

Federal Probation

- Are Probation and Parole Officers Liable for Injuries
Caused by Probationers and Parolees? *Richard D. Sluder*
Rolando V. del Carmen
- The Influence of Probation Recommendations on
Sentencing Decisions and Their Predictive Accuracy *Curtis Campbell*
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This Issue in Brief

ACQUISITIONS

Are Probation and Parole Officers Liable for Injuries Caused by Probationers and Parolees?—The number of offenders on probation and parole has risen; inevitably some offenders will commit other crimes during their terms of supervision. A growing concern for probation and parole officers is whether they can be held civilly liable for injuries caused by probationers and parolees under their supervision. While case law in this area is still developing, there are enough cases to indicate when an officer might be held liable. Authors Richard D. Sluder and Rolando V. del Carmen provide a categorization of decided cases and sketch a broad outline of when officer liability might ensue.

The Influence of Probation Recommendations on Sentencing Decisions and Their Predictive Accuracy.—Using data on all serious cases concluded in 1 year in an Iowa judicial district, authors Curtis Campbell, Candace McCoy, and Chimezie A.B. Osigweh, Yg. explore the disjuncture between sentencing recommendations made by the probation department and sentences actually imposed by judges. While probation personnel and the judiciary usually agreed on appropriate dispositions for first-time offenders, they strongly disagreed on recidivists' sentences. Probation officers recommended incarceration for recidivists almost twice as often as judges imposed it.

Home Confinement and the Use of Electronic Monitoring With Federal Parolees.—Authors James L. Beck, Jody Klein-Saffran, and Harold B. Wooten evaluate a recent Federal initiative examining the feasibility of electronically monitoring Federal parolees. Although technical problems were experienced with the equipment, the authors conclude that the project was an effective way of enforcing a curfew and supervising the offender in the community. The success of the project has served as a foundation for expansion of home confinement with electronic monitor-

ing in 12 Federal districts.

Twelve Steps to Sobriety: Probation Officers "Working the Program."—Working with chemically dependent offenders is indisputably a challenge of the new decade. Addiction treatment is complex and, by its very nature, engenders phi-

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The Female Prisoner in Ireland, 1855-1878*

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THE FIGURE of the prisoner has always been a powerful symbol in Ireland's music, literature, and history. Most often the image created was that of a political prisoner, a rebel against or a victim of English control. Whether transported felon, Fenian convict, or IRA hunger-striker, that figure has been almost always male. But it is possible to learn a great deal about ordinary, as opposed to political, prisoners incarcerated in Ireland's 19th-century bridewells, gaols, and convict prisons. Much of the information comes from published official records, annual reports of the inspectors-general of Irish prisons or the directors of convict prisons; but discussions of male prisoners dominate these records, as well. However, each year hundreds of Irishwomen served sentences in the convict prisons, and thousands were committed to local county and borough gaols or prisons. The following outlines the prison treatment those women received and, to a lesser extent, their backgrounds or collective profiles.

The choice of the year 1855 as a beginning is not an arbitrary one. In 1853 and again in 1857, Parliament voted to end transportation to the colonies. Although transportation continued sporadically until the 1867 exile of the Fenians, transportation of Irish women ended in 1853. To deal with convicts at home, the Government in 1854 created the Irish Directors of Convict Prisons. The mid-1850's also saw reorganizations of the police and the methods of keeping criminal statistics. The Summary Jurisdiction Act of 1855 changed how many petty crimes were handled. Alterations in the courts and the police obviously affected the nature and number of prison inmates. Lastly, the year 1855 was some 10 years after the onset of the Great Famine, which overburdened every public institution in Ireland, including local gaols and to a lesser extent its convict prisons. By 1855 the effects of the Famine, while still remembered, were no longer so keenly

felt.

In the mid-19th century, local prisons, especially the smaller bridewells, had virtually no prisoner classification or training programs, rudimentary schooling, and untrained staffs. Existing school and work programs were aimed at the male populations. All too often, even the two sexes were mixed together and poorly supervised. Such practices led to harsher imprisonments for women than for men. An effort to improve this treatment of women was one of the chief motivations behind the creation in 1877/78 of a centralized prison system under the General Prisons Board. By contrast, for much of the 1850's and 1860's Ireland's convict prisons were the model for reformers worldwide. But by the late 1860's, with some of the innovators gone, the convict prisons' problems became more apparent. Among those problems were the housing and training of female convicts. And convict prisons were incorporated into the centralized system as well.

Introduction

Who were the women imprisoned in Irish gaols and prisons between 1855 and 1878? There is a paucity of information about Irish women in general. Only certain types of Irish women have been featured in previous historical studies: prodigious figures from Ireland's mythic past, self-sacrificing nuns, pioneering nurses, artists and novelists of some note and/or scandal, and political figures attached to revolutionary or protest movements and to the late-blooming feminist movement.¹ Very few of these Irish women became political prisoners, with the exceptions of scattered arsonist-protestors, Lady Land Leaguers, militant suffragettes, and Easter rebel Countess Markievicz.² Irish political movements, whether open protests or secret societies, have been controlled by men.³ Without the educated, articulate voices of female political prisoners, historians must rely on prison officials, penal reformers, and general commentators for descriptions of female life in prison and attitudes toward female criminality.

Generally the female criminal was judged against 19th-century middle-class standards of female morality, encapsulated in "the cult of the

*The author wishes to thank the National Endowment for the Humanities for the opportunity to participate in two NEH Summer Seminars for College Teachers. She particularly wants to thank the directors of those seminars, Dr. Victor Brombert and Dr. Lawrence Rosen, both of Princeton University.

true womanhood," whose hallmarks were piety, purity, domesticity, and submissiveness.⁴ Having failed in all four categories, the female criminal was seen as particularly loathesome and dangerous.⁵ In a typical article of the time, English-woman M.E. Owen described female criminals as worse than the lowest poor and worse than male criminals because of female immorality, lying, drunkenness, ignorance, slovenliness, and stubbornness.⁶ Coming from the greater heights of having been born women, female criminals fell to greater depths and deserved harsh punishment. Moreover, it was argued that as wives and mothers, they spread their contagion to family members through example and even inheritance.

