper exploration of these terms may also explain societal attitudes towards what might be acceptable punishments for offending prisoners. In addition to the conceptions of pain and discomfort, understanding the role of obedience in antebellum American society may also provide further insight into the treatment of prisoners. Examining punishments for children during this era and exploring the role of obedience in dealing with children may provide another layer of explanation on the way that prison officials conceptualized the inmates under their care.

EASTERN STATE PENITENTIARY: UNDER INVESTIGATION

These punishments, whether it was the dark cell, the dreaded iron gag, the straight jacket, or the tranquilizing chair, illustrated the overall process of the Pennsylvania system to break the prisoners of their bad behavior and cause them to work for their own personal reform and rehabilitation back to society. While the outcome in some cases was physical pain for the inmates, it appears that there was no direct intention by the officials to cause this as it would violate the ideals of the Pennsylvania system. These incidents of punishment, however, show what a fine line officials walked between cruel and unusual treatment of prisoners and claiming that the punishments, used to subdue and refocus the prisoners on reform and obedience, adhered to the overall rehabilitation plan set forth by developers of the Pennsylvania system. By the end of 1834, the Pennsylvania legislature became concerned with the practices of Eastern State Penitentiary, and formed an investigative committee to examine the prison's policies and actions.

Warden Wood seemed genuinely surprised at the outset of the investigation. On December 3, 1834, Wood recorded, "The Inspectors here. I told them I had heard that some charges had been made against the Penitentiary to the Governor but from what quarter I did not know."¹⁰³ The following day, Wood wrote, "Left this morning for Harrisburgh [sic] learned on the way that the Governor in his message, had stated that great abuses existed in the Eastern Penitentiary. I heard this with great surprise for I had not the slightest idea that the governor would have introduced this matter."¹⁰⁴ Wood seemed stunned that there were charges of great abuse, which indicates that the warden did not think the practices of the penitentiary were unethical. Interestingly, Wood showed a rare bit of reflection in the journal on Christmas day

¹⁰³ Warden's Journal, December 3, 1834.

¹⁰⁴ Ibid. December 4, 1834.

1834, writing, "At home all day & a gloomy one. Never knew what trouble was before."¹⁰⁵ This statement reveals the stress of the situation in which Wood and the penitentiary was involved. If the committee found the penitentiary guilty of any charges of corruption or abuses, the success of the Pennsylvania system as a superior way of punishing would be at risk. Throughout the early portion of 1835, the warden's journal notes the investigation and Wood's presence at the committee hearings. However, as is evident from examples above, the prison continued to use punishments such as the dark cell to discipline inmates. By the end of the year, months after the investigation ended, Wood remained at post and recorded in his journal on December 31, 1835, "And so closes the year 1835 leaving me with very difficult feelings from what I experienced this time last year & I hope I may have improved in all & evry respect."¹⁰⁶ Although he weathered the treacherous year of investigation, Wood's reflections indicated that he and the penitentiary needed to improve on its practices in order to avoid further scrutiny.

The legislative investigation of 1834-1835 alludes to a possible early failure of the reformers and their system to fulfill the goals they had set forth for a humane prison and a rehabilitative plan for inmates. Outsiders, not associated with the Prison Society negatively reacted to the punishments used inside the prison when they realized what was taking place. It appeared, however, that prison officials believed that these practices, including the chair, gag, and jacket punishments, were a means to accomplish the ends of their overall penal goal, as is evident in the warden's continued use of these practices. If they had any doubts about their practices, they were not discussed in the annual public reports. The investigative committee was formed on December 6, 1834, and testimony began on December 16 and lasted until January 22,

¹⁰⁵ Ibid. December 25, 1834.

¹⁰⁶ Ibid. December 31, 1835.

