Origin and Early History of the Louisiana Penitentiary

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ORIGIN AND EARLY HISTORY OF THE LOUISIANA PENITENTIARY

A THESIS

SUBMITTED TO THE FACULTY

OF THE

LOUISIANA STATE UNIVERSITY

AND

AGRICULTURAL AND MECHANICAL COLLEGE

IN PARTIAL FULFILLMENT OF THE REQUIREMENTS

FOR

THE DEGREE OF MASTER OF ARTS

BY

LEON STOUT

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ABSTRACT OF THESIS

The primary object of this paper is to present in a straightforward manner the origin and early development of the Louisiana Penitentiary. Chief among reasons leading to the study was the frequently debated question as to why the state prison seldom, if ever pays its own expenses. At present farming is the chief prison industry. A good farmer pays his upkeep, and usually rears a number of children. Why can not a farm conducted wholly by adult convicts, and their keepers, operate without cost to the state?

If that question is unanswered today, such was certainly the case in 1850, the end of the period considered here. Other motives for examination enter, however. The study of delinquent mankind is always an interesting and necessary one. Like the proverbial poor, the criminal class are always among us; for their good, and our own, we must seek their reformation.

Any study of prison conditions in early Louisiana would begin naturally with a review of French and Spanish influences, and follow closely the source materials. Most valuable among the early sources are the Orders of the Superior Council, preserved in the Cabildo Library, in New Orleans, and reprinted in the Louisiana Historical Quarterly by Mr. Henry P. Dart, along with L. Moreau Lislet and Henry Carleton's translation of the parts of the Spanish code, Las Siete Partidas, which were enforced in Louisiana in 1820. For the territorial period,
we find the Acts of the Territorial Legislature and Claiborne's Letter Books; and for the main body of the paper, the Acts of the Legislature of Louisiana, the House Journal and Senate Journal, supplemented by newspapers of the period.

Early Louisianians were governed under French and Spanish codes, and imprisoned in medieval dungeons. Idleness, poor food, meager clothing, hunger, exposure, disease, death -- all were accepted factors of prison life. Vengeance was the primary object of penal sentences. Justice moved slowly, penalties were very severe, and hopes of reform and pardon almost negligible. But one ray of hope penetrated the gloom: the public conscience resented the incarceration of helpless debtors with hardened criminals. That feeling, coupled with the normal growth of the reform idea, along with a mounting expense account, gave to Louisiana a penitentiary system which ranks favorably with the best.

Though time prevented treatment of little more than the origin of the institution, we find here all stages of prison administration, from the state use of parish prisons to state control, and the lease system. The first proved unsatisfactory. The parish prison in New Orleans became totally inadequate for the double function assigned to it. After several futile attempts, of which one made in 1822 deserves particular mention, the new plant, begun in 1832, was completed, only
to prove as much a financial burden as the old system.

To correct this fault, the penitentiary was leased in 1844, after remaining twelve years under state control, the lessees contracting to incur all liabilities in return for the privilege of enjoying the profits. Due either to improved administration, or a change of industrial policy, or both, the proceeds of prison labor rose above the cost of maintenance; so much so, in fact, that public demand for state participation in the profits led to an apportionment of twenty-five per cent to the state when the new lease was consummated in 1849.

Several minor topics enhance the interest of the study. Chief among them are Cabildo Prison, in New Orleans, the reform of penal sentences, detailed descriptions of prison conditions, and the controversy over competition of prison labor with the artisans of Baton Rouge. The information has been gathered largely from original and illuminating sources. With all, it has been a task pursued with some pleasure and considerable enlightenment.
CHAPTER I
THE NEED FOR A HOUSE OF CORRECTION

Louisiana jurisprudence is based on French, Spanish, and English institutions. The customs of Paris and ordinances of the Kingdom of France were observed by the early settlers. Justice was administered by the Superior Council until August, 1769, when O'Reilly abolished French laws and substituted those of Spain.¹

Spanish law is based on tribal influences, Roman civil law, and the early codes of the Goths. The most complete collection of the basic laws of Spain are found in Las Siete Partidas, a code completed in 1263, by four unknown jurists. It is a digest of all Spanish Laws,² and the parts in force in Louisiana were translated into English, and published in 1820.

During their second occupancy the French held Louisiana only twenty days, and left the Spanish system almost intact.³ The United States left legislation to the people, and many of the Spanish laws remained in force.⁴

Though meritorious, the French-Spanish system of criminal jurisprudence did not conform completely to American ideas of justice. Governor Claiborne, in his first address to the Ter-

² Ibid., pp. 4-9.
³ Ibid., pp. 19-20.
ritorial Assembly, stressed the need for "cheap, easy, and expeditious" justice, and the Assembly admitted, one evidence of the Laws being defective is that the political situation of the country . . . is much worse than before their publication.

The French Prefect had abolished the Cabildo, a body "created on principles altogether incongruous with those of our government", and had replaced it with a Municipality of mostly "approved Characters", well disposed toward the expected transfer to the United States. Though various judicial officers had received seals, the French had left the organization of a court system to the American administration. Claiborne was determined to recognize authorities and laws as found, and to make such other arrangements as he judged good for the province. His inferior court in New Orleans, organized along American lines, had seemed popular until the speed at which debts were collected aroused the clamor of debtors, and the great influx of American and French Lawyers, wearied the patience of the court, and occasioned the disgust of some of the members.

Claiborne organized a supreme court along English-American lines, and an act of the territorial legislature in 1805 provided that court practices follow closely upon English common

6. Ibid., I, p. 313; Lislet, Digest, II, Appendix, Sec. 3, p. 12.
8. Ibid., p. 356.
law. Trial by jury was optional with the accused until admission to the United States, at which time it was guaranteed. The property of one convicted went to pay court charges and reparation to the injured party.

Evidences of inequalities appear. In 1803 a traveler wrote:

At the time of my departure from New Orleans for France, there were more than sixty unpunished murderers in the prisons. That crime which is regarded in the society of civilized men as the greatest and most execrable, is not considered and punished as such under the Spanish government in its American Possession. . . . If the most peaceful inhabitant, who offends a magistrate or a rich man, does not flee promptly, he is cast for life into a dungeon without being able to learn the reasons for it . . . .

Jefferson's opinion is more complimentary. Writing of conditions in Louisiana about 1803, he said,

Crimes of great atrocity are very rare . . . . . . . . . . . . . . Punishments are generally mild. They mostly consist of imprisonment and payment of costs, sometimes the stocks. White men, not military, are rarely, perhaps never degraded by whipping . . . .

Jefferson was promoting annexation of Louisiana, and

12. Robertson, James Alexander, Louisiana Under the Rule of Spain, France, and the United States, Cleveland, 1911, p. 73.
reminiscences of travelers may be discounted; but an act of
the legislature, in 1805, provided that a person guilty of
manslaughter be fined not over five hundred dollars, "and may
moreover be punished" by hard labor, or otherwise, for not ex-
ceeding twelve months,14 whereas burglary was punishable by
public whipping and from ten to twenty years imprisonment at
hard labor. Robbers were given seven to fourteen year senten-
ces, and even mule stealing carried penalties of public whip-
ning and seven to fourteen years at hard labor.15 Assault with
intent to kill brought not over two years;16 "wilful murder"
was punishable by death.17

It is a strange sort of justice that sends a burglar to
prison from ten to twenty years and the person guilty of man-
slaughter, for one year; that confines robbers for seven to
fourteen years, while assault with intent to kill brings never
more than two years.

The penalty for larceny was more in conformity to modern
ideas, thirty-nine stripes. But the offender had to repay the
loss or suffer imprisonment for two years.18 The Spanish mode
of capital punishment by hanging was retained by the Ameri-

15. Ibid., p. 243.
16. Ibid., pp. 432-434.
17. Ibid., pp. 416-418; Acts of Louisiana, 1818, New Orleans,
p. 168.
18. Ibid., p. 243.
cans. Power to pardon, was vested in the governor.

The earliest information concerning the New Orleans prison available to the writer was derived from a study of two old pictures of the Place d'Armes published in 1725 and 1756, respectively. Facing the public square on the west side, in the center of the block, stood the stately St. Louis Cathedral, flanked on the south side by the prison and guard house. The prison was apparently three stories high, constructed of brick, and had three windows per floor on the front side. The second floor was about twelve feet from the ground, and the walls were the thickness of two and one-half bricks (about twenty-two inches). The guard house, a small building with one floor and two windows in front, was located on the corner of the block, south of the prison. The two occupied scarcely one third of a city block.

Conditions of the New Orleans prison were similar to those found in prisons elsewhere at that time. Two Englishmen, suspected spies, were kept in jail two years without trial, even

21. Villieres, Baron Marc de, Historie de la Fondation de la Nouvelle-Orleans, Paris, 1917; pp. 118-123; See also reprinted in Louisiana Historical Quarterly, April 1920.
though one was ill eight or nine months. Fear of death from starvation prompted them to escape and when recaptured, one was put in irons.**23** Convicts were bound with iron, chains, or cords.**24** The little brick prison was burned in 1788**25** and was replaced by the jail, or Calabozo, adjoined to the rear of the newly constructed Cabildo, or town hall. Both were the gift of the Spanish nobleman, Don Andres Almonaster y Roxas, and are preserved as relics of Old New Orleans.

Evidently a change of quarters brought little change in prison life. As late as 1804, Claiborne reported a prison population of over one hundred, some of whom had remained from one to thirteen years without trial.**26** Convicts sentenced to the chain gang worked on the streets in red shirts, with numerals, and coarse pantaloons. The gang, under the "conductor of the chain", presented "a daily street spectacle of human misery".**27** In 1850 workmen making excavations for enlarging the Cathedral, discovered several underground cells,**28** a discovery which lends some validity to opinion such as the following:**29**

23. Ibid., pp. 371-373.
28. Ibid.
29. Stoddard, Major Amos, Sketches, Historical and Descriptive, of Louisiana, Philadelphia, 1812, p. 154.
Under the Spanish government it (the Calabozo) was a wretched receptacle of vice and misery; like the grave it received many tenants, who were soon forgotten by the world: Some of them perished with age and disease, and others by the hands of assassins. Criminals, under sentence of death, were often kept immured within its walls for years; owing either to the tardiness or lenity of the tribunal at the Havanna (sic), without whose approval no sentence of death could be carried into execution.

The Cabildo, with the calabozo attached, is still preserved as a state museum. Using the back wall of the former as an eastern limit, the old prison forms a rectangular enclosure, open over head. The main court yard is forty-six feet by thirty-three feet. In the southwest corner is a minor division which is approximately twenty-seven feet by twelve feet. Both courts are paved with cobble-stones. Five cells on each floor, are arranged on the north and west sides. At the north-east corner is a stairway; on the southernmost end of the west wall is a space void of cells; while a wing of the Cabildo, and twelve feet of wall on the south, complete the enclosure. The roof is thirty-nine feet six inches high behind, thirty-two feet, four inches in front, and slopes toward the courtyard, which is provided with open drains. The back wall of the building, which in reality served as the main prison wall, averages about forty feet in height, rising only slightly above the roof.