As with other stereotypes, the 19th-century image of female criminals was self-contradictory. Supposedly women, less violent and less aggressive than men, committed fewer offenses, and blame rested with a momentary emotional weakness or evil male influence.⁷ Some authors, including harsh critics such as Owen, were forced to admit that poverty, overcrowding, disease, unemployment, and urban life were factors in female criminality. It was also noted at the time that certain laws were differentially applied; for example, the prostitutes were tried while their clients went free. The law, failing to protect women, might well have been broken by the more desperate.⁸ Put another way, since partial blame for female criminality lay elsewhere, women were considered more redeemable than men because rarely did they totally abandon their female natures.

As early as the mid-18th century, Irish penal legislation had outlined differential treatment for women, including their separation from male prisoners and their supervision by female warders. Even these basic conditions were difficult to enforce. "Throughout the eighteenth century most Irish prisons were rude democracies of duress," offering women the dubious privilege of equality.⁹ There were many horror stories of typhoid epidemics, chained prisoners begging for food in the streets, and violence committed by prisoners upon each other and their gaolers. But the typical prison lacked such drama in its everyday life. Male and female prisoners alike had to contend with inadequate drainage, non-existent or poorly maintained fireplaces, insufficient lighting and ventilation, burgeoning populations of rats and bugs, haphazard medical care, and other problems.

Many of these problems continued into the early 19th-century, both in local gaols owned by

the grand juries and in state-run convict prisons where men and women awaited transportation to the colonies. For example, in 1809 a commission reporting mainly on Dublin prisons singled out Newgate, calling it "a disgrace to this metropolis":

We found the cells throughout the Prison destitute of bedsteads, beds, or bedding. The prisoners lie upon straw laid on the flags, and under scanty allowance of blankets, particularly on the female side of the prison. The persons of the prisoners and the cells themselves, were extremely filthy, nor does it seem possible that it can be otherwise, under the circumstances already described.¹⁰

Prison reformer Elizabeth Fry found conditions little changed when she visited Newgate in 1827 and again in 1834.¹¹ One of Fry's most ardent Irish followers was Anne Jane Carlile, who became so discouraged by what she saw in prisons and the prisoners themselves that she turned to temperance reform in hopes of eliminating one of the causes of crime.¹²

Parliament had already been working on the question in 1810 when it launched a series of bills outlining higher, more nearly uniform standards, and a greater role of the state in the approval of building sites and the removal of unfit officers. In 1822 with 3 Geo. 4, ch. 6, the Lord Lieutenant was allowed to appoint two inspectors-general, who began their work 13 years before comparable English and Scottish officials.

Interested in many aspects of the female prisoners' lives, the inspectors-general early concentrated on urging the appointment of educated, adequately paid matrons and female warders, without whom: "a large class of the most unfortunate, and in many instances easily reclaimable females are deprived of their opportunities of instruction and appointed means of reformation, which are not only demanded for them on every ground of humanity but are their *legal rights*."¹³ In 1837 the inspectors-general reported with pride the opening of Grangegorman as a convict depot, with a matron chosen by Mrs. Fry: "Such an extensive Penitentiary for the exclusive reception of females, and governed by female officers, is a *new experiment*."¹⁴ Responsibility for security and expenditures rested with a male governor. The inspectors-general also encouraged female visitors, who by their diligence and "the kindness and countenance of persons of rank and refinement" produced reformed prisoners and efficient staff members.¹⁵

Irish Local Gaols and Bridewells, 1855-1878

During the late 1840's and the early 1850's, famine, the concomitant rise in crime, and the virtual end of transportation to the Australian

colonies overburdened Ireland's local gaols and convict prisons. Local gaols, the major prisons within counties or large cities, and bridewells, secondary prisons housing persons awaiting trial or convicted of very minor offenses, remained under the control of grand juries and the supervision of the inspectors-general.¹⁶ While their regulatory functions of the inspectors-general were strengthened somewhat over the years, actual administration of these institutions was in the hands of local boards of superintendence, selected by county grand juries. For example, the Clare grand jury controlled the Ennis County Gaol:

There were 25 male and 16 female prisoners in the Ennis county gaol on 14 June, 1856. 'All the males sleep in single cells, where they take their meals, during the hours of industrial labour, they work in stalls, stone breaking being carried on apart by placing those engaged in it back to front at wide intervals so as to prevent intercourse. The females are divided into three classes, the convicts and the lunatics constituting two, while the third is almost subject to complete separation. All the prisoners of this sex occupy single cells, except those of the lunatics who require unremitting attendance and supervision.' At this stage, the gaol had 103 single cells for men and 12 for women. Each cell was not less than nine feet long, six feet wide and eight feet high. It had eight male and two female wards, yards, nine day rooms, four hospital rooms, eleven pumps and wells, four workshops, and one treadmill.¹⁷

The conditions at the Ennis County Gaol, while woefully inadequate, were generally assumed to be better than those in many other Irish gaols. The boards of superintendence appointed local inspectors, on whose information the inspectors-general had to rely between their own annual visits. Even more importantly, these boards determined yearly expenditures. Faced with inadequate facilities, a visiting inspector-general could cajole, suggest, argue, but not force immediate adherence to the minimal statutory standards. For many years the inspectors-general used their annual reports to list their complaints about local non-compliance and about Parliament's failure to act on those complaints.¹⁸