1835.¹⁰⁷ The charges against the institution were severe, including "practices and manners among the officers, agents, and females, licentious and immoral," "embezzlement and misapplication of the public provisions and public property," "Cruel and unusual punishment inflicted by order of the Warden upon refractory convicts," "known practices and habits inconsistent with the object and principles of a penitentiary and its system," and "a frequent and illegal practice in the treatment of convicts by the Warden, of departing from, and in effect disregarding the sentences of the court of justice."¹⁰⁸ For the purpose of this study, the focus will be on the third official charge of cruel and unusual punishments towards inmates.

The testimony provided by employees of Eastern State Penitentiary and members of the Philadelphia Society seemed to condemn the institution and its practices of the charge of cruel and unusual punishments. Matthias Maccumsey's death offered interesting, yet disturbing reading in the testimony. Leonard Phleger, an employee of ESP, recalled his participation in the incident. He testified:

I went to the man's cell with Wm. Baen and Richard Blundin - Richard Blundin drew up a stool and told the man to sit down; he finally sat down, Blundin told him to open his mouth - he opened his mouth as wide as he could, but did not open it as wide as pleased Blundin, and he took his fist and struck him under the chin - I told him not to strike the man - he had cut his tongue with his teeth, and his mouth began to bleed - he repeated the blow, and I again told him not to do it, that he would hurt him - so the third time. While I was telling him the last time, Mr. Wood came to the wicket door, he said, 'give it to him, the rascal, give it to him pretty well.'¹⁰⁹

After this, Phleger left the cell, and returned after being called to help by other prison employees when Maccumsey was showing signs of danger for his life. By the time Phleger reentered the cell, according to the testimony, the gag was gone and Maccumsey was

¹⁰⁷ Teeters and Shearer, Cherry Hill 98.

¹⁰⁸ Teeters and Shearer, Cherry Hill 98.

¹⁰⁹ McElwee, 149.

deceased.¹¹⁰ Phleger's testimony illustrated his personal disgust at the punching that Blundin gave to Maccumsey and his attempt to revive Maccumsey. Even more condemning in the testimony was the recollection that "Before Mr. Wood left the cell, he told all the men to keep their own secrets, till he would see what course to pursue."¹¹¹ From this testimony, the warden himself knew this was not a normal situation, and one that could be highly detrimental to his reputation and that of the institution as exemplified by Wood's suggestion of secretiveness.

Phleger continued his testimony on other punishments used on prisoners, including the dark cell and straight jacket, which Phleger himself administered to prisoners.¹¹² Furthermore, Phleger testified to the making of the gag itself, stating, "I found the gag there, it was used a few days after I came. I never gave directions, to have any gag made. I was always opposed to it's [sic] use. The straps [for the tranquilizing chair] too were there when I came, I saw them used with the gag before the case of Maccumsey. I believe the straps were made to fasten men to their chairs who were not right in their mind."¹¹³ Phleger appeared to be an employee who seemed to embody the sentiments towards violent punishments that the Philadelphia Society promoted. From his testimony, he seemed to be a somewhat unwilling participant in administering these punishments, as he was morally opposed to their uses.

Other testimony on the Maccumsey incident spoke about the pain the inmate endured in the last minutes of life. Employee Silas S. Steel testified that Maccumsey was "in a wretched condition, the blood vessels of his neck appeared very much distended. I believe tears or water were falling from his eyes – he tried to speak, but I could not understand any thing [sic]

¹¹⁰ Ibid.

¹¹¹ Ibid. 150.

¹¹² Ibid. 152-153.

¹¹³ Ibid. 156.

distinctly from the pressure of the gag – I judged him to be supplicating."¹¹⁴ Steel, like Phleger returned to the cell when the commotion of the man's demise had been discovered. Steel noted, "I then put my ear to his head – went on my knees – I got up and observed that the man was gone – that the spirit had fled..Mr. Wood left us at this time, in a hurried manner, telling us 'keep your own secrets' or something similar, and 'save him if you can.'"¹¹⁵ Steel's testimony explained the extreme pain that Maccumsey endured, evidence that the punishment was anything but humane and had the potential to cause horrific deaths.