Facing the courtyard on the north and west sides, and on the second and third floors, are found balconies with balus-
trades. Opening toward the court yard are cells varying in size from six feet by thirteen feet, three inches, to thirteen feet nine inches by fifteen feet six inches. The average size is almost exactly equivalent to twelve feet square, about 144 square feet. The doors, one of which is preserved, were of heavy wood with a barred elliptical aperture of probably two square feet, seemingly the only provisions for light and ventilation.\(^{30}\)

By legislative enactment, in 1805, parish prisons were placed under the control of parish judges, who governed with the consent of local justices. The working day for prison labor was fixed at eight hours. Judges were to preserve the health of the prisoners,\(^ {31}\) and after 1814 grand juries were required to inspect parish prisons and report their condition to the judges.\(^ {32}\)

Federal prisoners were quartered in parish jails, and in 1814, were guaranteed the same rations as state prisoners; namely, one pound of beef or three-fourths of a pound of pork, one pound wheaten bread, one pound of potatoes or one gill of rice, and one gill of whiskey daily. The Federal government

\(^{30}\) Courtesy Mr. Richard Koch and Mr. Frank Dufrechou, New Orleans branch of the Historic American Buildings Survey, Department of Interior, Washington, D. C. Evidence will be presented in this paper to show that several prisoners were usually confined in each of these small compartments.

\(^{31}\) Acts of Territory of Orleans, 1805, p. 448.

was obligated to pay for maintenance at the rate of thirty cents per day and an additional fifty cents per month for each occupant. Federal authorities were authorized to inspect the prison, but the evidence indicates they were exceedingly negligent.33

A movement for the reform of prison conditions received impetus from Governor Claiborne in 1809. Speaking to the Legislature he complained that convicts sentenced to hard labor were sent to the New Orleans jail and herded in idleness until their vice became contagious, and their upkeep so heavy that some had been pardoned, as an economy measure, when their claims to clemency were doubtful. Claiborne recommended a Penitentiary... House "calculated to reclaim the wicked and dissolute".34 The project was not a financial risk. Experiences in several states had proven that profits would defray the costs and that reform of convicts was possible.35

In his messages of 1812 and 1814, Governor Claiborne reiterated his recommendations. Maintenance of state convicts was increasing annually. Those sentenced to hard labor were having their lives made more wretched by continued idleness. Unless means to employ them could be found, it would be an act of mercy to substitute some personal suffering.36 The Judicial

33. Ibid., pp. 272-273.
35. Ibid.
36. Senate Journal, 1 Legislature, 2 Sess., 1813, p. 5.
system and Criminal code needed revision, but it could not well be accomplished without a penitentiary establishment.37

Such interest on the part of the executive could scarcely fail to improve prison conditions. In 1812, the governor, with approbation of the Senate, was granted power to remit fines, and to grant reprieves and pardons.38 An act to improve the government of parish prisons was passed in 1816.39 A legislative committee reported the public prison in New Orleans in good condition and the prisoners well treated.40 Provisions were made for clothing and medical care. Each prisoner was voted one blanket coat, one shirt, one pair woolen trousers, and one pair coarse shoes in winter; in summer, one shirt and one pair coarse linen trousers were provided. A licensed physician was appointed by the police jury, and was required to render annually a sworn statement concerning health conditions. He was allowed three hundred dollars per year for salary and medicines. The jailor was allowed a bit per day extra to care for the sick, and six cords of wood fuel was provided for the winter season.41 Another evidence of reform was the repeal of a law making a convict's property subject to damages.42

37. Ibid., 1 Legislature, 2 Sess., 1814, p. 6.
40. Ibid., 3 Legislature, 1 Sess., 1817, p. 17.
42. Ibid., 3 Legislature, 1 Sess., 1917, p. 184.
Perhaps the most potent argument for prison reform was the indiscriminate mixing of debtors with hardened criminals. It is doubtful if man ever felt sure that imprisonment for debt was morally right. The early Roman custom of holding the person for sixty days, then selling him into slavery was followed in France until the end of the fourteenth century, when it became legal for the creditor to force him to work. Finally, incarceration in public prisons was substituted, to force surrender of resources or to bring aid from relatives.43

Louisianians were imprisoned for debt under the French law, and were charged for part of their expenses while in jail.44 A law of 1808 permitted discharge with the consent of two thirds of the creditors,45 and in 1819, a bill to release debtors detained for court charges alone passed with difficulty, only to be vetoed by the governor.46 After 1820 no person could be imprisoned for debts unless the creditor advanced three dollars and fifty cents per week for his upkeep.47

43. Dart, Henry P., "Imprisonment for Debt (Contraint de Corps) in French Louisiana", in Louisiana Historical Quarterly, October, 1925, pp. 551-554.
44. "Records of Superior Council", Louisiana Historical Quarterly, January, 1920, p. 82; "Document Concerning Imprisonment for Debt in Louisiana, 1743" (From the Archives of the Superior Council of Louisiana, at the Cabildo, New Orleans), Louisiana Historical Quarterly, October 1925, p. 555.
45. Bullard and Curry, Digest, p. 480.
46. Senate Journal, 4 Legislature, 1 Sess., 1819, pp. 23; 34-36; 45 (See page 45 for the veto message).
CHAPTER II

EARLY EFFORTS TO ESTABLISH A PENITENTIARY

The first attempt to establish a house of correction in Louisiana came on January 16, 1818, when a committee presented to the House a bill authorizing the erection of a penitentiary. Though adjournment at that time prevented full consideration of a proposed resolution calling for plans, early in the following year Governor Villere recommended the use of a $20,000 surplus for building a penitentiary. A joint committee prepared a bill for executing the project; but apparently it did not advance beyond a second reading. Another committee recommended immediate release of persons confined for prosecution and jail costs, remission of fines for those unable to pay them, and clemency for fourteen others. Maintenance costs had mounted to fourteen hundred dollars per quarter.

The governor's message in 1820, condemned "pornicious idleness", exalted useful labor, and pointed to successful institutions of reform in other states. The bill lost by adjournment the previous year was reported as unfinished business, and was followed by another investigation of prison con-

3. Ibid., House, p. 47; Senate, p. 37.
4. Senate Journal, 4 Legislature, 1 Sess., 1819, p. 23.
5. Ibid., 4 Legislature, 1 Sess., 1819, p. 23.
6. Ibid., p. 11.
ditions. Humane regulations, good food, and a low death rate were reported; but debtors and criminals of all degrees and colors were mixed almost without discrimination. Inmates unable to pay costs of prosecution and upkeep were being held for extended terms; at a loss to the public and to themselves. One hundred and forty persons were held seventeen or eighteen of whom were United States prisoners awaiting execution. The latter were reported held in cold damp cells nearly deprived of air though without blankets, and almost naked. The keeper explained that the Federal Government made no provision for clothing for prisoners in parish jails. Alleviation of existing conditions, and immediate legislative consideration for the penitentiary bill, was urged by the committee. An increase of twenty-five per cent in the allowance for medical purposes was the only tangible result.

A joint resolution approved March 18, 1820, empowered the governor to receive plans for a penitentiary, and to submit the one selected by himself and two commissioners to the next legislature. A sum not to exceed three hundred dollars was to be paid for the plan selected.

A plan providing accommodations for four to five hundred occupants, drawn by Messrs. Vauquelin and Buisson, architects
of New Orleans, was submitted by the governor on December 8, 1820, but was not used. Speaking in support of the proposed establishment, the now executive, Governor Thomas B. Robertson, said the prisons,

instead of being places of punishment and reform, exhibit scenes of vice and revelry. Confinement in jail instead of being a period of improvement, is a kind of school where additional proficiently in profligacy is acquired; there prisoners become attached to each other, as well as to the place itself and feel, on being restored to society, no objection to repeating their offences, with the hope of again joining their former companions. "Constant labor and solitary confinement would remedy these evils. The last is perhaps the surest preventive of crime that has ever been devised. It wants the harshness of chains and stripes, and death. The objection is its expense, but the punishment should be reserved for grave offenders, whilst those of a different description should be compelled to defray, by their own labor, the charges they occasion".

The inference is that such a policy can be followed only when the state has a penitentiary. Confining debtors, "if it be necessary to confine them at all" in the same apartments with thieves and assassins is repulsive to every feeling of justice and humanity.

Another year found the problem before the legislature again. The House penitentiary committee found evidences of con-

12. Ibid.
siderable repairs and good management, but re-echoed the objections to mixing debtors and felons.13 A later report, while admitting the system had not always been successful elsewhere, maintained that the project was entirely feasible. Failure, the committee said, resulted from two causes: first, lack of proper classification and separation of prisoners; secondly, unwise use of pardons. Novices become adept violators when associated with adept criminals; pardons lend hope for impunity; parsimony in construction prevents reformation and proves more costly in the end. A structure admitting of enlargement for future exigencies; facilities for separate housing, gainful employment, solitary confinement, and the granting of pardon only upon unequivocal evidence of reformation would insure the most beneficial consequences. In the name of the committee, Edward Livingston introduced a bill providing for the building of a penitentiary for two hundred inmates at a cost of approximately $170,000. The bill was advanced to the third reading, but evidently was not passed;14 for a joint resolution enabling the governor to re-advertise for a plan was enacted into law on February 17. "The plant, though calculated for two hundred convicts, must be capable of enlargement to double that capacity. It was to contain quarters for a keeper, a guard house, solitary cells, "separate" rooms for prisoners" so that there

be not more than four in each apartment", a separate ward for women, an infirmary, a pharmacy, a chapel, kitchens, eating rooms, necessary offices, and as many separate yards and shops for works and labor "as can be conveniently brought into the plan . . . ." Buildings were to be of brick and estimates of the quantity of materials needed was required in all plans submitted.¹⁵

A second year passed before action could be secured. In January, 1822, Governor Robertson placed before the legislature several plans, and that of Robert Mills, of South Carolina, was selected by a committee.¹⁶ Attendant financial difficulties were fully recognized. Mills's estimate of $260,000 was based on Charleston prices; to execute the plan in New Orleans would require $300,000. Reduction to a capacity of two hundred would reduce costs to $200,000; but the committee advised against such "ill-judged economy" as might render the establishment nearly useless.¹⁷ A bill providing for the construction of a penitentiary-prison passed the House by a vote of twenty to five, was concurred in by the Senate, and signed by the governor, March 23, 1822.¹⁸

Execution of the act was delegated to five commissioners,

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¹⁷. Ibid., p. 60-61.
¹⁸. Ibid., p. 85; Acts of Louisiana, 5 Legislature, 2 Sess., 1822, p. 98.
appointed by the governor, who were directed to purchase a site on the east bank of the Mississippi, within three miles of the city hall, and built thereon a penitentiary-prison on a reduced plan submitted by Robert Mills of South Carolina.

If they preferred, the commissioners could use the full plan, reducing only the height of buildings, provided the cost would not exceed that of the reduced plan. The location and cost of the site must be approved by the governor, and the entire outlay must not exceed $250,000. Commissioners could contract for building materials, select building contractors, appoint a construction superintendent, and stipulate payments. Two buildings were planned; construction was to begin by November 15; and a minimum of fifty men must be employed. An appropriation of $250,000 was provided, the governor being authorized to borrow any part thereof not on hand.¹⁹

Two days before final approval of this act, the eminent lawyer, Edward Livingston, submitted the new penal code he had been employed to write. Though never adopted, the report is interesting because of its enlightened features and probable effect upon the penitentiary as finally developed.²⁰ The Peni-

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tentary plans proposed by Livingston are elaborate, complete, and "modern". Archaic modes of punishment are eliminated; a reformatory for minors, and a House of Detention for small offenders, are provided; the Penitentiary is a well planned, carefully administered institution of labor and reform. One comparison will be interesting: In his message to the legislature in January, 1822, Governor Robertson wrote:

Imprisonment for crime . . . ought to be considered as an almost intolerable punishment. Severe measures, privations of every kind compatible with the health of the prisoners, rigid restraint, hard labor, and occasionally solitary confinement, ought to be resorted to . . . .