In relation to female prisoners, the chief problems of local prisons concerned the numbers committed in relation to cell accommodations; the types of offenders; recidivism; and inadequate staffing, supervision, work programs, and general conditions, particularly in the smaller bridewells:

The females, though numerically decreased [since the famine], continue to increase in their relative proportion to the males, and bid fair soon to compose a full half of the aggregate of the criminal population, unless some steps be taken to apply to them the deterrent and reformatory action which is producing such desirable effects upon the other sex. It has frequently been stated in the General Reports—and a reference to the reports upon the several gaols, in this and other years, will confirm the statement—that in the majority of gaols the accommodation for females is lamentably inadequate, not only for the application of improved prison-discipline and employment but even

for ordinary and legal classification, and in some cases for health. The consequence is unrestricted association, and its concomitant moral corruption; it is, moreover, impossible to inflict upon females the same hard and irksome labour as males, and therefore, from these causes combined, ordinary prisons have few terrors for the depraved of this sex.¹⁹

Numbers of women equalled and sometimes exceeded those of men for certain crimes such as vagrancy, drunkenness, and breaches of the Poor Law Acts.²⁰ In 1855, females made up 45 percent of the total committals, and by the next year they rose to 47.1 percent, the highest for the time period under discussion. The median figure was 42.3 percent, but during the years 1870 to 1877 the percentage did not go above 40. Therefore, in the 1850's and 1860's the female gaol population exceeded gaol capacity: "...in the majority of our gaols the department assigned to prisoners of this sex rarely contains one third of the entire accommodation."²¹

Faced with this influx, gaol officials either ignored the statutory requirements about offender and/or sex classification, or they found themselves having to alter gaol operation, sometimes on a day-to-day basis depending on the sex of those committed under short sentences. In addition to the overcrowding and harmful association: "...the inadequacy of the staff of female officers renders the maintenance of stringent discipline impossible; and the absence in all but too many instances of efficient educational instruction permits the prisoner to leave the gaol as ignorant as she entered it."²² Work programs were non-existent or tied to the cleaning, cooking, and laundry needs.

The females in local prisons formed a varied population. Some were violent offenders awaiting trial or serving short sentences for street brawls or domestic fights.²³ The more troublesome were those who were actually violent within the institutions.

At the time of my visit I found two young women of very violent tempers in solitary and in irons, one of whom was sentenced by a magistrate to fourteen days solitary. I laid my views on this subject before the Board and Governor at the time, and I trust that it has not since been considered necessary to use such severe measures towards prisoners of this sex. They were city prisoners of very depraved habits, and at times hardly responsible for their actions, and most difficult to control, but nevertheless I am of opinion that every expedient would be used before having recourse to keeping a female in handcuffs, except for a few hours.²⁴

The most violent women were largely the mentally ill and the alcoholic. Many insane persons were sent to gaols, mainly on remand awaiting disposition of their cases. Their presence hindered their own possible treatment and disrupted gaol routine and discipline. Insane prisoners presented health problems the gaols were ill-equipped to

handle. The chronically understaffed gaols had to use other prisoners as nurses, "criminals convicted of homicides, burglaries, and brutal assaults, who are bribed by a remission of their punishments to take charge of patients frequently unable to complain of any ill-treatment, which they may undergo."²⁵ These criminal nurses had to be given more food than their regulation diet, so that they would not steal their charges' meals. The inspectors-general hoped that the 1867 act on the placement of lunatics (30 & 31 Vict., ch. 118) would see an end to this problem, but judges ignored its provisions and continued to send lunatics for temporary confinement.

Another class of prisoners, debtors, also called for special treatment and caused problems for gaol authorities. A debtor received special diet, clothing, and recreation and supposedly was totally separated from other classes of prisoners. In many small gaols such separation proved impossible, especially for the handful of female debtors each gaol might receive. Although the number of imprisoned debtors had declined from earlier centuries, imprisonment for debt continued until 1872, when, with certain exceptions, it was abolished.

Female juveniles continued to be held in gaols, despite the growing awareness of juvenile delinquency both as a social ill and crime classification and despite the establishment of various reformatories and industrial schools.²⁶ One inspector-general reported that he found:

... an inmate of a separate cell in the gaol, a little barefooted child stated to be eleven years of age, but apparently not so old, under two sentences of imprisonment of seven days each for assaults. She is, I was informed, daughter of a blind man who travels about the country with his wife, and this girl, his daughter, selling baskets. Feeling as I did that it was almost a burlesque of justice to lock up in a solitary cell in a separate prison for fourteen days so young a female child, for assaults on adults (as it was stated), and having been discharged from the gaol, I suggested that the child be sent to an industrial school, more especially as she appeared very intelligent.²⁷

The scene and the child's background were repeated many times in Irish prisons; unfortunately the outcome was not. Young children, sometimes under the age of 10, continued to be sent to gaols and remain there. The numbers of juveniles admittedly fell over the course of the time period, as generally did the overall number of female admittances.

The inspectors-general switched their attention from sheer numbers to the level of female recidivism: "... females are much more prone to recur in the gaols than the males; in other words, that a greater proportion of them are habitual offenders, hardened in vice, criminal by profession, and

undeterred by frequent imprisonment."²⁸ Here, female depravity, when it existed, was judged worse than male depravity. The inspectors-general, beginning in 1864, included in their annual reports tables showing levels of high recidivism, tables which women dominated. A handful of women were recommitted more than 300 times during a single year.