Maccumsey's death was not the only instance of painful, cruel punishment in the eyes of the committee. Others testified to a "water-ducking" incident of an inmate named Seneca Plimly. Philip Hahn, an Eastern State overseer, recalled this instance, testifying, "The last punishment I recollect inflicted on him, was by the shower-bath – he may have been in a chair used for the deranged. A rope was fastened to his hands – it was passed over the wall of the exercising yard; one would hold the rope tight, and the water was poured down on his head from off the roof of the exercising yard..This was done in very cold weather."¹¹⁶ Hahn noted that the reason for this punishment was because he dirtied himself and his cell.¹¹⁷ This explanation showed that the intention behind the punishment was not malicious but inflicted more out of a need for cleanliness and subduing. Hahn also stated that he witnessed other physical punishments, testifying, "I have known Mr. Wood to strike prisoners – No. 48 – with his hand – ordered me to get a stick that he might flog him – his open hand – we considered this boy not right in the mind."¹¹⁸ In a sense, the testimony that the prisoner had mental defects appeared to

¹¹⁴ Ibid. 158.

¹¹⁵ Ibid. 159.

¹¹⁶ Ibid. 167.

¹¹⁷ Ibid. 169.

¹¹⁸ Ibid. 171.

provide the warden with a free pass for his actions, without considering how striking prisoners violated the ideals of the Pennsylvania system.

William Griffith also mentioned physical violence towards Maccumsey before his death. Maccumsey was caught by officials climbing his exercise wall to visit with his neighbor. When the warden went to his cell to take him to the dark cell, Hahn stated, "Mr. Wood pulled the clothes off of him, and began to beat him with that board." As Wood and Griffith moved Maccumsey, "He attempted, in going across, to get the hood off his head – Mr. Wood then picked up a strip of board.and whenever Maccumsey would attempt to get the cap off, he would strike him pretty smartly over the head, shoulders, and arms, with the board."¹¹⁹

Testimony such as this clearly implicated Wood in physical punishment towards the prisoners. He seemed indifferent to the fact that he was a superintendent charged to uphold the punishment goals of the Philadelphia Society. The only reasonable explanation as to why Wood might not have seen problems with this treatment is the fact that obedience of the prisoners was crucial to getting them to rehabilitate, thus physical coercion could prod the inmate back to obedience and reflection.

Griffith also detailed the water bath incident of Seneca Plimly. In addition to the earlier testimony, he stated that "Mr. Wood's remark was that he would kill him or cure him" in regards to Plimly's habitual nature of dirtying himself and his cell.¹²⁰ The apparent vengeance in this statement questions Wood's intentions towards prisoners and their punishments. However, this same statement, with the remark to 'cure him,' also illuminates the situation as to what the process of imprisonment meant for Wood. The procedures of the Pennsylvania system and its goal of full rehabilitation of the inmates and the reduction of crime seemed to hold an attitude

¹¹⁹ Ibid. 177.

¹²⁰ Ibid. 179.

that the inmates could be 'cured' of their criminal ways. Wood's statement of curing Plimly of his bad habits could be viewed as a part of this overall process that the Prison Society promoted.

The testimony of Society members illustrated their defense of the Pennsylvania system and its emphasis on efficacy and humanity. Judge Charles Coxe, one time president of the society, testified that he asked to see the gag and said to Richard Blundin, "that such an instrument should not be used without the authority of the physician - .I saw the body of a man, on whom it was alleged the gag had been used, after his death - I asked for the gag, and was told it had been thrown away."¹²¹ Coxe's testimony illuminated the concern of certain Society members in using of such an instrument, and the comment that it had been discarded after its use had resulted in a death indicated that prison officials might have had an idea that this punishment was more severe than would have been accepted by members of the Society.