Livingston says:

Employment should be offered as an alleviation of punishment, not super-added to aggravate it.

Reformation should be taught by "reflection, instruction, habits of industry, and religion". Livingston would credit the convict with his labor, charge him for his upkeep, and give him half of the profit, if any, at the end of his term of servitude.

21. Livingston, Edward, Project of a New Penal Code for the State of Louisiana, London, 1824, pp. 1-146; Livingston, Complete Works, II, pp. 537-595, passim. A brief digest of Livingston's plan may be found in Appendix I of this work.
24. Ibid., II, p. 537.
25. Ibid., I, p. 557.
If prospects for a new prison seemed good in 1822, they seemed almost equally as poor a year later. The commission report to the legislature admitted little progress; the cost would be far above the estimate; the plan, they agreed, was unreasonable and extravagant. A site of 160 acres, with a four acre front on the river and extending to a depth of forty acres in the other direction, cost $21,010. After considerable advertising, four bids were received, the lowest of which was $514,000--nearly twice the original estimate! The commissioners advised the construction of one wing; the other could be added when needed, and after the state tested the usefulness of the institution.26

Little was accomplished during the next three years: An investigating committee complimented the management, but found the same evils of indiscrimination between prisoners. The insane was made the laughing stock of the prison. An appropriation of $1500 a year to enable the Charity Hospital, or the Orleans Parish Sheriff, to care for them was advised.27 The physician's salary and medical allowance was raised from $400 to $700 per year;28 Orleans Parish was granted $500 per year for the use of the parish jail for state prisoners;29 a minor addition was made to the old prison;30 fencing of the new peni-

27. Ibid., pp. 85-96; Ibid., Senate, p. 25. There is no evidence of the appropriation being made.
29. Greiner, Mainrad, The Louisiana Digest (1804-1841), New Orleans, 1841, p. 419.
30. House Journal, 7 Legislature, 1 Sess., 1825, p. 95. (See expense account).
tentiary lot was authorized; but additional appropriations for construction were defeated in the legislature, notwithstanding the best efforts of Governor Robertson and a sympathetic committee. When attempts to raise funds by securing the sale of certain New Orleans real estate, property of the state, proved unsuccessful, opponents of the new penitentiary, led by the new executive, Governor Henry Johnson, attempted to secure authority to sell the building site.

Johnson admitted many abuses existed in the old prison; that the convicts were a burden to the state; that a house of correction was needed: he merely objected to the building of an entirely new plant at what he would have considered unnecessary expense. Why establish a "gigantic" prison when the old one could be altered to meet present needs? It might be well, he argued, to spend modest sums raising walls, and converting some of the adjacent buildings to workshops, where inmates could learn trades and work, shielded from public view. Furthermore, location in the center of the city, near the populace and city police, diminished the possibilities of escape, and increased opportunities for hiring out convicts. Levee

32. Senate Journal, 6 Legislature, 1 Sess., 1823, p. 67; Ibid., House, 7 Legislature, 2 Sess., 1826, p. 9.
construction on the new site had become a constant drain on the treasury; at Johnson's suggestion, the property was sold for $19,380, nearly two thousand dollars less than it cost, not counting the cost of the construction.

The majority in the legislature supported the governor. A joint committee suggested two plans: one called for the purchase of certain lots back of the prison and erection thereon of the necessary buildings, at a total cost of $110,000 to $120,000. The other, submitted by the Orleans Parish Sheriff, would add another story over the old prison for the dual purposes of providing rooms for workshops and protection from escapes over certain low walls. A majority of the committee favored the first proposal, but neither was adopted because the next year found Johnson and a legislative committee deploring overcrowding, indiscrimination, slothfulness, and the frequency of mistakes. A House resolution proposed to have a committee inquire into the wisdom of spending $25,000 on the prison and other public works, while someone in the Senate suggested the possibility of borrowing one half million dollars for like purposes.

The expense item was becoming very serious, in 1826 the

35. Ibid., 8 Legislature, 2 Sess., 1828, pp. 78-79.
37. Ibid., 8 Legislature, 1 Sess., pp. 7, 25, 29-30; Ibid., House, p. 33.
total outlay was $16,492.47.\textsuperscript{38} Johnson, who favored using convicts on public works, secured permission to lease them to any person or corporation who would feed, clothe, and lodge them, and prevent their escape. The policy, he argued, would relieve congestion and expense, carry out sentences of hard labor, and release men trained to manual work.\textsuperscript{39} New Orleans accepted the offer and placed convicts on the street. Legislators gave a favorable report of the work at the end of three months,\textsuperscript{40} but six months later, the mayor reported a loss of over $400, exclusive of maintenance, broken tools, and other items! And worse still, a member of the city council implied that the guards employed equaled the number of convicts! And even then, the former had been very negligent.\textsuperscript{41}

Some individuals, the governor indicated, who were physically unfit for public works could be more advantageously employed at mechanical trades; therefore, he still believed the state should begin construction of a penitentiary on a small scale, using the city prison as a base, and admitting of enlargement when the need arose.\textsuperscript{42} Again the legislature follow-

\begin{itemize}
\item \textsuperscript{38} Senate Journal, 8 Legislature, 1 Sess., 1827, p. 25. Food jail expenses, administration; $14,845.97; clothing $946.50; physician, $700.00.
\item \textsuperscript{39} Ibid., p. 25.
\item \textsuperscript{40} L'\textit{Abeille} (The Bee), New Orleans, Oct. 13, 1827; House Journal, 8 Legislature, 2 Sess., 1828, p. 22.
\item \textsuperscript{41} L'\textit{Abeille} (The Bee), June 5, 1828.
\item \textsuperscript{42} Senate Journal, 8 Legislature, 2 Sess.; L'\textit{Abeille} (The Bee), Jan. 8, 1828.
\end{itemize}
ed Johnson's leadership, but their plan to remodel the old prison at the low estimate of $10,000 never materialized. As the state paid only $500 annual rent, it will be agreed that the plan seemed an economical one.

At least two other unsuccessful attempts to remodel the old prison were made. One investigation revealed the amazing fact that lack of space forced the jailor to lodge ten to twelve prisoners in one room not more than twelve feet square.

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CHAPTER III

THE NEW PENITENTIARY-PRISON AT BATON ROUGE

The penitentiary gained friends during the administration of Jacques Dupre, and A.B. Roman.\(^1\) Investigations made in 1831 and subsequently revealed a prison population of some 156 persons\(^2\) occupying congested quarters in the old police jail, which was now serving as a combined parish and state prison. The building was kept as clean and orderly as could be expected in such limited space, but slight offenders were still quartered with the "basest wretch", and the unfortunate debtor with the "vilest murderer . . . "\(^3\). Convicts had been leased to the city for sustenance; approximately $180,000 had been spent for maintenance since 1819, the year Governor Villere advocated construction of a penitentiary; had the request been granted, Governor Dupre was convinced, the establishment would have paid for itself during the intervening years. Such was the experience of Connecticut, where construction of a penitentiary had converted an annual loss of $8,700 to an average profit of slightly over $1,000.\(^4\) Why could not this be done in Louisiana?

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1. Dates: 1829-1831, 1831-1835, respectively.
2. Forty-nine of the prisoners were from the United States; twenty-six were foreigners. Ten of the former were negroes, while eighty-one of the total were persons who had not been tried. See House Journal, 10 Legislature, 1 Sess., 1931, p. 98.
3. House Journal, 10 Legislature, 1 Sess., 1931, p. 98.
"Our sister states afford us very many examples of the utility and value of that system . . . ." Experience shows the best prevention of crime is mild, humane and justly proportionate scale of punishment, which cannot well be carried into complete and satisfactory effect without the aid of a penitentiary.

The Penitentiary could not be delayed much longer. For twenty years the question had been debated; several governors—Claiborne, Villere, Robertson, Dupre, and even Johnson—had attacked the problem, only to be rebuffed, in the end, by differences of opinion, lack of popular interest, or financial obstacles; at least ten bills, and as many resolutions, proposing establishing a house of correction or enlarging the old city prison had been introduced; and all had been lost through one cause or another. But it was not to be true now. The popular conscience must have been awakened; the mute plea of the insolvent debtor had at last gained compassion; the stench of the dungeon had penetrated, as it were, the nostrils of a sensitive people. The work of Claiborne, Villere, Livingston, and others had borne fruit. According to the records of the present writer, five attempts to ameliorate the statutes authorizing deten-

5. Ibid., 1831, p. 12
tion of insolvent debtors, and six proposals to abolish all forms of imprisonment for debt were made by governors or legislators, not to mention aid given by the rising press. An act passed in 1830 enabled persons unable to pay court and jail costs to take advantage of the insolvent laws to rid themselves of the indebtedness, after serving the original sentence.

Other evidences of the reform movement were: exemption of white persons from the pillory, granting of the right of petition to convicts, protests against convicts working in "particular" costumes, legislature investigation of the advisibility of having convicts work in public places, and press condemnation of public executions.


8. See The Bee, February 2, 1828; March 6, 1829, March 16, 1829; and December 7, 1830.


10. Acts of Louisiana, 6 Legislature, 1 Sess., 1827, p. 44.

11. House Journal, 9 Legislature, 1 Sess., 1828, p. 44.


13. The Bee, April 23, 1829.
The Louisiana Penitentiary was founded by virtue of an act of the Legislature approved March 16, 1832. Briefly summarized, this act provided that a board of five commissioners, nominated by the governor, purchase a suitable lot at Baton Rouge and build a penitentiary on the plan of the prison at Wethersfield, Connecticut. The capacity was to be one hundred convicts, and capable of enlargement; the cost was not to exceed $50,000. Advertisements for building contracts state that contractors were to furnish all labor and materials except lumber and brick, which were to be furnished by the state; or to contract for special work; as the main building, the carpentry, or the ironwork. Contractors were to furnish bond and work under a time limitation.

The first efforts of the commissioners were not wholly successful. The building site, the wood, and bricks were secured at moderate prices; but necessary deviations from the Wethersfield plan, among other reasons, had raised the total cost to $73,000, which was $23,000 more than the original estimate. The dungeons were made larger, and quarters for a keeper and his family were provided. The legislature was asked to appro-

14. The chief characteristics of the Wethersfield plan are quiet labor during the day and solitary confinement at night.
17. The Wethersfield plan called for dungeons six feet by three and one half feet. The object of the state, declared a legislative report, is not to destroy existence but to turn out honest men. See House Journal, 11 Legislature, 1 Sess., p. 44.
appropriate additional funds, or to move the convicts to Baton Rouge, and assign them to work at the new plant. Governor Andre B. Roman urged continuation of the project. During 1832, he reported, the state had spent more than twenty thousand dollars; during the same period, Connecticut had derived a profit of $8,713.13 from her penitentiary. Even if prisoners proved incapable of reformation, it would be gratifying to relieve honest men from being taxed for the support of criminals.

