It must be acknowledged that the penitentiary system in America is severe. While society in the United States gives the example of the most extended liberty, the prisons of the same country offer the spectacle of the most complete despotism. The citizens subject to the law are protected by it; they only cease to be free when they become wicked.

— Gustave de Beaumont and Alexis de Tocqueville, 1833

INTRODUCTION

This chapter considers the growth of the American penitentiary in the 1800s and the development of other alternatives as reformers and public officials saw what was happening to the “ideal” social institution they had created. The corrections system of today is the direct descendant of the institutions and alternatives devised in the nineteenth century. After reading the material in this chapter, you should be familiar with:

1. The penitentiary ideal.
2. The two contrasting models of American prisons.
3. Disciplinary practices in early penitentiaries.
5. Separate prisons for women and juveniles.
7. Post–Civil War reforms and the reformatory movement.
8. The industrial prison model.

THE PENITENTIARY IDEAL

In telling the story of Creation, Genesis 1:2 says, “And the earth was without form.” At the end of the 1700s, so was the penitentiary. It remained for humans—many of them with God in mind as they went about it—to give it form. Although the word penitentiary had been in use for more than twenty
years among scholarly intellectuals and reformers, no modern penitentiaries as we think of them today had been built. The penitentiary was more of an idea or a set of principles than a physical institution with shape and form. It was a concept rather than a building. When people looked at buildings that held criminals, they saw jails, old prisons, and workhouses, none of them fitting the ideals of the penitentiary.

What was the penitentiary supposed to be? Its purposes were both secular and spiritual. It was supposed to be a place of humane punishment as opposed to the physical punishments still prevalent in Western societies. It was supposed to be a certain punishment, the common punishment of all serious criminals, to replace the diverse penalties applied (or often not applied) by judges. It was supposed to be clean and healthy in contrast to the jail and to avoid the kind of contamination both of body and of spirit that took place in the existing lockups. This meant that criminals in custody ought to be separated from each other as much as possible, preferably in isolation. Finally, and perhaps foremost as a social purpose, it was supposed to practice corrective discipline—to create habits of industry through the application of strictly enforced rules. Prisoners ought to work steadily at productive labor, not sit around idle as they often did in old jails and prisons.

In the spiritual province, the penitentiary was to be a place of penitence, or penance, meaning to express regret for the wrongdoing one has done. As a secular institution, the penitentiary was meeting the religious need for expressing contrition for sin. It allowed the criminal to say that he was sorry and to promise to do better; or, if this was too much to hope for, it provided the time and place in which the criminal, entering the institution in a criminal state of mind, would have the opportunity to ponder the error of his ways and see the need to reform. The principal goal of the penitentiary was to achieve the kind of spiritual transformation in a criminal being that was associated with the religious beings of the medieval monastery.

Many early advocates of the penitentiary were highly religious men (and a few were equally religious women). John Howard, the jail reformer, was a devout Congregationalist. Thomas Eddy, who secured passage of a humane penal code in New York in 1796, was a Philadelphia Quaker by way of Virginia and the New York insurance business. Eddy made a fortune quickly and turned to social and legal reforms. He lobbied for, built, and opened New York’s first state prison, Newgate, in New York City in 1797. He served as warden of Newgate for several years and advocated humane imprisonment and the emancipation of slaves for the rest of his life.

The most influential prison reformers of the new United States of America were Pennsylvania Quakers. Following the lead of William Penn, the acknowledged father of prison reform in the colonies, the Quakers combined social reforms within religious principles. When the civic-minded Quakers of Philadelphia met at Benjamin Franklin’s house in 1787, they organized the Philadelphia Society for Alleviating the Miseries of Public Prisons, known today as the Pennsylvania Prison Society. Under the leadership of Dr. Benjamin Rush, who is also cited for his contribution to early psychiatry, the society’s immediate objective was to improve conditions in the decade-old Walnut Street Jail at Sixth and Walnut in downtown Philadelphia. The society objected to the public degradation of prisoners on work details (like modern-day chain gangs), to prisoners fed so meagerly that they were reduced to begging for food, to the jail’s lack of sanitation and security, and to
the absence of inmate classification. In the spiritual realm, Quakers believed that the jail ignored “the inner light” within each person, which they believed would be brought out by solitary confinement.

In 1789 and 1790, the Pennsylvania legislature passed laws to accomplish several reforms. John Roberts’s *Reform and Retribution: An Illustrated History of American Prisons* calls the redesigned Walnut Street Jail “arguably the world’s first penitentiary, because it carried out incarceration as punishment, implemented a rudimentary classification system, featured individual cells, and was intended to provide a place for offenders to do penance—hence the term ‘penitentiary.’”

The British might dispute this. Their own *Wymondham Gaol* at Norfolk, England, had opened in 1785, applying John Howard’s penitentiary principles. But Walnut Street, with the construction of a new, three-story wing that opened in 1790, jumped a step ahead. John Roberts writes,

> It was that wing that became the prototype of the modern penitentiary. Convicted felons were housed in that wing—some in individual cells—separated from the rest of the inmate population. A work program was developed within the prison, with inmates engaged in handicrafts such as shoemaking, weaving, cutting and polishing marble, and grinding plaster of paris. Finally, through the work programs and the remorse and penitential reflection that was supposed to occur during incarceration, it was hoped that the inmates would undergo a period of correction; therefore, the Walnut Street Jail indeed had come to fit the definition of a “correctional” institution.  

A much larger, 500-cell prison opened at Gloucester, England, the following year, practicing solitary confinement, classification, and labor. It was considered a model of its time, especially for its hygienic and nutritional practices. Philadelphia’s reformers found their own penitentiary regimen promising enough to argue for its adoption on a grander, more permanent scale, but improving the lot of convicts did not take high priority among Pennsylvania’s public officials. Almost forty years would pass before the Walnut Street Jail felons would be moved into their new home at Eastern State.

**CONTRASTING MODELS: EASTERN STATE**

Several American states built new prisons from the 1790s to the 1820s, but the reformers of Philadelphia wanted a new and different design, an architecture incorporating the spirit of reformation into physical space. The legislature sponsored a contest, with a $100 prize for the winning design. John Haviland, a young British-born architect just starting his career, won the prize with a startling radial design unlike anything ever before seen in an American prison. An associate of John Howard, William Blackburn, had designed several small English prisons using the radial design between 1784 and 1805, most notably the Suffolk House of Correction at Bury St. Edmunds, completed in 1805. The radial design was prominent in England by the time John Haviland devised his grand scheme for the new Pennsylvania prison.