The inspectors-general and others realized that more than the decadent nature of female offenders created this statistical picture. The women tended to be convicted of lesser crimes such as vagrancy, drunkenness, and prostitution²⁹ which involved short sentences. With less time in prison, there was less time for reformation. Moreover, the highest levels of recidivism were created by a small number "recommitted month after month, and year after year, occupy[ing] the gaols of the country, some spending eight, nine, and ten months of the year in prison, and occasionally recommitted within a few days, or perhaps a few hours, after being discharged from a previous imprisonment."³⁰ It was clear that economic conditions and an unsettled political climate affected the rise and fall of prison populations.³¹ Moreover, the released female prisoners had greater difficulties in finding jobs than their male counterparts, because of the types of jobs available and public distrust of female ex-prisoners:

The greater proneness to recurrence among females is, doubtless, to be attributed chiefly to the condition of their sex, but partly to the inferior means of accommodation, and consequently of corrective administration, which are provided for them in our prisons. Among males, a large portion of our criminals is derived from offenses arising out of political and sectarian feuds, faction-fights, and quarrels at fairs and markets, under the excitement of intoxication. Such offenses do not argue any very low degree of moral depravity; nor are the perpetrators, when discharged from gaol, debarred from restoration to their ordinary station in the community, and from the resumption of the usual occupations. But females, who have once fallen into habits of drunkenness and unchastity, are driven to desperation, by finding the almost insuperable difficulties, which prevent their retrieving their former position, and thus sink lower and lower in the social scale, till they become thoroughly unsexed and brutalized, and callous to the imperfect machinery of deterrent and reformatory discipline, which is brought to bear upon them.³²

Although the prisons had their faults, the officials lay the chief blame with the women themselves. The female recidivist became a scapegoat for continuing administrative failures. As Patricia O'Brien points out, it is all the more ironic that the system with its record-keeping, technology, and bureaucracy created the phenomenon of recidivism.³³

Beyond the question of recidivism, the statistical profile of the female inmate population contains little surprising information. Literacy rates

for the women changed marginally over the time period. By very inaccurate measures or broad categories, half the female committed were found to be illiterate, while about a third of the men were. Over the years the number of women who could read and write rose from 15 to 25 percent. National education seems to have shifted some from the "read and write imperfectly" category to the literate level.³⁴ Nineteenth century administrators bemoaned the 50 percent illiteracy rate of women, and that emphasis is understandable. But they made illiteracy part of a simplistic causal model: "ignorance caused idleness, intemperance, and improvidence, which resulted in crime and poverty."³⁵

Nineteenth century stereotypes equated being Irish and being Catholic with being crime-prone, if not crime-active.³⁶ Several prisoner characteristics were crosstabbed with religion in the official reports made in sectarian Ireland. But basically the percentage breakdown of religious groups into Protestants, Presbyterians, Roman Catholics, and "not ascertained" remained the same throughout the time period. Ireland's crime could not be explained by pointing a finger solely at Catholics.

All the problems above associated with county gaols were more severe in the smaller bridewells. In the annual report for 1866, the inspectors-general included a description of Woodford Bridewell, which exemplified the worst of its type, yet was not closed until 5 years after the report:

Woodford Bridewell consists of one cell for each sex, and a very small apartment for the keeper; there is but one privy for both sexes and one yard where they could exercise, but so insecure that prisoners if permitted to remain in it could without difficulty escape. The building is in wretched repair; the roof admits the wet, the wood-work is rotten, the glass of the windows is broken, and has been for a long time; the lock of the front door is out of order and useless, so that the outside door of the bridewell cannot be locked day or night; it has not even a bolt, but at night the latch is removed from the outside to prevent strangers from entering. The lower cell is so damp as to be unfit for human habitation. When inspected in September no bedding was in that cell, because, as the keeper said, it would rot if left there. The bedding is not sufficient even for the scanty accommodation which the bridewell affords, and there are no vessels for the use of prisoners should any be committed to it. There is no water of the premises, and the sewerage is defective.³⁷

Such conditions made separation, sanitation, and security impossible and immorality probable:

... *indiscriminately*, all persons, under accusations of whatever degree, from the hungry boy, who has stolen a turnip, to the hardened and irreclaimable veterans in crime, to burglar and the murderer; and from the young and untainted female apprentice, who, in a moment of impatience, has fled from her service, to the unsexed and brutalized wretch, in whom drunkard, thief, and prostitute are united.³⁸

Male and female populations were locked up to-

gether or had to move through each other's quarters during the course of ordinary daily affairs.³⁹ The immorality all too often included the male keepers of bridewells:

Many of the keepers are single men, and in such cases it is impossible to overstate the moral evil, which is then created, and almost invited, when we consider, that in remote districts, where the detention takes for longer periods, and where the supervision is necessarily infrequent, women of the most profligate character are brought into constant and unchecked contact, during perhaps a month, with an officer in the prime of his life, or what is worse, young and comparatively innocent girls are exposed to the danger of his solicitations.⁴⁰

Many bridewells did not have female staff. If the keepers were married, their wives often served as matrons and maintained their households on the premises, thereby exposing their own children to criminal influences and the diseases which haunted most bridewells with their inadequate drainage and sewerage. Moreover, those wives were "scarcely even qualified for duties which require antecedent training."⁴¹

With local boards averse to the expenditures of new construction or even major repairs, the inspectors-general looked elsewhere in hopes of solving their problems, including the uncertain treatment of female prisoners. Their major aim was consolidation, the elimination of the smaller, infrequently used structures, in favor of transfer to certain existing prisons with adequate safety, security, and sexual segregation. There discipline, labor, diet, and other aspects of confinement could more easily meet the statutory requirements. In the short run, with the elimination of gaols and staff members, expenses would decline. With fewer positions to fill, the boards supposedly could be more selective, particularly in their choices of female warders, held to be more influential with their charges than the custodially oriented male warders. Medical care, education, and over-all administration would be improved. In the long run, these efficiently run gaols would reduce the number of committals, producing further cut-backs in expenses and denoting a safer society. The inspectors-general, it should be noted, were not above using the drama of the female recidivist or the prisoner-keeper tryst (rape) to attract support for their plans in Victorian Britain. Nonetheless, the conditions they outlined were probably true; if anything, the severity and the pervasiveness were understated. But the inspectors-general had to urge their consolidation plans for more than a decade before centralization actually took place.