Recommendations enumerated above were embodied in two acts passed March 20, 1833. The Board of Commissioners were granted permission to depart from the Wethersfield plan provided such alterations increase costs to not more than $20,000 above the sum already appropriated, and were not inconsistent with the policy of solitary confinement. Six thousand dollars was appropriated to move the convicts to Baton Rouge; the commissioners were authorized to appoint a warden to discipline convicts and superintend construction; to employ a guard of one captain and nine privates; to employ such officers, assistants, and servants as they deemed necessary; and to make regulations for the governing of convicts. The salary of the warden was fixed at $2,000 per year; the captain and guards received fifty dol-

18. Ibid., pp. 7, 44.
19. Prisons at Charleston, Auburn, Philadelphia, and Baltimore had also yielded profits to the states operating them. See House Journal, 11 Legislature, 1 Sess., 1833, p. 7.
lars and thirty dollars per month, respectively.20

Construction of the new penitentiary progressed fairly rapidly. By the end of June, 1833, brick and lumber were ready, and bids for the masonry and carpenter work were being sought.21 During the summer and fall, epidemics slackened progress; however, the crews were working rapidly in December. A legislative committee was favorably impressed with the discipline and neatness of the place. The buildings seemed adapted to the designs of the institution, and indication wore it might be used by the end of the next year (1834). One defect was discovered, however: water from humid air collected on the walls, condensing to such an extent in the lower cells as to run down and collect in puddles on the floor. Though it presaged ill for health, there was little hope of improvement.22

By January, 1834, the commissioners had made another change in the original plan, a fact which necessitated another financial report to the legislature. The warden estimated $56,891.80 would be needed to complete the work, a sum which would have derived from convict labor; still, the relatively large sum of


21. Louisiana Register, quoted in The Bee, June 22, 1833; Baton Rouge Gazette, June 22, 1833; June 29, 1833 most of the materials were furnished by the state, and those secured were said to be of good quality. See, also, House Journal, January 7, 1834, p. 45.

$32,619.17 was asked of the state. It had been necessary to pay officers from allowances made for materials, as no other provisions had been made for their salaries.23

The most friends of the penitentiary could secure at the time was an appropriation of $10,000 to complete the buildings and transport certain convicts; a like sum for maintenance of prisoners; and a law requiring that all persons within the state sentenced to hard labor be brought to work on the state prison at Baton Rouge. 24 Fortunately, however, the next two years brought increases of $10,00025 and $11,50026 respectively; and early in 1837, a final grant of $15,000 proved sufficient to complete the main building, and to construct a store and dwelling for a newly added officer, the clerk.27

Other items granted the new institution during the course of three years were: a yearly appropriation of $10,000 to meet the deficits incurred in the maintenance of convicts;28

24. Ibid.; Pierce, Levi; Taylor, Miles; and King, William W., The Consolidation and Revision of the Statutes of the State, New Orleans, 1832, p. 472. The use of convict labor on the new plant proved disappointing. On January 5, 1835, Governor announced that all state prisoners were in Baton Rouge, but admitted their labor had not paid the cost of guarding them. See House Journal, 12 Legislature, 1 Sess., January 5, 1835.
27. Ibid.; 13 Legislature, 1 Sess., 1837, p. 100.
28. Acts of Louisiana, 12 Legislature, 1 Sess., 1835, pp. 129-131. Note the inference: convict labor was not paying the cost of keeping the prisoners.
eight hundred dollars for the purchase of two additional lots; payment of a $1100 deficit; the addition of a clerk, and increases in the salaries of other employees; as well as fifty new muskets for the guard. Annual expenses mounted. In 1835, before the latest increase, salaries, alone, amounted to approximately $12,000 per year. The state treasurer advocated putting the support of the convicts on the parishes where they were convicted, and keeping those sentenced to hard labor less than one year in parish jails, thus avoiding expenses of transporting them to the state prison.

The penitentiary at Baton Rouge faced St. Anthony Street, between what are now Florida and Laurel Streets. It was a three story brick building, one hundred and fifty-four feet wide, from north to south, and was surrounded by a wall forming a hollow square, and extending at least two hundred forty-four feet.
feet from west to east. The walls had foundations three to
five feet below the surface, with a base of five feet, which
was reduced to twenty-six inches before reaching the level of
the ground.\textsuperscript{33} The walls are described as very durable, but were
low enough on the east side to allow the escape of four con-
victs in 1844,\textsuperscript{34} and to require elevation two years later.\textsuperscript{35}

The keeper's lodge was located on the southwest corner,
south of the main gate, next to the cells. The quarters of
prisoners and keeper were separated from the yard and work-shop
by a wall.\textsuperscript{36} A portion of the building, known as the northern
wing, occupied by the hospital, work-shops, and provision room
was destroyed by fire in 1841,\textsuperscript{37} and was replaced with fire-
proof brick structures at the low cost of four hundred dollars
for materials—thanks to the convicts who made the bricks and
did all the mechanical work. Temporary woodshops located in the
yard were removed.\textsuperscript{38} Three years later, after the prison was
leased to a private corporation, the enclosure was extended
about 120 feet toward the east to make room for a bugging, warp,
and rope factory. The new structure, two hundred and eighty-
seven feet by forty feet, was well built, of good materials,

\textsuperscript{33} The Daily Picayune, New Orleans, October 6, 1840; The Bee, Dec. 13, 1843.
\textsuperscript{34} The Baton Rouge Gazette, July 27, 1844.
\textsuperscript{35} Ibid., March 14, 1846.
\textsuperscript{36} The Bee, December 13, 1843.
\textsuperscript{37} Baton Rouge Gazette, November 6, 1841.
\textsuperscript{38} Ibid., November 23, 1843.
and cost more than £15,000, the walls alone containing nearly 800,000 brick and costing above £10,000. The new buildings were described as "airy", and it is said that running water and separate quarters for debtors were included in the plan.

To visit the new prison, one purchased a card at a nearby store for twenty-five cents and entered the visitors gate on the north side by means of "a kind of convey (sic) box" which moved on a pivot and turned toward the inside. There the visitor came suddenly upon armed guards. A visit to the penitentiary must have been a novel experience!

39. Ibid., January 1, 1846; April 15, 1846.
40. The Bee, June 15, 1837.
41. The Daily Picayune, October 8, 1840.
CHAPTER IV

THE PENITENTIARY UNDER STATE CONTROL

Adherents of the penitentiary idea desired to curtail expenses, improve prison conditions, and reform men. Under such a system, even the incorrigibles are made to pay their expenses, or even yield a profit by their labor, and to some extent, save society from the cost of their crime. The new prison offered a well lighted, amply ventilated environment where prisoners could be properly segregated and assigned to gainful occupations; where they could work silently during the day and be lodged separately at nightfall; where they labored concealed from the public view: a place in which existence was not destroyed as in the medieval dungeon; but where character might be reclaimed. Withal, it was a community that hoped to take in the delinquent and return "honest men".

Observers were optimistic. A legislative committee considered the buildings very creditable. Governor Roman felt sure the legislature would be proud of the new plant and observed that Louisiana no longer bore the reputation of having the worst pri-

2. House Journal, 11 Legislature, 1 Sess., February 5, 1833, p. 44; 10 Legislature, 2 Sess., January 2, 1832, pp. 6-7
3. Ibid., 12 Legislature, 1 Sess., January 16, 1834, p. 25.
son in the United States. 4 The Bee commented as follows: 5

The old calaboose (Galabozo) is a horri-
ble residence for any human being, no matter what his guilt may be but
when we reflect that heretofore debtors,
innocent men accused of criminal of-
fenses, and seamen confined for no
fault but that of being suspected of
a design to desert their vessels, are
mingled with convicts and the very
dregs of the human race, in a space
much too limited for the whole num-
ber, we cannot help looking upon the
completion of the new prison as a con-
summation suspicious to humanity.

Perhaps the most difficult problem confronting a peniten-
tiary administration, at any time, is the selection of prison
industries. Several considerations enter into the choice: a
considerable portion of silent and solitary labor is consid-
ed desirable; the average convict is not skilled in the use of
machines; neither is he interested in paying the cost of his
upkeep: still, if the establishment is to meet popular expect-
tations, it must support itself; and, be it remembered, it must
do so without competing with private industry.

In 1834, while the prison was under construction, some of
the inspectors suggested the manufacture of cotton bagging as
a suitable employment for convicts. A legislative committee was
not of that opinion: they favored using convicts as artisans
in the coarser and more simple branches of mechanics, where con-

4. Ibid., January 5, 1835, p. 6.
5. The Bee, June 15, 1837.
consummate skill and complicated machinery are not required. There was, they believed, a good demand for cart-wheels and cooper's wares. The committee advised early purchases of raw materials in order that production might begin as soon as feasible.6

The small-shop system was adopted. By 1840 or shortly afterward every branch of industry, from the picking of damaged cotton to cabinet-making, or the manufacture of side-saddles was in evidence.7 Besides cloth manufacturing,8 we find brick-making,9 the tanning of leather,10 wheel-right's work, joinery, carpentry, cooperage, forge work, foundry,11 cabinet making, tailoring, painting, and gun and watch repairing.12 Female convicts did the laundry work.13 Convicts were sometimes employed outside the walls.14 Raw materials, particularly cotton and wool, were bought15 and finished products sold

7. The Daily Picayune, October 8, 1840.
8. Ibid.
9. Ibid., May 20, 1842.
11. Senate Journal, 16 Legislature, 1 Sess., February 9, 1843.
12. Daily Picayune, October 2, 1844.
13. Ibid., October 8, 1840.
14. Four convicts escaped while working in the woods. See Baton Rouge Gazette, February 17, 1841. It is interesting to note that thieves stole several cords of wood from the Penitentiary! Ibid., March 28, 1833.
15. Baton Rouge Gazette, French Edition, April 25, 1840; August 24, August 31; October 26, 1844.
locally, and abroad, by means of advertisements in the newspapers. One of the advertisements offers to planters "negro shoes" as good if not better than those imported from the North, at Fifteen Dollars per dozen. Best calf-skin and hip boots, Brogans and shoes, together with boys' and ladies' shoes and Brogans; which will be sold at the lowest prices.

Farmers furnishing materials needed by the Penitentiary at prices specified by the prison authorities were given preferences in sales of clothing. Credit was extended on sales over fifty dollars.

An advertisement, submitted by the penitentiary authorities in 1840, remarked that "great preparations" for the manufacture of coarse wool and cotton fabrics were being made. An act of the Legislature had appropriated $2,500 to purchase and introduce machinery for the manufacture of coarse cotton and woolen goods. The project succeeded; the hopes of the administrators were realized. Thirty-five slaves engaged from February 1 to December 1 made 53,583 yds. of cloth valued at $11,023.23. The cost of materials was $5,900.90, leaving a...