Haviland’s *Eastern State Penitentiary*, built on the outskirts of Philadelphia in a farming area known as Cherry Hill, featured seven long cell blocks radiating like spokes from a central rotunda. The facade of the prison would
resemble a Scottish castle from the late Middle Ages. A thirty-foot-high wall would enclose the site, sealing the convicts in and sealing the world out.

Haviland ended up being placed in charge of constructing the prison from his design. His original budget, which often means little as massive public works projects progress, was $100,000. Construction began in May 1822 and continued, one cell block at a time, until the last of the original seven blocks was completed in 1836. When construction of the original prison was completed in 1836, the total cost was $780,000. It was the most expensive public building in America at the time and one of the most admired. Tourists came from all over America and Europe to view this modern marvel—this building that claimed to change criminals into God-fearing, law-abiding citizens.

Haviland’s original design incorporated the principles of Quaker reformative imprisonment—complete isolation of inmates, fair treatment, and opportunity for work, reflection, and reformation. In contrast to the oppressive, claustrophobic environment of many prisons built more recently, Eastern State’s atmosphere was open and expansive. Corridors were wide, high, and arcing. Cells were about ten feet long and eight feet wide (officially seven and a half by twelve), but the ceilings were very high, fifteen feet or more. Considering that prisoners in modern cells are provided only thirty-five square feet of floor space according to American Correctional Association standards, these cells were positively spacious.

Each cell contained a toilet that emptied into a drainage trench below, a worktable, and a bed. Overhead was a skylight, necessary for daytime illumination but also serving a symbolic purpose. It represented “the eye of God,” the idea that God was watching each convict alone in his cell. In the back wall of the cell was a door to a walled exterior exercise yard—like an enclosed prison patio—about the same size as the cell.

The point of these arrangements was that the prisoner was held in total solitary confinement. The Pennsylvania system thus came to be known as the separate system or isolate system. When the prisoner was admitted to the prison, a woolen hood was placed over his head and a guard led him to his cell. He spent his entire time in confinement in the cell and the exercise yard—twice a day for thirty minutes at a time. He would never see any other part of the prison or have direct contact with other convicts. This separation was part of the Quaker plan—to maintain the isolation necessary for penitent reflection and to prevent the contamination that would occur if the convicts were allowed to mingle.

Prisoners were required to work in their cells at manual trades—weaving, leather working, carpentry, and shoe making. Keepers brought inmates three meals a day, putting the dishes through the narrow slots in the iron front door of the cell. Inmates could have a Bible and one other book at a time; no letters, magazines, or newspapers were allowed. The walls were too thick to allow conversation, social contact between guards and prisoners was forbidden, and no outside visitors were permitted. It was not even necessary to have guards on the perimeter walls, as prisoners were never in a position to get close to the walls. Guards in the central rotunda could keep the entire prison under observation from this one vantage point. This was the model of selfcontainment in which reformation was intended to take place.

How did this regimen work? When Beaumont and Tocqueville visited Eastern State on their 1831 prison tour, they interviewed forty-six inmates and came away favorably impressed. They spoke with Charles Williams, a light-skinned
black farmer who had come to the prison in 1829 at age eighteen to serve two years for theft. He was Eastern State’s Inmate Number 1. They wrote about Williams,

This man works with ardor; he makes ten pairs of shoes a week. His mind seems very tranquil; his disposition excellent. He considers his being brought to the Penitentiary as a signal benefit of Providence. His thoughts are in general religious. He read to us in the Gospel the parable of the good shepherd, the meaning of which touched him deeply; one who was born of a degraded and depressed race, and had never experienced any thing but indifference and harshness.3

When Charles Dickens visited in 1842, he described Eastern State as a place of “solitary horrors.” Although he was impressed by the prison keepers’ “excellent motives” and the institution’s “perfect order,” he wrote in American Notes, for General Circulation,

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 they are doing. . . . I hold this slow and daily tampering with the mysteries of the brain, to be immeasurably worse than any torture of the body, and because its ghastly signs and tokens are not so palpable to the eye and sense of touch as scars upon the flesh; because its wounds are not upon the surface, and it exhorts few cries that human ears can hear; therefore I the more denounce it, as a secret punishment which slumbering humanity is not roused up to stay.4

Dickens’s doubts were insufficient to stem the worldwide tide of enthusiasm for Eastern State’s model of reform. Of all nineteenth-century prisons built in America, Eastern State came closest to the penitentiary ideal. At least 300 prisons around the world were designed to incorporate its architectural and reformation model—both built on the idea of inmate labor under complete solitary confinement.

CONTRASTING MODELS: AUBURN

Even before Eastern State was open for business, a contrasting prison model was being developed in New York. At Auburn in western New York and at Sing Sing thirty miles north of New York City, two new prisons, Auburn and Sing Sing, were built to replace New York City’s Newgate Prison. Auburn and Sing Sing were called prisons, not penitentiaries, when they opened; “penitentiary” was a term that originally meant a particular style of imprisonment that neither of these institutions used.

The first convicts were moved into Auburn in 1817. They were housed in small cells—seven feet long by three and a half feet wide by seven feet tall. The cells were stacked atop each other in tiers, and they had no outside exercise yards. Convicts were divided into three levels of control—from complete solitary to group work in the daytime and sleeping in single-person cells at night.

Auburn conducted an early experiment with solitary confinement, locking eighty hardened convicts in their cells for a year. At the end of the year,
several had died, and most of the rest were sick. One jumped to his death as soon as he was released. Others were clearly deranged. The governor ordered several of them released immediately.

You can try this experiment at home if you wish. Have a trustworthy friend lock you in a closet for a year. Your friend has to bring you food and water two or three times a day and empty your waste bucket every day or two. At the end of a year, when the door opens, write down your thoughts about yourself, the other people in your life, and how your outlook has changed.

If you do not have a full year to devote to this experiment, try just one weekend. You may understand better why Auburn and the other prisons rejected solitary confinement except as a punishment or for control. The Auburn system of inmate management became known as the congregate system. It featured inmates living alone in their cells (at least until overcrowding became a persistent problem) while they spent most of their out-of-cell time in the company of other inmates—working, eating, and chapel, maintenance, and cleaning chores. The system was also called the silent system. When the prisoners were in contact with other prisoners, a rule of silence prevailed: no inmate was allowed to speak to another.

Auburn’s early successes (or perhaps the lack of viable alternatives) led New York to build an even larger prison, originally called Mount Pleasant but known to the ages as Sing Sing, in the late 1820s. Sing Sing was built by convict labor. The prison was located on top of a quarry that produced fine marble, some of which was used in building the prison. The original cell block was five tiers high, a long, narrow building that held 1,000 one-man cells. Its cells were slightly smaller than Auburn’s, barely allowing enough room for a bed and a bucket.