Interestingly, Dr. Bache's testimony on punishments was rather 'removed' from the actual occurrences. Bache was prison physician beginning in 1829 when the institution opened. He noted that he never directed the use of the water ducking or gag punishments on prisoners, as he did not believe officials had to confer with him whether they should use punishments on inmates. He did note that he suggested an improvement to the gag to make it more efficient, and sometimes dealt with the insanity cases by directing the use of the straight-jacket, dark cell, and suggested that the tranquilizing chair be built to Dr. Benjamin Rush's specifications.¹²² Interestingly, the dark cell, jacket, and chair were viewed as more medical prescriptions as opposed to vengeful punishments. Since a medical physician considered these actions therapeutic, it seemed they were not deemed cruel. Bache denied having directed the other

¹²¹ Ibid. 186.

¹²² Ibid. 249-252.

punishments of water ducking and gag, alluding to the idea that the lack of medical necessity for these made them less humane.

These excerpts from the legislative testimony raise some interesting issues, especially regarding the role of Wood in the application of these punishments. On more than one occasion, employees testified to Wood's physical violence towards inmates and comments of killing, curing, and keeping secrets, which makes one question his personal intentions towards the inmates. Additionally, it is possible that Wood's Quaker beliefs and his commitment to the principles of the Philadelphia Society lost their influence as the years progressed. The emergence of the darker side of good intentions is evident in the development of Wood's career in the Pennsylvania penitentiary system. Wood, in essence, embodied the problems investigated by state government. He was complicit in the cruel practices and appeared to do nothing to stop it, even though he would have been aware of the negative effects these actions could have on his reputation and that of the institution. The investigation symbolized the early ideological failure of the institution, the devolvement to using cruel punishments in order to subdue prisoners to further the goal of rehabilitation. It seemed as though society members and officials like Wood may have so desperately wanted their institution to succeed that the means to make the penitentiary successful did not matter much, even though to outsiders the practices stood in clear violation of the institution's principles.

In the Journal of the Joint Committee, the records of their daily resolutions and actions, an emphasis on understanding the punishments used emerged. On December 18, 1834, it was "Resolved, That the warden be and he is hereby required to produce to the committee, the instrument called a gag, with which Maccumsey was gagged, and the straight jacket of No. 04, and any and every other instrument of punishment, if any, that may be made use of in the prison,

under the charge of the said warden."¹²³ Four days later on December 22, the journal recorded that "the warden being called upon to produce the gag that was put on Maccumsey, states, that he has made a diligent search for it, but that the same cannot now be found: he has therefore caused to be made a similar instrument, and now produces the same."¹²⁴ This evidence corroborated the testimony of employees stating that the gag had been discarded, and it implied the secretive nature of the warden and his workers towards the situation, making it appear that they had some idea of the danger involved with the gag. Furthermore, one has to question whether the replacement gag was actually identical to the one used on Maccumsey, as the replacement might not have been as dangerous as the original, thus coloring the committee's view of the instrument.

After the investigation had been completed, the majority and minority groups wrote their opinions on the findings and read them to the state legislature on March 26, 1835, and the report of the majority was printed in a public newspaper on April 25, 1835.¹²⁵ The majority opinion found the institution not guilty of the charges of cruel and unusual punishments, even after the testimony given and evidence of death in the case of Maccumsey. In essence, the majority report, written by Charles Penrose of Delaware County, explained away the use of cruel punishments, writing, "It must be remembered, that although our penitentiary system has for one of its objects the reformation of the convict, that its unfortunate inmates are men of idle habits, vicious propensities, and depraved passions. Requiring as it does that these habits should be changed, these propensities checked, and passions subdued, before the work of reformation can be commenced, it is plain that the first step is to produce obedience."¹²⁶ These observations explained how these cruel and painful punishments fit into the humane and benevolent system

¹²³ Ibid. 81.

¹²⁴ Ibid. 85.

¹²⁵ Date of reading in legislature found in McElwee, 29. Public printing, in Hazard's Register of Pennsylvania April 25, 1835.