16. Opposite the new site was a store that offered for sale fabrics and other products made in the Penitentiary. See The Daily Picayune, October 8, 1840.
17. Baton Rouge Gazette, May 2, 1840. See footnote 18, also.
18. Ibid., also, May 9, 1840.
profit of $5,122.33. This figure is equivalent to a wage of fifty-five cents per day for each convict participating, and represented a profit of four cents per day on his employment. 22 Steam power was used. 23 In 1841 a new engine was installed. 24

Unfortunately, a fire, thought to be the work of incendiaries hoping to escape, 25 broke out in the Penitentiary on the night of November 4, 1841, and destroyed about $10,000 worth of property. 26 The northern wing occupied by the hospital, workshops, and provision room, was entirely destroyed; the other parts, offices, cells, and keeper's quarters, remained undamaged. 27 Prompt action leading to replacement was taken, 28 and in the meantime, the press urged the expediency of diverting prison labor to work other than the trades, to avoid the competition that had caused so much complaint among the artisans of Baton Rouge. 29

The governor and the penitentiary committee in the legislature favored the changes suggested. In December, 1841, Governor Roman advised that the only hope he had of making the pri-

26. Ibid., December 13, 1841.
27. Ibid., November 6, 1841.
28. Ibid., December 13, 1841; November 25, 1843.
29. Ibid., November 6, 1841.
soners pay their cost of $30,000 annually, was to employ them in the manufacture of coarse woolen and cotton goods. The machinery needed would pay for itself in three years. The permanent Committee on the Penitentiary agreed that sixty to eighty prisoners were fruitlessly employed in 1842; whereas, forty employed in the manufacture of cloth earned a profit of thirty-four per cent. Their arguments substantiated others given in this paper: the coarse cotton and woolen manufacturing industry was the only one proving profitable; it would employ a larger number of men; and the well established principle that prison labor should not compete with private industry would be observed.

Further testimony to the success of cloth manufacturing is borne by the Baton Rouge Gazette. The number of pieces of cloth made per week had gradually increased from an average of 97 to 135, nearly forty per cent. An appropriation of $20,000 would return $10,000 yearly, the writer estimated, and would remove the cause of complaints by the mechanics.

30. Senate Journal, 15 Legislature, 2 Sess., December 13, 1841, p. 5; Baton Rouge Gazette, December 25, 1841. The editor commended the governor's plan.
31. Ibid., 15 Legislature, 1 Sess., February 9, 1843, p. 20.
32. Baton Rouge Gazette, November 25, 1843. An interesting article entitled "Silk in Our State Prisons" is found in the Gazette of March 25, 1842. Based on a report from the prison at Albany, New York, the treatise makes no suggestions, but it is fair to infer that the writer was interested in the possibilities.
The administrative staff of the penitentiary developed with the institution. The acts authorizing the penitentiary, it will be remembered, created a board of five commissioners to build the plant and remove the convicts to Baton Rouge. A legislative committee complained that commissioners were not subject to removal for neglect of duty, and recommended they be appointed annually by the governor until the work was completed.

Literally, committee after committee from one or both houses investigated prison conditions, made reports, and suggested improvements until about 1833, when a permanent penitentiary committee was appointed. A Board of Inspectors, composed of seven members, authorized by the legislature in 1834, assumed many of the powers formerly possessed by the commissioners. They appointed all officers, who were likewise subject to removal by them, fixed their salaries, made regulations for the governing of convicts, and supervised prison industries. Both commissioners and inspectors were paid mileage

34. House Journal, 11 Legislature, 1 Sess., Feb. 5, 1833, p. 44. There is no record of action on this proposal.
36. Bullard and Curry, New Digest, p. 628; Baton Rouge Gazette, April 29, 1843.
when traveling in conformity with their official duties.\(^{37}\)

The penitentiary buildings were scarcely begun before the need of a building superintendent was felt; but the function was soon added to the duties of the warden. This official was appointed by the commissioners, at a salary of $2,000 per year, and was subject to their control.\(^{38}\) The salary was raised to $3,000 in 1834,\(^{39}\) but was reduced to $2400 during the economic crisis suffered by the prison in 1842.\(^{40}\) In 1836 his appointment was removed from the hands of the inspectors and made a function of the governor.\(^{41}\) At the same time he was required to give, to the penitentiary clerk, receipts for the proceeds of manufactured articles sold, and to submit accounts to the inspectors at the time the clerk submitted his report.\(^{42}\) He was the legal representative of the penitentiary, and could employ the local district attorney to represent him in civil cases.\(^{43}\)

In matters of administration and discipline, the warden was aided by six assistant wardens and a guard. The former were

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40. Senate Journal, 16 Legislature, 1 Sess., February 9, 1843, p. 19.
42. Ibid.
43. Acts of Louisiana, 14 Legislature, 1 Sess., 1839, p. 76.
first employed in 1834, at a salary of $600 per year, subsequently increased to $700. In 1842 the number of assistant wardens was reduced to four, and the salary to $540.

The first guard consisted of a captain and nine men. The commissioners fixed the pay of the captain at fifty dollars per month; that of the privates was thirty. In 1836 the salary of the captain was doubled, and a year later was increased to $1500 per year; while that of the privates was increased to thirty-five dollars per month. Twenty guards were employed in 1834 and thirty in 1836. Early in 1842 the number was reduced to twenty-two and the remuneration to thirty dollars per month.

A controversy concerning the remuneration of guards occurred in June 1842. An editorial in the Baton Rouge Gazette protested the action of the Board of Inspectors because in the period of economic stress they made a reduction of forty-five per cent in the pay of the guards, whereas the much more highly...
paid chief warden escaped with a reduction of twenty per cent.

The editor writes as follows:  

Such men cannot be employed at the rates fixed by the board, and their situations (positions) must, of course, be filled by irresponsible men having no common ties with the citizens of the town, and from whom we can only anticipate annoyance and injury.

As a result of the paper's opposition, two inspectors and several members of the legislature relented; but one James McGalop, who was probably president of the Board of Inspectors, called attention to the financial straits of the institution:  

If the expense of the penitentiary and the income go on as they are now going for one year more, it would be better to send no more convicts there; for the state has no money and the Penitentiary is in debt, and will soon have no credit. Do you not think it time for some change?

As we have learned, the first regular prison physician was employed in 1818, at a salary of $300 per year, which was raised at intervals until it reached $1,000 in 1837. This sum was reduced to $400 in 1842.  

A clerk, appointed by the warden, and subjected to removal

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54. Baton Rouge Gazette, January 25, 1842. Guards were armed with muskets, bayonets, and swords furnished by the state. When on duty inside the cell row a guard carried only his sword. See Acts of Louisiana, 11 Legislature, 1 Sess., 1833, pp. 105-108. In 1839 ten pairs of heavy pistols were purchased. See Acts of Louisiana, 14 Legislature, 1 Sess., 1839, p. 76.
55. Senate Journal, 9 Legislature, 1 Sess., 1829, p. 79.
by the Board of Inspectors, completed the staff of administrative officials, as it existed under state control. His principal duties were to receive, and sell\textsuperscript{56} articles manufactured in the prison shops, to keep written records of all transactions pertaining thereto, to report sales and deliver the proceeds to the warden weekly, taking the latter’s receipt for same. An appropriation act of 1837 required the construction of a store with suitable quarters for the clerk and his family as a part of the main building.\textsuperscript{57} The salary of the clerk was fixed at $1,000 when he was appointed,\textsuperscript{58} and was raised to $1500 two years later.\textsuperscript{59} In 1842 it was reduced to $1200.\textsuperscript{60} A commissary keeper was employed for twenty-five dollars per month.\textsuperscript{61}

A committee report made early in 1840 allows the Penitentiary a profit of more than $13,000; however convict labor on non-marketable projects was estimated at more than $32,000. Since the latter item could not be converted into cash, the state support was still required. The sales of manufactured goods reported amounted to $50,823.83.\textsuperscript{62}

\textsuperscript{56} Sales were required to be for cash. See \textit{Acts of Louisiana}, 13 Legislature, 1 Sess., 1837, p. 101.
\textsuperscript{57} \textit{Ibid.}, p. 100.
\textsuperscript{58} \textit{Acts of Louisiana}, 12 Legislature, 1 Sess., 1835, p. 234.
\textsuperscript{59} \textit{Ibid.}, 13 Legislature, 1 Sess., 1837, p. 100.
\textsuperscript{60} \textit{Senate Journal}, 16 Legislature, 1 Sess., February 9, 1843, p. 19.
\textsuperscript{61} \textit{Ibid.}
\textsuperscript{62} \textit{Baton Rouge Gazette}, February 22, 1840. Note: The time for which the profit was calculated is not stated.
The first complete financial statement we have concerning the Penitentiary was rendered at the end of 1842. Total receipts, including $20,000 worth of warrants held against the state, were $57,682.57; total expenditures were $55,732.98; which leaves a balance of $2,147.98, about $700 less than that received from the previous year. The assets of the Penitentiary were valued at nearly $32,000; nevertheless, it could not pay the $13,800 due its employees, because the state had not met its warrants. The situation was no better two years later. The Penitentiary had cost the state approximately $450,000 and had an annual deficit averaging $20,000.

The number of prisoners rose from 75 in 1831 to 91 in 1834. Nine years later, the number was 206. In the event of a shortage of cells, the governor was authorized to arrange for the use of space in the Orleans Parish Prison. The precaution proved unnecessary. Only 177 were imprisoned a year.

63. Senate Journal, 16 Legislature, 1 Sess., February 9, 1843. It was at this time that the controversy over the pay of prison guards occurred.
64. Senate Journal, 16 Legislature, 2 Sess., January 2, 1844, p. 3.
67. Senate Journal, 16 Legislature, 1 Sess., February 9, 1843, p. 19. In the latter year 85 entered, 66 were discharged, 2 received pardons, 3 escaped, and 3 died of consumption.
The attitude of the press, while generally complimentary, reveals a curious intermingling of sympathy on one hand with the old idea of vengeance on the other. The editor of The Daily Picayune found the system prevailing in the Penitentiary as humanly mild as circumstances permitted and better calculated than capital punishment to accomplish the aims of public justice. He found the prisoners supplied with clean clothing, enough good, wholesome food, and engaged in labors conducive to health and longevity. Prisoners were not allowed to talk, except about their business.  

This it is, coupled with the degradation and the infamy of their situation, that renders their life truly miserable... A perfect system of criminal discipline pervades the whole establishment; for every one there seems to be a place, and every one seems in their place: it is all work, all order, and all silence; and the wheel which turns the machinery goes not more regularly than the labor of the prisoners.  

A writer from The Picayune, visiting the Penitentiary in 1844, found it clean, orderly, and silent. The prisoners went to work at daybreak, breakfasted from 7:30 to 8:15, were

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69. The Daily Picayune, October 8, 1840.  
70. The Daily Picayune, October 8, 1840. The prison uniform consisted of a coarse cotton jacket and trousers, coarsely plaited straw hat and brogans. Each convict wore an iron ring around his right leg to which was attached an iron chain leading to the waist, and there fastened to a belt around the body. This was a precaution against escape, of course.
given one and one half hours for lunch, and then worked until sundown. Their meals consisted of wheat bread and fresh beef or pork; soup and beef or pork for lunch; and mush and molasses for supper. Meals were served on a numbered table. Each prisoner marched in, took his rations, and ate it alone in his cell. The following vivid description is added:  

We said above they had a sufficiency of good and wholesome food. . . . Still there is a desolation in their looks which makes them seem not of the world though on (sic) it. That rigid discipline that imposes on them almost perpetual silence, and which forbids them to commune with even their fellows in guilt; their solitary meal, which they are compelled to take in their more solitary cell, no ray of heaven's light entering but what insinuates itself through the grating of its iron door; and the long and cheerless nights, passed within the confines of this narrow prison house (it is seven feet by four), without a sound save the grating of a lock, or the clanking of a fellow prisoner's chain, to break in on the deathful stillness, are well calculated to impart to their appearance that strange hue of living death—animated mortality—which it invariably exhibits. . . . A person would imagine that a practical lesson is here taught them, that it would forever deter them from plunging into vice again. . . . But here, as in many other things, results do not correspond with anticipations; for punishments even such as these have been found inefficient engines in the work of moral reform.