CONTRASTING MODELS: AND THE WINNER IS?

As the American states and many foreign nations turned away from punishments of the past and turned toward imprisonment as the principal means of punishing serious crimes, reformers and government officials trekked to Pennsylvania and New York to take a look at the two contrasting prison models. Which system was better: Eastern State or Auburn?

The purists agreed that the Pennsylvania model was closer to ideal. The environment was more penance inducing. The prison was orderly, quiet, and controlled. The prisoners were managed individually rather than in the congregate. Dr. Samuel Gridley Howe, the Boston social reformer and abolitionist, published An Essay on Separate and Congregate Systems of Prison Discipline in 1846. He pointed out that the congregate system treated prisoners as masses, whereas the solitary system treated each convict as an individual, which he favored. But it was considerably more trouble to do it this way—to deal with one person at a time, in feeding them in their cells rather than in a group mess hall, or in ministering to other needs.

The Auburn model was cheaper to build and operate, requiring fewer guards to service and control the prisoners, and used the space within the walls more intensively. Most important, group labor made it economically more productive. A hundred men working with machinery in a prison shop were vastly more productive than a hundred men working alone in individual cells.
Eastern State’s museum guidebook, “Behind the Walls,” discusses the demise of its model in favor of the congregate model, citing three important reasons why Auburn won out. First, the aftermath of the Civil War brought a big increase in the prison population both as a result of the effects of the war and as a result of immigration and economic depression. Second, isolation caused some prisoners to suffer psychologically, leading critics to condemn solitary confinement as cruel and inhumane punishment. Finally, keeping a growing inmate population in solitary confinement was expensive. Inmates could do only individual handwork in their cells, so the prison could not profit from captive labor to produce more goods as congregate prisons did.

In the end, it was like choosing between two homes: the fine mansion that you really like and the more ordinary house that you can afford. You may still have your dreams, but you settle for what is within your means. In its origins, the penitentiary was recommended for its humane, reformative purposes; over time, as its purpose came to be defined as housing convicts—the dregs of society—the emphasis shifted from goals to means—to cheapness, productivity, and efficient management (or “industry, obedience, and silence,” as Scott Christianson described the Auburn environment).

In time, the few prisons built on the Pennsylvania model were converted to congregate prisons. Eastern State officially abandoned solitary confinement in 1913, though convicts had unofficially been in contact with each other since the end of the Civil War. Guard towers went up on the walls and over the central rotunda, and solitary confinement began to be used only as a punishment. Eastern State continued to have influence in other countries. Many nations used solitary confinement in some smaller prisons or as a new prisoner’s first housing on entering the prison—as in the French progressive system requiring inmates to pass through several levels of confinement over time. In the 1990s, perpetual solitary was reborn in America in the form of the “supermax” prison, used with selected prisoners, but it no longer had any connection with penance or reform.

**PRISON RULES AND DISCIPLINE**

The architecture of the nineteenth-century prison—its imposing size, the medieval affect, and the stone and iron—were intended not only to control but also to intimidate, to break the spirit of the hapless criminals brought through the prison gate. More than one early prison carved in stone the line from Dante’s *Inferno*: “All hope abandon, ye who enter here.”

If prison officials expected convicts to become compliant participants in the new prison order, however, they were immediately disappointed. Criminals were not only humans, who can adapt to almost any situation, but they were also criminals who had established a pattern of antisocial behavior in society (the “free world,” as convict slang says it). Locking them up in maximum-security, castle-like fortresses did not bring about any obvious positive transformation in most of the prisoners. More stringent measures were necessary.

Nineteenth-century prisons employed strict controls and severe disciplinary practices, commonly based on physical punishment. The most important restriction was the **rule of silence** that was applied in Auburn-style prisons.
Because most convicts spent much of their waking time in contact with others, silence was believed necessary to prevent the moral contamination that authorities feared would spread in prison. Prisons worked out elaborate systems of signaling, using whistles, bells, horns, and other sounds to structure the daily routine and hand signals to indicate requests and acknowledgments. Foreign visitors to these prisons were amazed to see large numbers of men working together in complete silence under the watchful eyes of a handful of guards.

Prisons then as now had lots of rules—rules regarding conduct, contraband, labor, sanitation, and sexual behavior. (Masturbation in particular was very strongly disapproved of, as it was believed to lead to blindness, insanity, tuberculosis, and other common prison ailments.) Guards were expected to be alert to any rule violation. At Eastern State, guards wore socks over their shoes when they went down the cell blocks to spy on prisoners, the better to catch unsuspecting prisoners engaged in nefarious conduct.

Prisoners were allowed fewer personal possessions than they are today, and they were far more isolated from the outside world. Some prisons had very specific lists of what possessions prisoners were allowed to have, but the whole matter was completely arbitrary. Prisoners in custody had no legal rights and no access to courts. What prisoners were allowed and how they were treated depended entirely on the administrators of their prison—in particular, the personality and beliefs of the warden, who created the custodial atmosphere.

The prototypical early American prison warden was Captain Elam Lynds, who was warden of Auburn prison and then built the new, improved Sing Sing in the 1820s. Lynds’s view was that convicts were cowards and dogs and ought to be treated accordingly. Lynds invented two of the control devices associated with early prisons—prison stripes and the lockstep. He put inmates in striped uniforms to make them more visible and also to humiliate them, as it would be humiliating to you to have to wear pink pajamas with little bunny feet outside all day. The lockstep was a method of moving convicts around inside the prison; prisoners marched—shuffled their feet, actually—with a hand on the shoulder of the man in front of them. A long line of men going off to work or chow looked like a giant striped caterpillar, shuffling along in silence.

Lynds carried a bullwhip with him when he walked about the prison. He gave each of his guards a cat-o’-nine-tails, a whip with several knotted lines or cords attached to its handle. Guards were instructed to flog prisoners for any misconduct. That they carried out this order enthusiastically was documented in an early prison expose, A Voice from Sing-Sing, written in 1833 by the former army colonel Levi Burr. Burr called Sing Sing a “catocracy” for its extensive use of the cat-o’-nine-tails.

Elam Lynds was interviewed by Beaumont and Tocqueville on their prison tour, though by the time they interviewed him, Lynds was out of political favor and no longer a warden. In their “Interview with Mr. Lynds,” the French visitors noted these observations from America’s most prominent nineteenth-century prison warden:

The director of a prison, particularly if he establish a new discipline, should be invested with an absolute and certain power.
I consider the chastisement by the whip, the most efficient, and, at the same time, the most humane which exists; it never injures health, and obliges the prisoner to lead a life essentially healthy. Solitary confinement, on the contrary, is often insufficient, and always dangerous. . . . I consider it impossible to govern a large prison without a whip.