¹²⁶ Ibid. 41.

set forth by the Philadelphia Society. The system did not necessitate that these punishments cause pain, rather the purpose was to render the inmates uncomfortable so they would not repeat the offenses in prison and to calm their minds and bodies so they could return to the rehabilitation procedure of the separate system.

Regarding the two specific punishments of the water bath and the gag, the majority report noted that these were acceptable punishments. With the water bath, "Thirteen buckets of cold water were in that case poured out on one patient in cold weather. It was intended to cure him of filthy habits, and it effected it."¹²⁷ Because it seemed that the cold water worked to effect the change the officials wanted, thus allowing the prisoner to go back to his reformation, the punishment was not torturous. In the case of the gag, the report noted that "it was in full proof that the use of the gag as a means of punishment, was not unusual" because it had been used before in other settings without incident. The report continued, "It was not therefore an 'unusual punishment,' and it may be inferred from this, that it had not been considered a cruel punishment."¹²⁸ Beyond the fact that the punishment was not cruel, the report noted that in the post mortem examination of the brain of Maccumsey, the "dissection of his head disclosed very clearly that he died of a disease of the brain" as opposed to the use of the gag.¹²⁹ In conclusion, the committee fully dismissed "the consideration of this grave charge, with a full acquittal of the persons implicated from all criminal intention of their part in reference to it. The committee however are of opinion that there was great propriety on the part of the Warden in discontinuing the use of this instrument [the gag]" as it was too severe.¹³⁰ By acquitting Wood and his employees, and by extension the institution of any cruelty, the practices taken by the employees

¹²⁷ Ibid. 42.

¹²⁸ Ibid. 43.

¹²⁹ Ibid.

¹³⁰ Ibid. 44.

seemed to be approved of in relation to the wider goal of rehabilitation. The report concluded that "the committee cannot refrain from expressing their high admiration for the institution" and that the state of Pennsylvania holds "the honor of having been first to suggest this benevolent system, which she has carried to greater perfection than any other government."¹³¹

The minority report was not as kind to the institution in its punishment practices. Thomas McElwee wrote the minority opinion, and stated that "the second charge [the charge of cruel and unusual punishments] was established to a frightful extent. It appears that the punishments inflicted on refractory convicts, were a deprivation of sufficient food to sustain life, and the application of the gag."¹³² McElwee also wrote that "the 'straight jacket' and 'mad chair,' were instruments of restraint, torturous and unlawful, but seldom used."¹³³ He did not see the punishments as necessary to evoke obedience as Penrose did, but they were frightful, excessive, and torturous to the inmates on which they were inflicted. To McElwee, the punishments had little relation to the rehabilitative model of the Pennsylvania system. McElwee also stated that the warden and his employees had no authority to punish these inmates as these punishments were not part of the initial sentence declared by the court. The prison officials were out of line to use these instruments of punishment on inmates and took power into their own hands.¹³⁴

McElwee also criticized the majority report, saying about the full acquittal of cruelty charges, "If this is not white-washing to some purpose, I have yet to learn the meaning of this term." He continued the blunt tone in discussing the gag: "The unvarnished truth is this: the gag was put on Maccumsey by the order of the warden – he died by reason of the application – the punishment

¹³¹ Ibid. 58.

¹³² Ibid. 108.

¹³³ Ibid. 109.

¹³⁴ Ibid. 111.

was unlawful, and therefore he was murdered."¹³⁵ Such severe criticism illustrated McElwee's disgust at not only the actions of the warden and employees, but also at the complicity of the majority committee in letting the practices stand without punishing those who inflicted the punishments on inmates.