The Baton Rouge Gazette, joined in praise of the prison administration 72 and condemnation of political appointments, 73 but was not very sympathetic with prisoners. One article re-

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71. The Daily Picayune, October 2, 1844.
73. Ibid., April 24, 1843.
lates how a guard found a creole convict slashing himself with a penknife. Realizing he was not injuring himself much, the guard allowed him to continue for a while. In the words of the author: 74

This operation was repeated again and again, until the guard saw that the fellow was trifling away the hours of labor, when he taught the young gentleman that there was something more useful to do in that place, than pricking one's ribs with a penknife.

Again we find the editor writing of a Dr. Hines, and others: 75

He (Dr. Hines) looks docile and genteel and can now make a good pair of brogans; Canadian Pat was shoving the Jack-plane in work-man-like style; Capt. Gibson is getting initiated in the mystery of brick-making. We saw some that felt so attached to the institution that they had come a second time; use is second nature, and after (a) year's acquaintance they view it as 'home, sweet home'.

Notice the tone of satisfaction—the scarcely concealed vengeance—revealed by these lines.

Doubtless, the chief reason for the antipathy of the Baton Rouge Gazette was the competing of prison labor with local artisans. An article entitled "Our Town", published in 1833 mentioned, without malignity, that the Penitentiary would soon be completed; 76 in 1842 the same paper said the Penitentiary "is not a darling institution with the people of Baton Rouge". 77

74: Baton Rouge Gazette, March 13, 1842.
75: Ibid., November 25, 1843.
76: Baton Rouge Gazette, March 13, 1833.
77: Ibid., April 4, 1840.
Complaints became so numerous that the governing authorities were forced to take recognizance of them. The question was investigated by committee in 1840\textsuperscript{78} and again in 1842.\textsuperscript{79} The practice of allowing competition between prison labor and citizen tradesmen was condemned in each instance. Naturally, these reports were heartily commended by the local paper, which says, in part:\textsuperscript{80}

Since its location here, the Penitentiary has been a burthen to Baton Rouge; encroaching continually upon the prosperity and happy prospects of the city, by conflicting with the mercantile, and, above all with the mechanical operations of our citizens.

Every job carried to the Penitentiary at the present time, is so much taken from the subsistence of some mechanic, either of Baton Rouge or its vicinity.

The evils had been called to the attention with solicitations for relief "right speedily".\textsuperscript{81}

Baton Rouge physicians, aroused by the appointment of a convict physician, took part in the controversy arising from the retrenchment program of 1842, because the editor noticed them "bounce like galvanized cats".\textsuperscript{82} Since the mechanics had protested alone without tangible results, it was to be hoped the two would unite and effect the objects desired.\textsuperscript{83}

\textsuperscript{78} Ibid., April 4, 1840.
\textsuperscript{79} Ibid., February 23, 1842.
\textsuperscript{80} Ibid., February 23, 1842.
\textsuperscript{81} Ibid.
\textsuperscript{82} Ibid., June 11, 1842.
\textsuperscript{83} Ibid.
Naturally, to remodel the industrial facilities of such an establishment involves considerable time and expense, but this violation of popular sentiment was a major factor leading to the purchase of machinery for making cotton and woolen goods, and the subsequent leasing of the penitentiary.  

84. Senate Journal, 16 Legislature, 1 Sess., February 9, 1843, p. 20; March 29, 1843, p. 70; Baton Rouge Gazette, November 25, 1843.  

85. Acts of Louisiana, 16 Legislature, 2 Sess., 1844; Baton Rouge Gazette, October 19, 1844.
CHAPTER V
THE PENITENTIARY UNDER LEASE

The Act to lease the Penitentiary was passed March 25, 1844. According to its terms, the governor was authorized to lease the entire establishment for a period of five years or less, after advertising the proposal for three months. The Lessee was required to give bond to the extent of $25,000, to pay all operating costs, to maintain the prisoners without changing anything in their treatment before securing consent from the state, and to install and operate machinery for the manufacture of cotton bagging, hempen rope, and coarse cotton and woolen cloths. To assist in the last named requirement, the state was obligated to loan the lessee $15,000 for three years at six per cent, payments to be made semi-annually. The lessee was further obligated to give bond to the state for all raw materials and manufactured articles, at their appraised value, with the understanding that the state would take back the articles with like appraisement at the end of the lease period. It was specified that all tools and machines be inventoried, the same to be returned in similar condition, the lessee paying for use and loss. Those not needed could be sold and credited to the state. All profits were to be enjoyed by the lessee for two years; afterward, they were to be divided with
the state according to stipulations in the lease contract.  

It was specified that the chief employment be the manufacture of coarse cotton and woolen cloth, "negro shoes", cotton bagging, and hempen rope. The foundry could be operated, along with any other shops needed by the Penitentiary, but no other business shall be pursued . . . which may come in competition with the citizen mechanics of Baton Rouge and no carpenter's work, blacksmith's work, or any other mechanical work which is pursued by citizens of Baton Rouge, shall be sold from said Penitentiary at Baton Rouge.

The state was to be represented by a Board of Directors and a clerk. The former, composed of five members appointed annually by the governor with the consent of the Senate, should meet monthly, superintend the Penitentiary, report yearly to the state executive, and submit a full report of all penitentiary affairs to the legislature within ten days of the opening of the first session of the year. If the lessee violated the agreement, the governor, with the consent of two-thirds of the directors, could suspend or cancel the contract. The directors were instructed to appoint a prison physician and a chaplain.

1. The lease contract, as finally consummated, did not provide that the state receive a share of profits. See Senate Journal, 17 Legislature, 1 Sess., January 6, 1845, pp. 2-4. The full contract is reproduced in Appendix II.

2. All foregoing and subsequent materials, except the lease contract, may be found in Acts of Louisiana, 16 Legislature, 2 Sess., 1844, pp. 43-44.

3. The legislature sometimes held two sessions per year at that time.
The clerk was appointed by the governor, with Senate approval, every two years. He was required to be "a good and competent person" who would superintend the interests of the state in the Penitentiary, keep records, separate from the lessee, on all receipts and expenditures, proceedings of the Board of Directors, profits, and leases. He was further required to keep his book always open to inspection, and to call attention to any irregularities affecting the interests of the state. He could live in the quarters assigned to former clerks and was to receive $1,000 per year, and ten per cent of the profit derived by the state, provided both did not exceed $2,000 annually.

The new law retained the office of prison physician and added that of chaplain. The former was to receive $600 per annum; the latter, $400. The duties of both were to be prescribed by the Board of Directors, and shall be so performed as to secure constant attention to the health and to the moral and religious instruction of the convicts.

The governor was "requested" to be guided by the plan of lease in operation in Kentucky; but he was authorized to deviate from the strict provisions of the act if he found it "absolutely necessary", except in regard to officers and the treatment of convicts. In the event the Penitentiary was not leased with-

in six months, the governor was directed to employ an experienced manager "of penitentiaries on the plan of the Wethersfield Penitentiary in Connecticut, or the Penitentiary of Kentucky".  

Seemingly few newspapers of the period considered Penitentiary news worthy of much comment. Only two of the several papers examined even mentioned the lease proposal, and these took opposite views. The Picayune favored leasing the institution as a measure of economy to the state, which had lost $28,000 in one year, it was understood. The lessee would install machinery and make convict labor efficient. The Baton Rouge Gazette considered the lease contrary to the interest of the state. The editor was satisfied "from observation" that the prison management could scarcely be improved upon, and that the industries would yield a profit to the state during the year (1844). He concludes:

The state has undergone the expenses of the institution up to this day, and now that it can be made a source of profit, it is thrown in the hands of private individual(s), another proof of the evils of too much legislation.

The penitentiary was leased in July, 1844, to Messrs. James A. McHatton and William Pratt, who took charge on November 1.

5. Ibid., pp. 42-44.  
6. The Daily Picayune, March 15, 1843; January 10, 1845.  
8. Pratt was a native of Kentucky. See The Daily Picayune, July 17, 1844. The writer is not acquainted with McHatton's early history.  
9. House Journal, 17 Legislature, 1 Sess., January 6, 1845, p. 3; Ibid., Senate, pp. 3-4. The latter reference gives a complete copy of the lease contract, which is reproduced in Appendix II of this volume.
The terms of the lease follow very closely the legislation outlined above, except that no provision was made for sharing profits with the state. Governor Alexander Mouton regarded the terms as "highly advantageous" to the state, while the directors felt sure advantages would accrue to the state and prisoners. The lessees, the directors reported, manifested every disposition to conform to the contract: many alterations and repairs were being made; pack cloth manufacturing machines had been installed and were turning out a product equal, or superior to that from Kentucky; and improved machines for the manufacture of cotton cloth, bought in almost new condition at Lowell, Massachusetts, were being set up under the direction of a skilled mechanic, and would soon be in operation. The institution was well managed. Prisoners were treated humanely, but were taught to respect discipline. Provisions were of first quality; beds and clothing were clean; convicts were "constantly employed, though not overworked." The sick were well treated, the physician visiting the hospital at least once daily.

11. Ibid., Senate, p. 5.
12. Senate Journal, 17 Legislature, 1 Sess., 1845, Appendix F. (Text of Joint Committee Report); January 6, 1844, pp. 4-5; Baton Rouge Gazette, March 14, 1846. In April, 1848, Miss Dix, the philanthropist, visited the Penitentiary and expressed herself as being very favorably impressed with existing conditions. See the Baton Rouge Gazette, April 18, 1846.
The committee urged that all state prisoners be brought to Baton Rouge without delay.