A dishonest man is ever a coward.7

Elam Lynds, in a decade at Auburn and Sing Sing, practiced what came to be called the Auburn system of prison management. Based on its view of the prisoner as a weak, very inferior being, it established a prison regimen of several key elements:

1. Absolute silence
2. Hard labor
3. Unwavering routine
4. Total regimentation of the prisoners’ lives
5. Breaking the convicts’ spirit
6. Insisting that prisoners demonstrate a completely subservient attitude
7. Immediate physical punishments for all rule violations

This model of prison management became pervasive throughout American prisons in the nineteenth century. At its heart, it relied on physical punishment to maintain discipline by instilling fear in convicts. Sing Sing used flogging with the cat-o’-nine-tails, later replaced by the shower bath, in which a barrel of cold water would be dumped on the prisoner, and the iron cage, which would be locked around his head. San Quentin would use its own form of the shower bath, in which the prisoner would be sprayed with a high-pressure water hose. Most prisons used whippings, usually in view of other inmates, sometimes with the prisoner to be whipped tied to a whipping post or standing in a pillory. Delaware’s “Red Hannah” whipping post, used into the 1950s, was one of the most enduring.

In contrast to the Pennsylvania system, which isolated convicts physically while treating them more humanely, Lynds’s Auburn system allowed human contact but within an environment of repressive, often brutal, physical discipline. The penitentiary, which at least in the British and Pennsylvania models was intended to replace corporal punishments, instead reverted to these punishments to supplement imprisonment so that the nineteenth-century convict ended up with the worst of both worlds. The old convicts had been whipped and let go; the new convicts were whipped and returned to their cells to do more time.

When Beccaria and the other legal reformers of the 1700s were arguing against the use of physical punishments, one of their concerns was that physical punishments promoted judicial leniency—that judges often avoided punishing lesser or “tender” criminals, such as women and juveniles, not wanting to see them brutalized. Reformers argued that imprisonment, because it would
be employed universally, without exception, would be a much greater deterrent than physical punishments that might or might not be applied, depending on the sympathetic mood of the judge.

Although probation, as an alternative to prison, is considered a modern sentence, it has roots in earlier practices under English and continental law. In these early systems, it was common to withhold punishment—what today we would call a suspended sentence. Right of sanctuary, under church doctrine, set aside holy places for criminals to seek protection from secular laws. In the Middle Ages, benefit of clergy allowed religious officials to avoid punishment in the criminal courts; their cases were referred to high church officials (which is how many of them came to be sent to monasteries for penance). Under English common law, persons who could recite Psalm 51, which begins, “Have mercy upon me, O God, according to thy loving kindness: according unto the multitude of thy tender mercies blot out my transgressions,” were presumed to be church officials who would not be punished criminally. So many criminals memorized this chapter of the Bible that it became known as the neck verse; it was used like a “Get Out of Jail Free” card when facing punishment, especially the death penalty.

Other predecessors of probation in use in English and early American courts, such as filing of cases and recognizance, allowed judges to release deserving offenders without punishment. The suspended sentences these offenders received were less restrictive than contemporary probation; they did not require supervision or impose conditions of compliance on the criminal as probation does. The European model of surcease (or sursis) withheld punishment if the offender committed no new crime during the period of suspension. The suspended sentence is still used for many traffic and petty offenses in American courts.

The origins of modern probation in America are often traced to the work of John Augustus, a Boston shoe manufacturer and civic leader of the 1840s and 1850s. Augustus is often referred to as a “shoemaker,” giving rise to an image of a kindly old cobbler abandoning his bench to rescue lost boys. In fact, Augustus was a wealthy, well-connected factory owner who spent most of his time and money helping the less fortunate.

Although probation was not then a legal sentence (all felons and many serious misdemeanants were supposed to go straight to prison, like today’s mandatory sentences), Augustus used his influence to persuade judges in Boston courts to assign criminals to his care, beginning with a drunk in 1841 and continuing until his own death in 1858. Augustus would clean up the criminal, get him a job using his business connections, and help him find a place to live. A few months later, Augustus would accompany the criminal back to court, where the judge would terminate the sentence.

By his own published account, in seventeen years Augustus helped almost 2,000 people to straighten out their lives. What started as a one-time intervention became a full-time mission. Augustus reported a success rate of nearly 100 percent among these criminals, which would be unheard of today. Very likely, he did not keep good records about the lives of his probationers, or many of them disappeared and returned to their criminal ways in other places under other names.

Civic reformers in Massachusetts were greatly encouraged by Augustus’s example. They got the state to pass the first probation statute in 1878, legally allowing the judge to suspend imprisonment. This was to be done only for the
selected few who truly deserved it. By this time, court officials in many states were seeing what penitentiary life did to inmates, and several other states adopted probation laws over the next few years. Probation was initially an informal practice found mostly in urban courts and relying heavily on volunteers rather than paid probation officers. Over time, it became more formalized, under the control of state or county governments. The rise of the juvenile court in the early twentieth century promoted the continued expansion of formal probation services.

**PAROLE**

Today we say that probation is what you get instead of imprisonment; parole is what you get at the end of imprisonment. If the options that preceded probation had a long tradition, parole had none. We had to start keeping large numbers of people in prison for long periods of time before we could see that not everyone deserved to remain for the full sentence. The predecessor of parole could be called the king’s **pardon** power or **clemency** power; criminals in the past had been set free from imprisonment or had death sentences canceled through the intervention of the king (or later the governor or president in the American legal system). When they were released through a pardon, however, they were completely free, not supervised postrelease as parole requires today.

Although the use of the term “parole” in its correctional sense is often attributed to Dr. Samuel Gridley Howe in 1840s Boston, parole comes from the Old French **parole d’honneur**, meaning “word of honor.” The practice of parole is said to have originated in two British prison systems half a world apart—in Australia and Ireland in the 1840s and 1850s.

**Alexander Maconochie** was a British naval officer and prison critic who in 1840 was made superintendent of Australia’s “Devil’s Island”—the penal colony of **Norfolk Island** located about 800 miles due east of Brisbane. When convicts committed new crimes on the Australian mainland, they were banished to Norfolk Island. Its reputation was so severe that some men begged for death, preferring immediate execution to a lingering death in exile under brutal conditions.