McElwee worked very hard to publish all of the information of the committee so the public could be aware of the practices of the penitentiary. The majority report was printed in full for the public in Hazard's Register of Pennsylvania on April 25, 1835. However, this was only one side of the findings. McElwee compiled all the documents and wrote an introduction discussing the punishments used by Eastern State and published a full book length document regarding the investigation. McElwee saw serious flaws in the penitentiary, and it seemed that he hoped to rectify the situation by publicizing the divergence between the practices and the punishment theories touted by the Philadelphia Society.

It is important to consider the ramifications of the outcome of the investigation on the employees, the institution, and the public. Even though the warden and his employees were acquitted of charges, the shadow of the investigation lingered, and Wood resigned five years later in 1840. Several of the practices towards the prisoners were altered as a result of the investigation, although the use of the dark cell and reduced rations were continued.¹³⁶ The publicity generated by the investigation made the institution more aware of the care they needed to take in their practices, as now the state population knew of its early abuses.

What does the investigation say about the relative success or failure of the penitentiary in fulfilling the goals of the Philadelphia Society? The acquittal and majority report made it clear that the actions taken were more for obedience, which was clearly an important aspect of the

¹³⁵ Ibid. 130.

¹³⁶ William C. Kashatus, "Punishment, Penitence and Reform: Eastern State Penitentiary and the Controversy over Solitary Confinement," *Pennsylvania Heritage*, 25, no. 1 (1999): 37.

Pennsylvania system. By not finding the employees guilty, the state essentially declared that the actions were necessary in order to rehabilitate the inmates. In one sense, weathering the storm of the investigation bolstered the Pennsylvania system and speaks to its admirable traits and goals to reform criminals. While some might say that the employees did not have to go to the extreme lengths they did to punish inmates before the investigation, they did what they were told to do by their superiors. For those high in the ranks of prison officials, like Wood and the inspectors, the overall emphasis on the process of obedience, reflection, and reform was what mattered as this would prove the superiority of the Pennsylvania system. It appeared that the means to evoking this obedience mattered not. By dismissing the charges, Eastern State could continue its experiment in reform, albeit with a more careful approach to its treatment of inmates.

While the investigation certainly called into question the practices of the officials and forced them to be more careful and ethical in their treatment of prisoners, the dismissal of the charges in the investigation, seemed to refute any malicious intent on the part of officials. Instead, the punishments to subdue prisoners, although seemingly in direct violation of the reformers' emphasis on humanity, acted as a way to create obedience in refractory inmates and help them to get back on the path to full reformation. To the officials, their practices towards inmates were part of the overall good intentions to rehabilitate criminals in order to return them to society. While the development of the Pennsylvania system seemed to have a new and strong plan for punishment and rehabilitation, the reformers' idealistic goals for the institution were exceedingly difficult to execute as the penitentiary housed incorrigible inmates that were most likely going to resist the silence and isolation required. The quick devolvement into cruel punishments resulting in the investigation illustrated the difficulty in fulfilling all aspects of the reformers' goals, as officials had to figure out how to return these refractory inmates to the

process of solitude and reflection in order to reach a rehabilitated state. The reformers' dedication to the superiority of the Pennsylvania system clearly overshadowed the sometimes unethical and painful treatment of inmates that was enacted for the greater cause of humane punishment and rehabilitation.

Interestingly enough, the investigation of 1834-1835 did not end the abuses within the walls of Eastern State. In 1897, another legislative investigation convened to examine the filthy appearance of the prison, an inferior diet of inmates, and "an attitude of indifference if not cruelty toward some of the inmates, especially those who were insane."¹³⁷ Once again, the prison was exonerated of any guilt, and Eastern State continued its practices of total isolation and silence until 1913, when the system was repealed.¹³⁸ The lessons from the first investigation appeared to be lost on the newer generations of prison officials; and the echoes of the cries of pain and resistance from those early inmates of the 1830s haunted the penitentiary at the end of the century as similar abuses towards prisoners persisted at Eastern State Penitentiary.

¹³⁷ Teeters and Shearer, *Cherry Hill*, 108.

¹³⁸ *Ibid.* 109, 222.

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