As stated above, penitentiary-made products were not to be sold in competition with those of local tradesmen. The lessees rapidly perfected plans to comply with this provision of the law. Temporary sheds were erected in the yard, where a bagging factory, the first in the state, was put in operation. A joint committee from the legislature reported rapid progress; the bagging was full weight and width, and equal to the best "brought down the river". The future success of manufacturing in the prison was scarcely doubtful; therefore, the committee urged the expediency of replacing the wooden sheds with a fire-proof factory building which was being planned by the lessees. Such an establishment would be better ventilated than the temporary sheds, and would provide within the main walls employment for all prisoners, thereby reducing expenses and

diminishing opportunities for escape.\textsuperscript{15}

Claims of success for the new enterprises are fairly well substantiated by newspaper publications. McHatton and Pratt had scarcely secured the lease before they advertised to buy wool and sell bagging and bale rope, coarse "negro" shirtings, drillings, and lindseys, along with shoes and foundry products.\textsuperscript{16}

A local editor, who had opposed leasing the Penitentiary stated with considerable enthusiasm that after four months, the appearance had suddenly changed from that of a mere workshop, where mechanical business was carried on "in detriment of the mechanics of our town" to that of a large manufactory.\textsuperscript{17}

He further remarks:\textsuperscript{18}

\textsuperscript{15} Ibid., The report referred to here gives, in three sections, a complete summary of Penitentiary affairs during the year 1844. The first section describes the consummation of the lease and the beginning of the new manufacturing industries; the second is an itemized account of all expenditures for the year; the third section, consisting of eight sub-divisions, gives details concerning the number, names, ages, place of birth, sentences, and terms of prisoners received, discharged, pardoned, deceased, escaped, detained, and transferred to the lessees, along with a general financial statement and the Chaplain's report. Some of the larger items purchased were supplies of leather, cotton, wood, wool, and beef. Fifty-one convicts were received, forty-three were discharged, eleven received pardons, five escaped, four were transferred to public works, and one died. The total number transferred to the lessees, as reported on October 12, was 176.

\textsuperscript{16} Baton Rouge Gazette, October 26, 1844.

\textsuperscript{17} Ibid., February 8, 1845.

\textsuperscript{18} Ibid.
Messrs. McHatton, Pratt and Co., the industrious and deserving lessees of our Penitentiary, have already spent a great deal of money in their undertaking, and if our planters will give them the encouragement they deserve, the present system of employing the state convicts will not only be beneficial to their private interest, but to the state at large, by saving the ten thousand dollars a year which used to be required to cover the expenses of that institution under state control.

Progress of cloth manufacture was noted weekly in the newspapers. The total output per week rose gradually from 7,355 yards during the latter part of April (1845) to 9,599 yards during the second week in June. True to expectations, the operations of the first year yielded a profit; namely, $12,417.26, of which cotton, wool, bagging, and rope manufacturing produced more than one-half.

During this period, the new warp, bagging, and rope factory previously mentioned was being constructed. This addition was a two story brick, the upper floor of which was fitted for spinning warps and filling bagging; the lower, for the making of ropes. The building was steam heated, and so constructed to allow conversion to a cotton factory or cells.

20. The Weekly Delta, New Orleans, March 23, 1846; Ibid., quoted in the Baton Rouge Gazette, March 28, 1846. Foundry and finishing, cabinet and pattern, shoe-maker’s and cooper’s shops, and the brick kiln were still being operated.
21. Acts of Louisiana, 17 Legislature, 1 Sess., 1845; p. 28; Baton Rouge Gazette, March 14, 1846; April 18, 1846.
The $15,000 loaned by the state proved insufficient, but a further appropriation of $37,000 was finally secured to complete the building and add machinery. Lessees were required to give bond of $10,000 to insure the return of the machinery and another of $5,000 to guarantee convicts would be used only for the manufacture of cotton and woolen goods, bagging, ropes, coarse "negro" shoes, and brick, or in foundry work, unless the products made were to be used in the Penitentiary. 22

As intimated already, complaints of local artisans help mold the industrial policy of the Penitentiary. Early in 1845 the President of the Mechanical Society asked members from over the state to protest against a proposed change in the law which prohibited the use of convicts in the trades. Violation of the prohibition, he maintained, had caused so many complaints that the lessees were circulating among planters a petition asking that the law be amended to allow them to use convicts for any mechanical work they chose. 23 The editor of the Baton Rouge Gazette heard "much grumbling" against penitentiary competition, but a visit to the prison revealed that manufacturing was gradually replacing the mechanical branches, a statement soon attested by advertisements for the sale of carpenter's and blacksmith's tools. 24

23. Baton Rouge Gazette, February 7, 1845; February 26, 1846.
24. Ibid., March 15, 1845.
A second visit, made after an interval of a week, convinced the editor that the complaints were entirely "without foundation". 25

Evidently, the mechanics were not satisfied. The next year found them meeting at regular intervals to oppose attempts to "raise a monopoly and crush them to earth". 26 The Baton Rouge Gazette became a convert to the cause of the mechanics. Writing early in 1846, the editor explained that workmen with families could not hope to compete with convicts who worked for maintenance, alone. Planters were accused of encouraging violation of the law; the legislature was asked to remove the cause of grievance; and Baton Rouge was urged to emphasize the value of the tradesmen as an element of population. 27 A committee from the legislature began an investigation; 28 Iberville Parish mechanics petitioned that convicts be not used in cooperage; 29 while The Weekly Delta, of New Orleans, joined actively in the defense of the tradesmen. All monopolies, argued The Delta, are harmful; but that of a government is the most unjust; and when it affects the largest class of a community, it reaches a most 30

deplorable point of iniquity . . .
The state has made a commerce of crime.

25. Ibid.
26. Ibid., January 17, 1846; January 24, 1846; March 7, 1846; April 4, 1846.
27. Ibid., January 24, 1846.
28. Ibid., February 25, 1846.
29. Ibid., March 7, 1846.
and to the injury of the honest and industrious, reap a profit from the punishment of the vicious and depraved.

A profit of more than $12,000 was derived the first year. The evil would be aggravated, for it was to the interest of the lessees to increase profits. As the number of convicts increased, new trades would be added,\textsuperscript{31}

until it would scarcely be too much to predict that the only mechanics of consequence left in the state will be the felons whom the law has banished from society.

Convicts should be used on public works where all would be benefited by their labor.\textsuperscript{32}

State senators and representatives appointed to investigate the controversy, found the directors had permitted some work, which seemed to conflict with the interests of local workmen, and were therefore contrary to the law and to the lease contract. The lessees defended the discrepancy by claiming local mechanics charged excessive rates, and that most of the work was done for the mechanics. Brick-making, the committee agreed, was not prohibited; and cooperage had not been restricted in the lease contract because at that time the output

\textsuperscript{31} Ibid.\textsuperscript{32} Ibid.
could not supply the market. Though the law did seem to prohibit the sale of the articles under question in distant parishes, the legislators felt sure the framers of the act did not intend to prohibit the sales. A more definite expression of the privileges of the lessees was needed.

The report was attacked in the local press as "a most labored effort to prove something." Ample proofs of violations of the lease contract had been presented by the mechanics. However, the writer adds:

We have never advocated the removal of the lessees. If those Gentlemen will strictly abide by the law, they have our best wishes for their welfare and prosperity.

It was to be hoped some mechanics would be appointed to the Board of Directors (for the Penitentiary) to be chosen soon, a hope which was scarcely fulfilled, the new board included only one member of the trades group. If the governor treated their petition (for more mechanics on the Board of Directors) with "perfect indifference", the law-makers did little more: they accepted the committee report outlined above. A published call

33. "... and no carpenter's work, blacksmith's work, or any other mechanical work which is pursued by citizens of Baton Rouge, shall be sold from the said Penitentiary at Baton Rouge". Acts of Louisiana, 16 Legislature, 2 Sess., 1844, p. 42.
34. Baton Rouge Gazette, April 14, 1846.
35. Ibid., April 18, 1846.
36. Ibid.
37. Ibid., June 13, 1846.
for a meeting of The Mechanics' Association reads: 38

The legislature has been deaf to our remonstrances—a report prejudicial to our interests has been reported by the committee of investigation, and accepted.

One interesting characteristic of the times portrayed in the controversy under discussion was the intolerance demonstrated toward discharged convicts. Of course, disputation embittered the public, but no doubt the following resolution, adopted by the Baton Rouge Mechanics' Association, typifies the age rather accurately: 39

Resolved—That we see with regret that several discharged convicts instead of leaving the town with a blush, therein which they have suffered the penalty of their crimes with the boldest effrontery parade their cards in the newspapers, and having no character or respectability to lose, try to monopolize the majority of some branches of mechanical work . . . at such low prices . . . that this association esteem it their duty to publish the name of such among us now of that class, and leave the public to decide whether they will patronize the discharged felon, forger, or murderer in preference to the honest and upright citizen. The persons named below are of this class:

BROWN & SHELDON,
Carpenters, Builders, Cabinet makers, Piano Forte repairers, etc. (dec. 19 3 m).

Notice the complete omission of the reform idea. The same is true in other instances. A local editor engaged in a verbal

38. Ibid.
clash with discharged convicts who refused to go to the place of their nativity -- go anywhere else . . . Generally, the municipal authorities have kept a watchful eye over these discharged felons and urged their speedy departure . . .

The Mechanics' Association commended a similar organization for rebuking a committee who had classed work of discharged convicts with that of "the honest mechanic". When The Conservator, a new publication, suggested it would be better if the Association devoted itself to scientific improvement rather than to "designing demagoguism", A. MECHANIC refuted the argument, giving his version of the origin of the Association, to protect tradesmen in more than a dozen fields, each of which he said had been entered by convict labor. Such was the origin and work of the Mechanics' Association; its ultimate triumph was recorded in the law providing for the completion of the factory building on condition that no prohibited goods should be sold within the state. Administration under the lease was very similar to that under state control, except that the lessees replaced the hired warden, and the members of the governing board set up by the state were called directors rather than commiss-

40. Ibid., January 2, 1847.
41. Ibid., January 16, 1847. The reference is to the Louisiana Agricultural and Mechanics' Association.
42. Probably the editor of the Baton Rouge Gazette.
44. Acts of Louisiana, 1 Legislature, 2 Sess., 1847, pp. 35-36; House Journal, 1846-7 continued, pp. 43-44.
sioners. In 1848 an annual salary of $100 per year was voted to the directors, the clerk's salary was raised from $1,200 to $1,500, and the duties of the latter were enlarged to include the keeping of accounts for the lessees as well as for the state.45

The conduct of prison officials received favorable comment from almost every source. The directors commended the clerk for ability, punctuality, and industry; the physician and the chaplain, they reported, were regular and faithful in the discharge of their respective duties; and the lessees encouraged the latter in his attempts at moral reform.46 Keepers seemed considerate, even to a convict who was attempting to escape.47 The hospital was described as "convenient and clean";48 all other departments well cared for, and the machines were in perfect order.49 The establishment, the local press believed, was well worthy of the attention of visiting strangers.50

One condition, however, was not so worthy of approbation: the Penitentiary was yielding considerable profits, none of which were received by the state. In 1846 the lessees made nearly twenty thousand dollars from the Penitentiary. Governor Isaac Johnson recognized that an "over refined sentiment of human sym-

45. Acts of Louisiana, 2 Legislature, 1 Sess., 1848, p. 32.
46. Baton Rouge Gazette, March 14, 1848.
47. Ibid., August 26, 1848.
48. Senate Journal, 2 Legislature, 1 Sess., 1848, p. 95.
49. Ibid., 3 Legislature, 1 Sess., 1850, p. 63.
50. Baton Rouge Gazette, February 9, 1850.
pathy" led many enlightened people to object to make a penitentiary a source of revenues to the state; but he felt sure it could be done without sacrificing the objects of the institution. Soon afterwards, a motion stipulating that the state receive fifty per cent of all future profits failed in the House. The new lease terms formulated the following year increased the bond required of the lessee from $25,000 to $30,000, and required that one fourth of the profits must accrue to the state, provided the share of the latter be never less than $4,000 per year. The lessees were to be elected by both houses of the legislature, meeting in joint session.