Female Convict Prisons, 1855-1878

Early in the history of transportation, Irish

authorities collected convicts in Dublin and Cork prisons first for transfer to prison hulks in the Cork harbor and later for transportation to the colonies. The hulks, demasted ships, at Cork proved unmanageable by 1836, and the convicts were then moved for collection to two Dublin prisons, Kilmainham and Grangegorman, where the Government-appointed superintendent of convicts supervised their confinement. By the 1850's the Australian colonies grew more reluctant to accept these criminal castaways.⁴² The Government had to find alternatives, namely convict prisons with greater security and better suited long-term sentences. The Penal Servitude Act of 1853 allowed the substitution of penal servitude for certain terms of transportation, and a related measure in 1857 lengthened the minimum sentence.

Struggling to deal with Irish convicts at home, the Lord Lieutenant appointed an inquiry commission in 1854 to investigate convict prisons, including Dublin's newly built Mountjoy. The commissioners were Captain (afterwards Sir) Walter Crofton, a Wiltshire magistrate and officer in the Royal Artillery; Captain Charles R. Knight, governor of England's Portsmouth Prison; J. Corry Connellan, an inspector-general of Irish gaols; and Captain H.D. Harness, a member of the Irish Board of Public Works. Their investigation found the convict prisons crowded and lax in discipline and labor. The commissioners suggested moveable iron barracks to relieve the congestion and the purchase of agricultural land for better utilization of available labor and skills. The Government adopted not only much of the commission's report, but also two of its members. Crofton and Knight became two of the first three directors of convict prisons, along with J.F.O. Lentaigne, governor of Richmond Lunatic Asylum and a proponent of industrial schools. Crofton, as chairman, began to fashion the Irish or Crofton system, a reformatory penal discipline which had its roots in transportation.⁴³

One of the rationalizations for transportation had long been that both colony and convict benefited, each improved by contact with the other. The forced removal from one's homeland ensured the deterrent aspect, and the shock it produced then opened the way for the acceptance of a new land's laws. Although many colonial officials had not ignored the reformatory aspects of transportation, the foremost exponent was Alexander Macanochie, who became superintendent of Norfolk Island off the Australian coast in 1840 and instituted a mark system. Groups of six prisoners

could accumulate by their general conduct and diligent labor enough marks to shorten their sentences.⁴⁴

At the same time British officials struggled at home to find a substitute for transportation. The architect, both literally and figuratively, of the English alternative was (afterwards Sir) Joshua Jebb. As surveyor-general and after 1850 as chairman of the board of convict prisons, Jebb worked out a three-stage prison system. A prisoner sentenced to penal servitude spent the first 9 months in separate confinement in England at Pentonville Prison, which Jebb had helped design. The individual cells, partitioned chapels, and other features hopefully cut off all contact between prisoners, leaving them open to the uplifting influences of the staff. Following that period, the prisoners moved on to a public works prison, the first being Portland which Jebb designed. Working in groups, but under a rule of silence, they could progress through three stages, each carrying better gratuities and privileges. For any prisoner whose conduct merited it there was a final stage, a probationary period which lasted for the time remaining in the prisoner's sentence. Traditionally convicts had spent this stage in the colonies, but by the 1860's almost all were released at home on tickets-of-leave or parole. Female convicts followed a similar, though less complicated and usually less lengthy, pattern to serve out their sentences.

The Irish system offered two innovations or variations on the above described English system, namely an intermediate stage and police supervision during the conditional release. The directors of convict prisons, and Crofton in particular, adopted an elaborate number of steps through which a male convict could pass. After eight or more months of separate confinement at Mountjoy, at least half of that period on reduced diet and engaged in monotonous oakum picking, male convicts went to the public works prison on Spike Island where they worked under the Royal Engineers or at Philipstown (closed in 1862) or Mountjoy where they pursued their trades. During this associated labor they could earn marks for discipline, industry in school, and industry at work and could progress through four stages, the last being an "A" or advanced stage when the convicts associated only with others who had merited this distinction. With the requisite number of marks earned in this stage, the minimum based on the original sentence's severity, the prisoners went to Dublin's Smithfield Prison to engage in a trade or to Lusk Prison, an agricul-

tural training center 15 miles outside of Dublin. The germinal idea for Lusk had been growing in Crofton's mind as early as his inquiry of 1853-54, and over the years he continued to see the intermediate prisons. Smithfield and Lusk, as a key to reforming criminals: "We must deal with criminals in smaller numbers, and less artificially, before their discharge; and we must apply such special training as shall fit them for free life, and make them meet for employers. We must teach them of an honest world of which they know but little."⁴⁵ The prisoners at Lusk and Smithfield received not only job training, but also a series of educational lectures by James P. Organ, who served additionally as inspector of released convicts. Together with the police, Organ closely watched the employment and companions of prisoners released on tickets-of-leave.⁴⁶

When the directors of convict prisons assumed control of Irish female convicts, the women were being housed in Dublin's Grangegorman Prison and in a former lunatic asylum at Cork. Conditions at both prisons were far from satisfactory, and increased numbers forced the officials to re-open old, even more decrepit Newgate. Despite the outmoded facilities, Crofton and his subordinates began on an optimistic note. They believed that increased educational opportunities and job training, the mark system of rewards and punishments, and other aspects of the system would rekindle the innate goodness of female inmates. They agreed with "A Prison Matron," the English author of the widely reviewed *Female Life in Prison*: "For I am not alone in my conviction that these stories of erring and mistaken women—fallen sisters, but still sisters, whom we have no right to cast aside or shrink away from—do in many cases prove that there is no estate so low but that elements of the better nature are existent, and still struggling for the light."⁴⁷ Optimism continued to grow when the female prisoners were all brought together in the newly built Mountjoy Convict Prison, which opened in September 1858.