Maconochie instituted reforms that turned Norfolk Island upside down. His basic premise was that convicts should be able to earn their way back to the main island through good behavior and hard labor. He set up the **marks system**, using a system of levels through which convicts would pass over time as they earned credits—“marks,” as he called them—toward their discharge. When they had earned enough marks, they were allowed to leave Norfolk Island on a **ticket-of-leave**. This is called the first example of the modern **indeterminate sentence**, which in effect allowed the prison system to determine when the convict would be released. Maconochie left Norfolk Island in 1844 and returned to England. He was later placed in charge of the Birmingham Prison briefly but was fired because he was perceived as being too lenient—an early example of prisoner “coddling.”

At about the same time, the Irish prison system was grappling with the problem of overcrowding, brought on by the Great Potato Famine and the deterioration of traditional society. John Roberts describes the Irish prison system...
of the mid-1800s as “the most enlightened of its day.”

Under the direction of Joshua Jebb and Walter Crofton, this system combined religious, educational, and work programs with a graduated classification system, through which an inmate had to progress before being released. Inmates began their sentences in solitary confinement, with reduced rations and no work assignments. Good conduct won advancement to the next stage of incarceration, which included congregate labor and improved rations. In the final stage, the inmate was moved into a less restrictive prison environment, had a job assignment in the community, and could earn credits toward early release—again, if conduct seemed to indicate that the inmate had achieved rehabilitation.

The sentence was indeterminate, and the release decision was that of the prison superintendent. When the prisoner was discharged, he was granted a ticket-of-leave to return home. His status was that of conditional liberty in that he was still serving his original sentence and could be returned to prison for violating the law. A police officer was assigned to maintain general surveillance of the former prisoner in the community and to recommend that he be put back in prison if he failed to follow the conditions of his release. The modern-day practice of parole, while considerably more bureaucratized, works essentially the same way.

Parole began to be used in the United States toward the end of the 1800s. Many prisoners were already leaving prison early through the use of good-time provisions that reduced time served for good behavior, and many prisoners benefited from the generous use of executive clemency by governors; pardons and commutations were frequent. Parole itself was identified specifically with the reformatory (discussed later in this chapter), which housed only a small percentage of prisoners in custody. Over time, its usage spread to all prisons. By the mid-1900s, virtually all inmates in American prisons were subject to parole review and conditional release.

**WOMEN’S PRISONS**

One of the perplexing problems of early jails and prisons was what to do with women prisoners. Rates of incarceration were much lower in those days than they are today, and the numbers of women in custody were very small—often just a handful among a much larger number of male prisoners. Jails before the 1800s had often treated women exactly as they treated men. Women were punished as men were, with the exception that pregnant women were often spared punishment until after they had given birth. Women were generally mixed with male prisoners and supervised by male jailers, which made the women doubly subject to abuse and exploitation. Since most women in custody were prostitutes or habitual thieves (and in America typically immigrants or minorities as well), no one worried much about their predicament.

This began to change in the early 1800s. Elizabeth Gurney Fry was an English Quaker and mother of eleven children. After a visit to Newgate prison in 1813, Fry began a ministry for the women of Newgate and eventually other London jails and prisons. She often visited prisons to read the Bible to inmates despite warnings that it was not safe for her to do so. Fry organized the Association for the Improvement of the Female Prisoners in Newgate in 1817. She
took up many social causes over the next thirty years but is best known for her prison advocacy—arguing for separate prison facilities for women, run by women, and shaped toward the needs of women prisoners as a group different from men. She was a highly influential reformer. Like her predecessor John Howard, Fry’s heritage is preserved in an international prison reform organization that bears her name.

In the United States, other reformers took up the separatist cause. Eliza W. B. Farnham was the head matron of the women’s wing at Sing Sing Prison in New York from 1844 to 1848. She was noted for her efforts to make the women’s prison environment more like a middle-class home and less like a prison; this included reform programs intended to transform low-life women criminals into middle-class homemakers—like turning Gangsta Girl into Martha Stewart (though since Martha Stewart’s felony conviction, this analogy no longer seems so remote). Like many early reformers, Farnham was often in trouble with her superiors for being too nice to convicts. After she started an education program for the women inmates (and included works of fiction in the prison library), she was fired.

The Indiana State Reformatory was established in 1873 as the first separate prison for women in America. Several of the more progressive states, including Massachusetts and New York, opened separate women’s prisons over the next few years. The Bedford Hills Reformatory for Women opened in New York in 1901. Its superintendent, Katherine B. Davis, brought in physicians and behavioral scientists to classify and study women prisoners and develop treatment programs. The women were housed not in cells but in separate cottage rooms, giving the prison a campus look. Jean Harris, a school headmistress who came to Bedford Hills much later as a convicted murderer, pointed out that women inmates were always referred to as “ladies,” which expressed an ideal state for most of them.

As assistant attorney general of the United States in the 1920s, Mabel Walker Willebrandt was instrumental in the creation of the Federal Bureau of Prisons in 1930. Willebrandt was a Quaker who strongly advocated improving federal prison operations, particularly as they affected young people and women. It was under her direction that the Federal Women’s Reformatory (initially named the Federal Industrial Institution for Women) at Alderson, West Virginia, opened in 1927. Dr. Mary Belle Harris, a Ph.D. in Sanskrit and a concert pianist, was the first warden of this prison, commonly known as Alderson. Located in the rolling hills of northern West Virginia, Alderson’s cottage plan and absence of fences gave the prison the look of a weekend resort. Its female inmates denied the “country club” label often applied to low-security federal prisons. The popular saying among prisoners at Alderson in the early days was, “They work us like a horse, feed us like a bird, treat us like a child, dress us like a man—and then expect us to act like a lady.”

While women prisoners in reformatorys may have been expected to “act like ladies,” the female inmates remaining in state prisons and local jails were more often treated like household servants and prostitutes. They worked as hard as the men, doing “women’s work”—laundry, sewing, cleaning, and cooking. They were under the domination of men, both staff and the male trustees who were prominent in the day-to-day operation of the twentieth-century prison. Men on both sides of the bars were quick to take sexual advantage of women prisoners. Many states, notably in the South, did little to address the needs of women prisoners until after World War II. Louisiana, for
instance, kept its women prisoners at the Angola prison farm until 1961, when they were moved into a separate prison south of Baton Rouge.

**JUVENILE PRISONS**

As some nineteenth-century reformers worked to improve the plight of women in prison, others focused on children. English and American legal systems had traditionally made no distinction in punishment based on age. Juveniles were locked up in jails right along with adults. Criminals as young as seven were given adult punishments if they were found to know the difference between right and wrong, and all youngsters became legal adults at fourteen. Several children under this age were executed in colonial times.