All female prisoners upon entry spent at least 4 months in separate confinement. Thought more susceptible than male prisoners to the mental anxieties developed during separation, women spent a shorter time in that phase. Unlike the men, the women remained at Mountjoy until sent to a refuge or released on license or tickets-of-leave. After separation, the women could earn marks for discipline, industry, and schooling. All spent at least 2 months in third class and 6

months in second class before they could begin associated labor outside their cells. Marks were deducted for misconduct. An inmate had to earn a certain total of marks to gain her removal to a refuge or her release; that total of marks stood in a fixed ratio to the length of sentence. The offenses for which the women had been imprisoned ranged from murder, manslaughter, and arson to larceny, theft, and vagrancy. Most women had been convicted of the latter offenses. Sentences ranged upwards from penal servitude for 3 years.

The statistics given in the annual reports are of somewhat limited value because generally they record the population on a single day, January 1st of each year. But certain patterns are clear. For example, the directors first announced their intentions "to limit very much the area of manufacture, and prosecute only such trades as appear to be remunerative, usefully instructive, or suitable to the physical state of the prisoners."⁴⁸ Prison accounts show that despite repeated attempts to introduce industrial trades like rope and shoemaking, most prisoners did needlepoint; housework to maintain the prison; and cooking, washing, ironing and clothesmaking for Mountjoy, other prisons, and certain governmental departments.⁴⁹ To some extent, domestic training was realistic and well-intentioned. Most women working outside the home were domestic servants, and industrial jobs went to Protestants in the North.⁵⁰ Domestic service was the lowest paying, unskilled work. And as the directors themselves realized:

Great difficulties present themselves in the final disposal of female convicts. A man can obtain employment in various ways in outdoor service, not requiring, in all cases, special references to character, and at work which is not open to females in this country. A woman immediately on discharge from prison, is totally deprived of any honest means of obtaining a livelihood. Persons of her own class will object to associate in labour with her, even if employers were willing to give her work; and the well conducted portion of the community object to receive into their families, as domestic servants, persons so circumstanced without a stronger guarantee and proof of their real and permanent reformation than would be afforded by a prison character.⁵¹

Officials seemed successful in getting the prisoners to recognize prison labor as a type of privilege, not a punishment; however, this recognition was not made on the basis Crofton had hoped for. Associated labor, carried out in violation of the rules against unnecessary conversation, alleviated the boredom of cellular work.

There were similar high hopes for schooling. Two of Crofton's reforms were to have school periods everyday, not just once a week, and to allow prisoners of any age, not just the young,

into school.

Many, instead of sullenly brooding over their past life, now look forward with hope to the future. Even women advanced in life, who have spent most of their careers in prison, and who at first would not attend school, and seemed incapable in understanding the advantages of education, are now amongst the most assiduous in their classes. A difference in their conduct is already apparent; they are more orderly and obedient to the rules, and make efforts to exercise that self-command, the want of which has so often led them into crime.⁵²

As pointed out earlier in connection with the local goals, female literacy rates were lower than those of males. Starting from so far behind, few convict women, even those with long sentences, advanced beyond an elementary stage. Officials ascribed their slowness to a lack of previous education, recalcitrance, or stupidity, not to the inmates' already tiring day or to instructor ineptitude.

Despite its worldwide reputation for reform and efficiency, the Irish convict prison system faced other problems in its handling of female convicts. Those problems included the number of juveniles sentenced to penal servitude and the children of women prisoners, born in prison or received with their mothers. Originally the prisoners' children, those "poor prison flowers," were kept at Mountjoy until the age of 2 and their presence was held to have a calming, softening effect on their mothers and to a lesser degree on the rest of the inmates.⁵³ Access to children was another privilege/punishment. But officials and reform-minded visitors argued that the possible harm done by incarceration to the children, the dilution of penal deterrence, and the disruptions of prison routine caused by the children's presence outweighed the benefits. As compromises, officials placed the children in a special nursery where they could be schooled and began releasing children to relatives or foster care at 9 months.

Violence proved another continuing problem. Some of the violence was sectarian in origin, and its nature disturbed those who believed religion such a key to female rehabilitation.⁵⁴ The evidence is muted, but some of the violence grew out of sexual jealousy. While officials tended to ignore inmate homosexuality,⁵⁵ they could not ignore prisoners' attacks on the staff. Violence grew more frequent and intense, even as the inmate population declined over time. Officials responded with denials of and cuts in marks, dietary reductions, hair cutting, and isolation in punishment cells. Mountjoy was built without punishment cells, but from 1858 to 1878 at least two sections of punishment cells were added.⁵⁶ Once built, the cells tended to be filled. Prisoners and officers

responded in a cycle of violence and punishment.

Besides the violence directed at staff members, there were other problems connected with the females warders. The officers found themselves in what modern penologists call the custody/treatment role conflict. The violent inmate population required close, strict custody; but from the days of Elizabeth Fry on, females warders were supposed to be guides along the path of reformation. Stress also arose from long hours, low pay, limited vacations, having to live on the grounds, and other factors. There was a high turnover rate in staffing, and the pool of candidates for jobs was limited, if not in numbers, certainly in quality.⁵⁷

One woman served as matron or superintendent of Mountjoy from its opening until centralization when she retired. Possessing the requisite forceful personality, she also alienated members of her staff and sometimes openly disagreed with her superiors. On the question of lady visitors, who had once been the only "staff" in women's prisons, she found those women to be a disruptive influence: "It has a tendency to impress the prisoners with an idea of their own consequence." By contrast in the same report, the directors said: "Any praise we could bestow on the ladies who are accomplishing this great work would, in comparison to their labor and self-denying devotion, be indeed but feeble."⁵⁸ Customarily, outsiders are frowned upon in prisons. They are seen as interfering with routine and eager to find fault. In the mid-19th century prison officers just were beginning to argue that they were professionals; thus, they zealously defended their tenuous status. As with other female professionals in the 19th century, female officers, even at the level of the superintendent, found the struggle for professional recognition harder than did male officers. Mountjoy's superintendent argued that the visitors did not meet the standards she and others had set for female officers.

Ireland's intermediate system as applied to women had other difficulties. It is ironic that the prisoner population considered the more reformable or malleable could never take advantage of the complete Crofton system. There were no intermediate, industrial or agricultural, training prisons for women. Their smaller numbers and fewer realistic job possibilities did not justify the building of a special female facility. The government either kept the women at Mountjoy for their entire sentences or turned them over to private, sectarian refuges. For better or worse, some Irish women served part of their sentences in non-governmental settings. Although refuges were con-

sidered innovative, they also went against the general trend of greater professionalization and tighter governmental regulation. The prisoners' supervision after release from Mountjoy or the refuges was the sole purview of the police. Organ, so influential with the men, apparently did not supervise the women.

Sent to a refuge, the women went to either the Protestant one in Heytesberry Street or the Roman Catholic one at Golden Bridge conducted by the Sisters of Mercy. The nuns had taken their own penitentiary, in the oldest sense of the word, and turned it into a refuge, which did not prove large enough to accommodate the numbers eligible. The women did domestic labor again in the refuge, and even the nuns could not convince employers to accept the ex-convicts. Although Irish female refugees were held up as the standard,⁵⁹ they were ill-suited for their limited tasks. At the time, of course, the alternative was for all inmates to spend their entire sentences at Mountjoy.

A great deal of optimism which surrounded the beginning years of the intermediate or Irish system disappeared in the 1860's with Crofton's retirement due to ill-health. Also, much as with the local gaols, a new type of prisoner, the recidivist, discouraged officials and reformers alike. Earlier, haphazard means of checking on the post-release behavior of former female convicts entailed the acceptance of glowing letters from the ex-inmates themselves and spot surveys by the police.⁶⁰ By 19th century standards, a marriage ceremony marked a case as successfully closed. These measures and methods were not unique to Ireland and were contrary to what the officials themselves recognized about their convict populations. Many prisoners came from and returned to abusive, crime-prone marriages and liaisons. In a century that equated success with progress, the prison system wanted to see a favorable return for its efforts. Too often it saw that return where it did not exist. By the late 1860's more sophisticated, though certainly not accurate, record keeping showed a female convict population of repeat offenders.

Also, faced with more violence in later years, officials began to note an older, more hardened offender: "Women who have run through the various stages which end in penal servitude are more demoralized than male criminals."⁶¹ The directors' reports do show a gradually aging population. These women had moved from one public or private institution to another for most of their lives. Freed from prison, unable to obtain

lawful work, and knowing only other offenders, they ended up in prison again. Crofton himself argued that ex-convict women should emigrate and begin again.⁶² The solution for the unemployed recidivist resembled that offered to unemployed, educated women, the so-called "surplus" women. That solution was to make them someone else's concern through emigration, the old transportation in another guise.⁶³ The directors' open acknowledgements of problems such as violence, recidivism, and insufficient training of staff and prisoners led to the inclusion of convict prisons in a centralized system under the General Prisons Board in 1877/78. A similar centralization of English prisons left convict prisons there nominally separate.

Conclusion

By the point of centralization, both Irish local and convict prisons had rapidly aging institutions and increasingly troublesome female populations of recidivists and violent offenders. Mountjoy and local prisons had their resources drained by lunatics, drunkards, and juveniles all demanding and required to have special care. Much vaunted training programs consisted of enforced domesticity to reawaken natural piety, purity, and submissiveness. The dramatic decline in criminal and prison populations which came approximately 10 years after the onset of the Famine had leveled off with Ireland's adjustments to the losses. These post-famine declines coincided with Crofton's directorship and helped establish his name. His system, however, was never fully applied to women. And in local prisons women largely endured the same conditions in 1878 that they had felt two decades earlier.

The General Prisons Board, established to centralize prison operations along efficient, humane lines, did little more than close some of the worst institutions and designate others as female gaols. Although such specialized gaols did relieve some women of abysmal incarcerations, those same placements put the women more distant from family and friends upon release. In short, the Irish convict prisons and local gaols, despite their different tasks and reputations, treated female prisoners similarly. And that treatment after the early part of the century changed little. The tribulations of female prisoners were noted, possibly dramatized, to show the need for centralization. Centralization, like so much before it, did not markedly improve either the treatment of female prisoners or the exercise of punishment, deterrence, or rehabilitation, the basics of any

penal system.

NOTES

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⁴⁸Walter Crofton, "Can Intermediate Prisons Materially Aid in Solving the Difficulties of the Conflict Questions?" *Transactions of the National Association for the Promotion of Social Science*, 1858, pp. 378-79.

⁴⁹For contemporary descriptions of the Irish or Crofton system see the 24 annual reports of the Directors of Convict Prisons and: Mary Carpenter, *Reformatory Prison Discipline, as Developed by the Rt. Hon. Sir Walter Crofton, in the Irish Convict Prisons*. London: Longmans, Green, Reed, 1872; [Sir] Walter Crofton, *A Few Remarks on the Convict Question*. Dublin, 1857; Matthew Davenport Hill, *Journal of a Third Visit to the Convict-Gaols Refuges, and Reformatories of Dublin and Its Neighborhood*. London: Longman, Brown & Co., 1865; and Matthew Davenport Hill, *Suggestions for the Repression of Crime, Contained in Charges Delivered to Grand Juries of Birmingham*. London, 1857.