By the time of the Enlightenment, it was more common for judges to deal leniently with young offenders—particularly because so many of them had sad stories to tell, such as tales of abandonment and falling under the influence of adult criminals. One of the reasons legal scholars of this era advocated the use of imprisonment as a more general punishment was that they believed judges would be more likely to punish juveniles with confinement than with physical punishments, banishment, and other options of the time.

As the penitentiary became firmly established in the first half of the 1800s, reformers argued that young people should not be locked up in these institutions. They had three basic arguments:

1. The penitentiary regimen was too hard on tender youth.
2. Juveniles would learn bad habits from older criminals and be embittered by the experience of confinement.
3. Adolescents could be reformed if they were diverted early enough into institutions designed specifically for people their age.

Early efforts to reform juvenile justice were centered in America’s large cities, where problems of criminal and antisocial behavior among youth were most concentrated and most noticeable. In the 1820s and 1830s, New York, Boston, and Philadelphia set up **houses of refuge** to keep juveniles out of jail. The first of these, opened in New York City on January 1, 1825, was like a combination shelter and detention center, accepting juveniles convicted of crimes or sentenced as vagrants, a catchall term for street youths.

By the 1850s, Massachusetts had opened separate **training schools** for boys and girls. Although juveniles were at this time still passing through the same legal system as adults, judges could send boys and girls deserving leniency to these training schools, where they would get the discipline, vocational training, and basic education to prepare them for a law-abiding, productive adult life. Training schools, which could be likened to involuntary vo-techs, pre-dated the reformatories for young adult criminals that would develop after the Civil War.

Urban courts of the Northeast and Midwest moved toward de facto age-based processing of criminals in the later 1800s. Juveniles often received more lenient treatment than adults, with a greater diversity of dispositional options. **Charles Loring Brace**, educated as a minister, instead became an early social worker, focusing his attention on the poor children of New York City. In 1853,
he led a group that founded the Children’s Aid Society, which emphasized noninstitutional assistance to poor and homeless children and their families. Brace theorized that institutional care “stunted and destroyed children,” so his mission was to help their families or, failing this, to place them with new families. Brace became nationally known for organizing the orphan trains that sent many thousands (over 150,000 in seventy-five years, according to Children’s Aid Society statistics) of abandoned, abused, and orphaned children out of New York City to small-town and farm families across America. This theme of removing children from the pernicious city environment to the good life of the country became known as the child-saving movement.

A century of efforts by reformers to not only separate juveniles from adults but also adopt a less punitive legal approach resulted in the establishment of the first juvenile court in Chicago in 1899. Operating on principles of informality, confidentiality, leniency, and paternalism (in the form of the judge taking parental control over the child), this court assumed jurisdiction over its clientele based on age. Its goal, variously expressed in the statutes of the time, was to save, help, or reform (later rehabilitate) youngsters from wasted and sometimes criminal lives. Over the next two decades, other states set up similar courts based on age and emphasizing probation and noncustodial alternatives. These juvenile courts did not immediately embrace all youthful offenders. In fact, most serious young criminals continued to be sent to adult prisons until after World War II. But the influence of the juvenile court grew steadily over time and eventually led to the bifurcated legal system of today, in which we follow completely separate routes and use different institutions for juveniles and adults.

SOUTHERN PRISONS AND CONVICT LEASING

As northern states developed the punitive institutions and alternatives that would bring them into the twentieth century, southern states followed a different track. In its approach to corrections, the South was different from the North in several key aspects:

1. Aside from its coastal cities, the South was much more rural than urban; local governments were much more influential than state governments.
2. Although individual reformers, often relocated from the North, made names for themselves in the South, reform movements never had the same effect on public policies in the South as they did in the North. Reforms tended to be discussed rather than acted on or, if put into effect, quickly abandoned.
3. Between one-third and one-half the population of southern states were blacks held in slavery, for the most part outside the civil and criminal legal system. It was difficult to be “progressive” when so much time and attention was devoted to maintaining an inherently regressive institution.

Many correctional reforms that resulted in important changes in the northeastern and midwestern states simply bypassed the South or were considerably watered down in their effects. Several southern states never concentrated their populations of convicted felons in penitentiaries in the 1800s. Instead, they left criminals in the custody of local sheriffs (often to be charged fees and worked as had been the practice in England) or leased convicts out to
private entrepreneurs who assumed complete responsibility for the prisoners in return for their labor. Economy has always been an important issue in American corrections, but in southern prisons it was often elevated to paramount importance. Louisiana opened a modern penitentiary in Baton Rouge in 1835, a progressive prison based on the Auburn model, only to abandon its convicts to leasing in 1844, primarily because the new prison cost too much. Louisiana’s convicts were leased to private businessmen until 1901.

Other states started leasing earlier, from the 1820s, and some continued it longer, into the 1920s, but the emphasis on economy was pervasive. The Civil War was an even more important influence. Louisiana historian Mark T. Carleton called the Civil War “the most decisive event in the history of the Southern penology.” By this he meant not that the war resulted in new theories or practices but that it freed the slaves and made them subject to equal punishment under law. Southern prisons, which before the war had been almost entirely white, quickly became majority black, in most states in even greater percentages than today. In the South, even during Reconstruction, prisons were seen as a necessary step in helping blacks make the transition from slavery to freedom (and the profit from their labor was helpful to the state budget).

After the Civil War, the convict lease system flourished in the South. Several southern states developed the predecessors of twentieth-century prison farms, following an obvious line of reasoning. Most new black convicts were accustomed to agricultural labor, so it made good business sense to keep them at it, whether on a public farm or one operated by a private owner. The last third of the nineteenth century was slavery rewritten as prison policy. Convicts were worked hard, with little thought for their health, safety, or improvement. Mortality rates were very high compared to northern prisons. Convicts privately leased had it the worst, laboring under deplorable conditions in the most primitive settings.

Convicts were viewed as a “species of slave labor” in postwar southern prisons. A speaker at the 1883 National Conference of Charities remarked, “Before the war we owned the negroes. If a man had a good negro, he could afford to take care of him; if he was sick, get a doctor. He might even get gold plugs in his teeth. But these convicts; we don’t own ‘em. One dies, get another.”

Reforms would eventually come to southern prisons in the 1900s. But the legacy of local control over prisoners, the emphasis on economy, the lack of attention to rehabilitation, and a racist culture in which white keepers controlled majority black prison populations would continue to make southern prisons much worse than prisons elsewhere. These historical problems would flare up again as litigation over substandard prison conditions flourished later in the twentieth century. As was the case with school integration and civil rights, lasting change occurred in southern prisons only when federal courts ordered that it take place.