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For the effects of the Irish system on American and European prisons and reformers, see: John P. Resch, "Ohio Adult Penal System, 1850-1900: A Study in the Failure of Institutional Reform," *Ohio History*, 81, Autumn 1972, pp. 236-62; and John P. Resch, "Anglo-American Efforts in Penal Reform, 1850-1900: The Work of Thomas Barwick Baker." Ph.D. dissertation, Ohio State University, 1969. The Irish system was also the main topic at the first annual meeting of *The National Prison Congress Transactions*, 1870, Albany, 1870. The Congress Declaration of Principles endorsed the progressive mark system and sentences of indeterminate length.

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irischen strafvollzuges. Berlin: C.G. Luderitz, 1865.

⁴⁹"A Prison Matron," *Female Life in Prison*. London: Hust and Blackett, Publishers, 1862. For complimentary reviews of *A Prison Matron*, see the following: "Gone to Jail," *All the Year Round*, 7, August 2, 1862, pp. 487-93; "Review," *Journal of Mental Science*, 9, April 1863, pp. 69-86; "Female Criminals," *The Christian Miscellany and Family Visitor*, 2(10), 1864, pp. 214-15; and "The Petting and Fretting of Female Criminals," *Meliora*, 6, 1863, pp. 45-49. Elizabeth Lockhart, a Franciscan nun and staff writer for the *Dublin Review*, found much of value in the book, but disagreed with the unfavorable picture of Catholic, as opposed to Protestant, prisoners. See: "Female Life in Prison," *Dublin Review*, 11, July 1868, pp. 117-50.

⁴⁸"First Annual Report of the Directors of Convict Prisons in Ireland, 1854," *SP*, 1854-55 [1958], XXVI. 609, p. 628.

⁴⁹"Sixteenth Annual Report of the Directors of Convict Prisons in Ireland, 1869," *SP*, 1870 [c. 108], XXXVIII. 539, p. 569; and "Seventeenth Annual Report of the Directors of Convict Prisons in Ireland, 1870," *SP*, 1871 [c. 392], XXXI. 631, pp. 659-60.

⁵⁰Mary E. Daly, "Social Structure of the Dublin Working Class, 1871-1911," *Irish Historical Studies*, 23, November 1982, pp. 121-33; and Betty Messenger, *Picking up the Linen Threads: A Study in Industrial Folklore*. Austin, TX: University of Texas Press, 1975, 1978.

⁵¹"Second Annual Report of the Directors of Convict Prisons in Ireland, 1855," *SP*, 1856 [2068], XXXIV. 1, pp. 11-12.

⁵²*Ibid.*, p. 10.

⁵³Anne Jellicoe, "A Visit to the Female Convict Prison at Mountjoy, Dublin," *Transactions of the National Association for the Promotion of Social Science*, 1862, p. 439.

⁵⁴"First Annual Report of the Directors of Convict Prisons in Ireland, 1854," *SP*, 1854-55 [1958], XXVI. 609, p. 688.

⁵⁵Patricia O'Brien, *The Promise of Punishment: Prisons in Nineteenth-Century France*. Princeton, NJ: Princeton University Press, 1982, pp. 99-107.

⁵⁶"Sixteenth Annual Report of the Directors of Convict Prisons in Ireland, 1869," *SP*, 1870 [c. 108], XXXVIII. 539, p. 568; "Nineteenth Annual Report of the Directors of Convict Prisons in Ireland, 1872," *SP*, 1873 [c. 731], XXXIV. 597, p. 626; "Fifth Annual Report of the Directors of Convict Prisons in Ireland, 1858," *SP*, 1859 [2531. Sess. 2], XIII, (Pt. II). 103, p. 191; and "Thirteenth Annual Report of the Directors of Convict Prisons in Ireland, 1866," *SP*, 1867 [3805], XXXVI. 273, p. 280.

⁵⁷J.E. Thomas, *The English Prison Officer since 1850*. London: Routledge & Kegan Paul, 1972; Eliza Orme, "Prison Reform: II—Our Female Convicts," *Fortnightly Review*, 69/n.s. 63, May 1898, pp. 790-96; and Sarah M. Amos, "The Prison Treatment of Women," *Contemporary Review*, 73, June 1898, pp. 803-13.

⁵⁸"Fifth Annual Report of the Directors of Convict Prisons in Ireland, 1858," *SP*, 1859 [2531. Sess. 2], XIII, (Pt. II). 103, pp. 121, 192.

⁵⁹"Refuges for Female Convicts," *The Reformatory and Refuge Journal*, no. 27, April 1865, pp. 34-37.

⁶⁰"Second Annual Report of the Directors of Convict Prisons in Ireland, 1855," *SP*, 1856 [2068], XXXIV. 1, p. 136.

⁶¹"Fifteenth Annual Report of the Directors of Convict Prisons in Ireland, 1868," *SP*, 1869 [2531. Sess. 2], XIII, (Pt. II). 103, pp. 121, 192.

ons in Ireland, 1868," *SP*, 1868-69 [4171], XXX. 414, p. 445.

⁶²Sir Walter Crofton, "Female Convicts, and Our Efforts to Amend Them," *Transactions of the National Association for the Promotion of Social Science*, 1866, p. 238. See also: Sir Leon Radzinowicz and Roger Hood, "Incapacitating the Habitual Criminal: The English Experience," *Michigan Law Review*, 88,

August 1980, pp. 1305-89.

⁶³Edward Gibson, "Employment of Women in Ireland," *Journal of the Dublin Statistical Society*, 3, 1862, pp. 138-43; and P. Houston, "The Extension of the Field for the Employment of Women," *Journal of the Statistical and Social Inquiry Society of Ireland*, 4, 1866, pp. 345-53.