THE REFORM MOVEMENT

The penitentiary was created as a reform; by the time of the Civil War, many penologists and social activists saw it as an evil—an institution badly in need of reform itself. The penitentiary was founded on the notion that criminal behavior could be eliminated or reduced by confining criminals. Where previous
societies had emphasized the infliction of pain (through physical punishments) or banishment, fines, or indentured servitude, the penitentiary emphasized a combination of time and a very restricted environment as criminal penalties. It was a punishment much more suited to the rationality of the Enlightenment, to ideas about the progress of civilization, but, in fact, early results suggested it was working no better at controlling crime than the more primitive methods just abandoned.

In scarcely half a century, the penitentiary had gone from an institution representing optimism and hope of change to an institution representing suffering and mistreatment, as observed by the people running it. Norman Johnston’s book on the history of Eastern State Penitentiary is subtitled *A Crucible of Good Intentions*. By the latter part of the 1800s, many of America’s progressive penologists were giving up on the “good intentions” of the penitentiary.

In 1870, a well-known New York prison reformer, Dr. Enoch Cobb Wines, worked with other corrections critics to found the **National Prison Association**. This organization met in Cincinnati, Ohio, in October 1870. This first congress, as it was called, was attended by delegates from twenty-four states and several foreign countries. Its most recognized speaker was the Irish prison official Sir Walter Crofton, who spoke on his Irish system, while its most prominent American member was the Civil War general **Rutherford B. Hayes**, then governor of Ohio, soon to be president of the United States, and later to serve ten years as president of the association. Delegates met for several days, discussing prison reform ideals and penitentiary shortcomings, and in the end they adopted a “Declaration of Principles.” First on their list was “Reformation, not vindictive suffering, as the purpose of penal treatment”:

The Declaration of Principles strongly endorsed the reformatory concept, indeterminate sentencing, separate facilities for women and for juveniles, classification, centralized prison management in each state, and the Irish system (of management and parole). It called for abolition of convict leasing, improvement of prison architecture, establishment of prison schools and hospitals, job training for staff, and rewards for good conduct by inmates.13

The Declaration of Principles, very ambitious for its time, reads like the road map of twentieth-century American corrections. Its creator, the National Prison Association, later changed its name to the American Prison Association and in the 1950s to the **American Correctional Association**. Today it is the largest professional organization of its type in the world. The ACA, as it is known, still holds its annual congress each year in August, and though it has been criticized for becoming too much like a sales meeting for private businesses hawking technology and equipment to corrections agencies, it remains the most important national forum for professional development and for addressing present and future policies in corrections.

**THE REFORMATORY**

One of the speakers at the Cincinnati National Prison Congress was an up-and-coming young prison warden, **Zebulon Brockway**. His paper was titled “Ideal for a True Prison System for a State.” Six years later, Brockway got the chance to translate his ideals into reality—with the opening of the **Elmira**...
Reformatory in New York. Receiving its first inmates on July 24, 1876, Elmira was intended as a radical departure from the other prisons of its time. It was supposed to work with young men, ages eighteen to thirty, who were first offenders and “redeemable.”

The young men who came to Elmira were classified into three grades (low, intermediate, and high), earning more privileges and marks toward release as they advanced. The prison offered them a strong academic program and vocational training in several trades. Prisoners worked at contract labor for outside businesses, and in their free time they could take part in athletics, the prison band, the newspaper, and calisthenics. When state law abolished contract labor, Brockway appointed an inmate colonel of the inmate corps and substituted military drill for work. Prisoners in uniform were soon marching in the quadrangle carrying wooden guns. The entire environment was much like the boot camps that became popular for younger criminals in the 1980s.

Influenced by the practices of Maconochie and Crofton, Brockway’s Elmira system stood in sharp contrast to the penitentiary in several respects. It treated prisoners better (at least officially). The prison did not employ the silent system or the most degrading aspects of the Auburn system then still apparent in American penitentiaries. Prisoners were motivated with rewards, not fear. They earned marks according to their work and behavior. Typically, those starting with a five-year indeterminate sentence could earn release in a year if all went well. When approved for discharge (as being “reformed”) by the board of managers, they were released on parole and required to remain in contact with the superintendent.

Brockway’s model was extremely influential in late 1800s prison circles. The penitentiary stood for regimentation and uniformity, while the reformatory promoted individualized treatment based on classification. The penitentiary, following the ideas of Beccaria and the classical school, sought to make the punishment fit the crime; the reformatory used the indeterminate sentence to make the punishment fit the criminal. Reform in the early penitentiary clearly embodied religious concepts. While the reformatory incorporated religious and moral training, it viewed reform in social terms—seeking to return to society a responsible adult citizen capable of filling a productive place in the workforce.

The Elmira system was accepted as an alternative model for those criminals—men and women who were believed to be susceptible to rehabilitation through prison programming. This was an important change of principle. The penitentiary provided a place for self-motivated reform through reflection and penance; it worked in isolation. The reformatory carried its programs to the inmates; it viewed prison as a learning environment where behavior was changed through reformatory experiences provided by the prison.

Between 1876 and 1913, most larger states of the Northeast and Midwest established reformatories as alternatives to their penitentiaries. Elmira actually looked like a penitentiary, with its maximum-security cell blocks and high walls, as did several later reformatories. Over time, however, reformatories adopted other architectural models. They incorporated dormitory and cottage housing and replaced walls with perimeter fences, a feature of most prisons built after World War II. Still, only a small percentage of convicts were referred to reformatories. Those who were repeat offenders or viewed as unsuitable candidates for rehabilitation (which apparently included most blacks, Indians, and other minorities) went to ordinary prisons to do hard labor.
Brockway was superintendent of Elmira until 1900, his last decade marked by controversy. He had always been viewed as highly religious and a strict disciplinarian, and along the way he became a devotee of the new science of criminal anthropology. He wrote in an 1884 article that “physical degeneracy is a common subjective cause of criminal conduct; that the mental powers enfeebled, untrained, uninformed, characterize the mass of criminals on admission.”

He argued that most criminals were degenerates of low intelligence who could not benefit from his reformative regime.

Brockway, who relied on corporal punishment so much that his nickname within the prison was “Paddler,” was accused of severely whipping the most mentally and physically defective of his youths. The prison also suffered from overcrowding, poor medical treatment, and a social system that gave stronger “inmate monitors” control over younger, weaker boys. The Elmira system strongly influenced twentieth-century American corrections, but Brockway’s misadministration of the Elmira Reformatory pushed him into retirement (after which he became a very successful local politician).

THE PRISON AS FACTORY

To most convicted felons of the late 1800s, these fancy-sounding terms—probation, parole, reformatory—meant nothing. You were a felon, you went to prison, you worked, and you went home. **Hard labor** really meant hard labor, and the reformative possibilities of imprisonment were generally forgotten about—a naively outmoded notion. From convicts laboring and meditating in their solitary confinement cells, the penitentiary had changed to convicts working together under severe discipline to produce goods that would be sold to pay for their own upkeep. The reform model changed to the labor model, and the penitentiary changed from a monastery to a factory.

A visitor to a northern prison of the late 1800s would have found a factory behind prison walls. Virtually all able-bodied inmates, men and women, did hard work six days a week. Either they worked in prison factories, producing goods for private businesses that bought their labor or items that the prison itself sold directly to the public, or they performed the cooking, cleaning, sewing, maintenance, and housekeeping functions necessary to keeping a big, enclosed society operating day to day.

Southern prisons were more difficult to categorize. In some states, sheriffs maintained custody of most state prisoners. Convict leasing meant, in several states, that there were no state prisons. Criminals were in the custody of private contractors who might disperse the leased convicts to farms, road camps, and railroad camps across the state. Other southern prisons adopted the northern industrial model.

In any case, two important features were missing from American penitentiaries at the end of the 1800s: prisoners sitting around idle and prisoners engaged in what we would today call rehabilitation activities. Rehabilitation was Sunday, a day off from work, the only day of rest. The only people who were idle the rest of the time were those who were too sick to work and those who were locked in solitary confinement—the hole—on a bread and water diet as punishment. Prison punishments were often physical, usually whippings. Solitary, which was supposed to have been good for reformation in the
original Eastern State model, by the end of the century was used only to isolate disciplinary problems. Everyone else was supposed to be hard at work in the Big House.

KEY TERMS

penitentiary
penance
Thomas Eddy
Pennsylvania Prison Society
Benjamin Rush
Walnut Street Jail
Wymondham Gaol
John Haviland
Eastern State Penitentiary
Pennsylvania system
separate system
isolate system
Auburn
Sing Sing
Auburn system
congregate system
silent system
rule of silence
Elam Lynds
prison stripes
lockstep
cat-o’-nine-tails
suspended sentence
right of sanctuary
benefit of clergy
neck verse
filing of cases
recognizance
surcease
probation
John Augustus
parole
pardon
clemency
Alexander Maconochie
Norfolk Island
marks system
ticket-of-leave
indeterminate sentence
Walter Crofton
conditional liberty
good-time
Elizabeth Gurney Fry
Eliza W. B. Farnham
Indiana State Reformatory
Katherine B. Davis
Mabel Walker Willebrandt
Federal Women’s Reformatory
Mary Belle Harris
Alderson
houses of refuge
training schools
Charles Loring Brace
orphan trains
child-saving movement
juvenile court
convict lease system
Enoch Cobb Wines
National Prison Association
Rutherford B. Hayes
American Correctional Association
Zebulon Brockway
Elmira Reformatory
Elmira system
hard labor
the hole

NOTES

2. Ibid., p. 27.
12. Ibid., p. 45.
14. Ibid., p. 64.
Penitence and Rehabilitation

by Edmond Dantes

In the context of criminals and prisons, are the terms “penitence” and “rehabilitation” the same, different, complementary, or all three? “Penitence” was the concept guiding the highly religious men who, during the late 1700s and early 1800s, proposed and achieved construction of the first penitentiaries in the United States. They believed if criminals were isolated in tiny cells with nothing to read but the Bible, they would reflect upon their misdeeds, grow remorseful, and repent. This change would be deep and lasting, a transformation of godless wrongdoer into righteous believer, as the Christian-persecuting Saul was transformed on the road to Tarsus into Paul, the man of God.

“Rehabilitation” guided prison reformers of the late-1800s, the mid-1900s and, though fallen out of fashion, still lingers today. Probation, parole, and “good time” (time off for good behavior) were introduced in the nineteenth century as incentives for convicted criminals to behave themselves and either avoid imprisonment or get out of prison early. More incentives were added a century later, programs intended to help prisoners become productive—citizens—education and vo-tech training—and others to ease them back into society—work—release and halfway houses. Also fed into the mix were psychological “treatment” programs of all sorts, from Alcoholics Anonymous to anger management, both during confinement and post-release. The aim was—and is—to take criminals entering the system and turn them into law-abiding citizens.

Penitence and rehabilitation, as used in the penal world, can be viewed as exactly the same. Each is considered a means by which keepers can transform the kept—for the better. To induce a metamorphosis, say, of criminal caterpillars into solid-citizen butterflies. Second, each carries the same fundamental flaw that caused them in practice to fall far short of the mark.

Penal practitioners of penitence and rehabilitation, the fervent Christians of the eighteenth and nineteenth centuries and the criminologists, psychologists, psychiatrists, and sociologists of the twentieth century, in their unbounded arrogance, believed they could impose lasting positive change in...
other people. In the first case, criminality was ungodly and criminals could be made to embrace God. In the other, criminality was a disease and criminals could be "treated" and "cured," i.e., rehabilitated.

Penitence and rehabilitation can also be seen as completely different. One is spiritual, the other secular. Setting aside the fact the penitentiary method of total isolation often induced psychosis rather than revelation, practitioners of penitence discovered (undoubtedly to their sorrow) that belief in Christianity did not necessarily preclude criminal activity. To use a current example, the disgusting discovery of a battalion of baby-raping Catholic priests more than proves the point. Setting aside sham, fakery and game-playing by prisoners, practitioners of rehabilitation discovered (to their chagrin) that educating prisoners, teaching them a trade, or "treating" them psychologically produced unpredictable results. Prisoners who had embraced rehabilitative programs, as well as those who had shunned "programming," got out and never returned. Many others committed new crimes and came back, often before the ink was dry on their release papers.

Still, penitence and rehabilitation were not total failures. The method was flawed, not the concepts. Remorse can lead to redemption and a forsaking of criminal ways. A number of ex-criminals use their Christian or Muslim faith as a barricade against unlawful temptations. Even more have benefitted from education, job training and psychological programs to become law-abiding, productive citizens. What ex-criminals have in common is, first, the desire to turn their lives around and, second, the will to achieve that goal despite every obstacle arrayed against them. Not the least of which is being considered toxic waste by society.

Penitence and rehabilitation can be complementary. A prisoner can have a religious epiphany, a "change of heart" (and many do), and still lack the education or job skills to compete in the labor marketplace. S/he is almost certain to return to prison. But rehabilitative programs are available, the odds change dramatically. Penitence and rehabilitation work when prisoners are helped to help themselves. Change has to come from within; it cannot be imposed.