The prison was leased under the new law to McHatton, of the old firm, and his new partner, a man named Ward. An investigation revealed the institution was in a satisfactory condition; the governor suggested the $4,000 yearly income could be used to "instruct the prisoners and to provide them with funds and clothing when discharged".

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52. House Journal, 2 Legislature, 1 Sess., 1847, p. 46.
53. A motion made by a Senator Hereford, on February 12, 1848, would have prohibited a second lease. The motion was lost, 19 to 2. See Senate Journal, 2 Legislature, 1 Sess., 1848, p. 104.
55. Ibid., p. 70; Senate Journal, 2 Legislature, 1 Sess., 1848, p. 139.
56. Senate Journal, 3 Legislature, 1 Sess., p. 9; The New Orleans Weekly Delta, January 23, 1850.
after the expiration of the old lease exceeded their original value by approximately $9,000, which sum the directors had paid to the new lessees before a Senate committee noticed a discrepancy. Ward had been received as a partner by McHatton and Pratt. At the end of their contract they collected the nine thousand dollars, Pratt left the firm, and the other two entered into another contract with the state. The Senate held it was the same firm and would not be entitled to the money until the Penitentiary was returned to state control. Another claim of the lessees for nearly twenty-one thousand dollars for improvements was denied under provisions of the original contract.

To prevent similar occurrences, and to compel the payment of salaries owed to Penitentiary employees, the legislature, on March 16, 1850, enacted a plan to insure the collection of Penitentiary funds due the state. The directors were instructed to effect yearly settlements with the lessees, to pay mutual obligations of the contracting parties, and to render annually a full financial report. Any payments due the lessees were to be deducted from the state's share of the profits, or from any other Penitentiary fund.

57. *Senate Journal*, 3 Legislature, 1 Sess., January 21, 1850, p. 9; February 19, 1850, pp. 63-64.
58. Ibid., February 19, 1850, p. 63.
CHAPTER VI
REFORM IN THE NEW PRISON

Progress in building the Penitentiary followed closely upon the growth of the reform idea. It will be recalled that sentiment against confining debtors with hardened criminals demanded segregation in new quarters, and that as early as 1820, a governor of the state doubted "if it be necessary to confine them at all". 1 In 1830 The Bee, of New Orleans, published an article recording abolition of imprisonment for debt in Vermont. 2 Three years later an attempt was made to aid insolvent debtors in prison. 3 An editorial written in 1837 urged that debtors be not imprisoned unless it seemed reasonably sure they planned to escape, 4 a suggestion which was soon enacted into law. 5 Renewed zeal on the part of the press 6 which described existing laws as barbarous, contrary, to popular opinion, and responsible for keeping traders away from the markets of New Orleans, was followed by the abolition of imprisonment of debtors for more than three months unless they refused to reveal the extent of their

2. The Bee, December 7, 1830.
4. The Bee, May 13, 1837.
5. Greiner, M., Code of Practice of the State of Louisiana, New Orleans, 1844, pp. 79-80.
6. See The Bee, February 14, 1839; February 28, 1839; March 6, 1839; February 10, 1840; March 10, 1840; The Daily Picayune, March 8, 1839; Baton Rouge Gazette, February 29, 1840; March 21, 1840.
resources. In the latter case they would be guilty of fraud and liable to imprisonment for three years.  

These changes, remarkable though they were, did not fully satisfy an enlightened press, who aimed at no less than untrammeled repeal of the obnoxious laws. The Bee desired a man to be free from debts after he had surrendered his property, and urged the state legislature to "make a clean business of it."  

Baton Rouge Gazette renewed its activities in the interest of reform about 1844, reminding the public that only two states in addition to Louisiana retained the barbarous law. After a time, progress became swift, and imprisonment for debts was abolished in 1847.

If public opinion dictated the segregation of debtors, it was no less insistent in demanding separation of negro convicts from the whites. A movement which was reflected in the House in 1841 resulted in placing negro convicts sentenced to hard labor back on the public works, provided they be not used in any parish without the consent of the police jury.  

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8. The Bee, December 26, 1842; February 8, 1844; February 14, 1844.  
9. Baton Rouge Gazette, June 8, 1844; April 11, 1846; April 3, 1847.  
10. Senate Journal, 1 Legislature, 1 Sess., 1847, p. 5.  
of three years convinced the state engineer that the arrangement was futile. He found the cost of guarding and transporting the prisoners more than the value of their labor. Acting upon his advice, the state legislature returned the negroes to Baton Rouge to be employed by the lessees of the Penitentiary, separate from the whites, but on the same terms.

Although many people of the period still regarded punishment as the primary object of a prison sentence, there is considerable evidence of penal reform. Attempts were made to remove all insane persons to the Charity Hospital and to abolish corporal punishment. In 1836 the Inspectors were empowered to release prisoners from solitary confinement for a certain time every day if their health was being injured; two years later this mode of punishment was abolished, except in enforcing conformation to prison regulations. The newspapers of the period reprinted a large percentage of articles dealing with the abrogation of capital punishment. Seemingly, the power of pardon was exercised rather sparingly by governors of the period, but in 1842 regulations were made to the granting of

15. The Daily Picayune, January 10, 1845.
17. Senate Journal, 16 Legislature, 1 Sess., February 9, 1843, p. 20.
20. The Bee, March 10, 1838; December 6, 1842; June 25, 1843; Baton Rouge Gazette, November 7, 1840; May 4, 1844; August 29, 1846.
parole as a reward for good conduct. Convicts were allowed to give evidence against each other after 1845, though it must be admitted the concession was prompted as much by the hope they would betray plots to escape as by any spirit of magnanimity.

The chaplain was granted one hundred dollars for books "of a religious or moral nature" when he offered to act as prison librarian, and a movement to add other volumes seemed sure of success at the close of our period. A program for the education of the children of convicts, developed in Berlin, was lauded in the press: but perhaps the most progressive actions of the period—one of the most progressive of all periods, because it endeavors to correct faulty growths of young twigs, rather than try to reclaim decaying trunks—was the establishing in 1844 of a "House of Refuge for the reformation of Juvenile Delinquents".

This, briefly related, is the origin and early history of the Louisiana Penitentiary. Born of the natural benevolence of man, nurtured by human compassion for the debtor, the delinquent, and the felon, necessitated by a lack of facilities and

22. Ibid., 16 Legislature, 2 Sess., 1843, p. 69; Ibid., Senate Journal, February 9, 1843, p. 20.
a mounting expense account, the Penitentiary idea gradually imbued the public mind, lifting the despised of mankind from the squalor of the medieval cell to well lighted, amply ventilated factories by day, and comfortable though not large quarters by night. Far be it from the writer to depreciate the rigors of prison life: many must be the pangs of conscience and of muscle; great must be the anxiety for family and friends; the passion for freedom grows intense; the feeling of despair, fierce; but the prisoner of today draws a fair portion of sympathy from the public, and prospects for pardon are nearly always within the range of possibilities. When discharged, he is given respectable clothing and a small sum of money.27 In a word, the modern penitentiary is intended to re-chart the person who has started astray.

27. In 1845 the sum was fixed at five dollars; at present it is ten. See Acts of Louisiana, 17 Legislature, 1 Sess., 1845, pp. 28-29.
In 1821 the Louisiana Legislature engaged the eminent lawyer, Edward Livingston, to revise the criminal code along lines of justice, uniformity, and simplicity; to gather documentary evidence concerning the functioning of penitentiaries elsewhere; and to direct the structure and police of a like system in his own state. Livingston, an energetic, scholarly man, began work promptly and submitted his report March 21, 1822, just two days before the passage of the act to construct a penitentiary. The plan, as such, was never put into effect; it was too advanced for the age. Our interests will be confined to examples of enlightened opinions portrayed and the effect they may have had on the final penitentiary policy.

Livingston's proposals are elaborate, thorough, and "modern". With one fell swoop he eliminates vengeance, banishment, irons, confiscation of property, stocks, labor in public, mutilation, whipping, and death; substituting in their places, reformation by "reflection, instruction, habits of industry, and religion". With almost prophetic vision, he planned a School of

2. Ibid., II.
3. Public whipping of free whites had been abolished in 1821. See Acts of Louisiana, 5 Legislature, 1 Sess., 1821, p. 104.
Reform for persons under eighteen years of age; a House of Detention in which might be confined witnesses, defendants, and minor offenders; and a Penitentiary, with separate compartments, isolated work-shops, schoolrooms, an infirmary, a female ward, and other buildings, all with proper ventilation and heating facilities.®

All officers must be of good character and strong mental-ity, religious, firm, but moderate, and students of human nature. Livingston says: 7

The officers of a prison are no longer jailors and turnkeys charged with the custody of the body only; they must minister to the diseased minds and correct the depraved habits of their patients.

The warden would appoint and dismiss assistants, keep records, supervise administration, post regulations, make arrests, and prepare detailed reports to be submitted to the governor every six months. Under-keepers would be employed by the warden and matron to carry out the details of administration, and to act as guards. Daily visits to the infirmary, and at least one consultation weekly, with every prisoner, were required of the physician; who was also held responsible for supervision of diet, of quarantine, and of the School of Reform. Well qualified teachers and chaplains would offer instruction to inmates of the Penitentiary and the House of De-

6. Ibid., pp. 538-543.
7. Ibid., pp. 538.
Attention.

Convicts were to work for wages in addition to their upkeep. Each would have an account opened opposite his name. On one side would be charged items of expense; on the other, his labor would be credited at equitable value; when discharged he was to receive one-half the profit, if any had been accumulated. "Employment", Livingston argues, "should be offered as an alleviation of punishment, not superadded to aggravate it". When admitted, prisoners would have been classified and placed at proper tasks, hidden from the public view. Every convict was to be taught a trade; officials were to aid him to secure employment when discharged, and to prosecute him if he did not try to make an honest living. Property possessed before conviction would be held in trust by the state and returned at the end of the penal term. Cost of prosecution would be charged to the convict, but could be paid by labor while under commitment.

Toward those guilty of murder or rape Livingston was not equally indulgent. The former he would look in a cell painted black and bearing the following inscription:

In this cell is confined, to pass his life in solitude and sorrow, A. B., convicted of the murder of C. D. (by assassination, parricide, etc.); his food is bread of the coarsest kind; his drink is water;

8. Ibid., pp. 549-560; 591.
10. Ibid., pp. 594-595; 573.
mingled with his tears: he is dead to the world; this cell is his grave; his existence is prolonged that he may remember his crime, and repent it, and that the continuance of his punishment may deter others from the indulgence of hatred, avarice, sensuality, and passions which lead to the crime he has committed.

In cases of rape the inscription would read: \(^{11}\)

In this cell, forgotten, or remembered only to be detested and despised, lies A. B., condemned to Solitude and abstinence during life, for a cowardly and brutal injury to a woman.

\(^{11}\) Ibid.
APPENDIX II

TEXT OF THE LEASE CONTRACT, 1844

State of Louisiana,
City of New Orleans

Contract entered into this ninth day of July of the year of Our Lord, one thousand eight hundred forty-four, between His Excellency Alex. Mouton, in capacity of Governor of the State of Louisiana, on one part, and James A. McHatton and William Pratt, of the other part, bears testimony that,

In accordance to the terms and stipulations expressed below, and which may be executed on the part of James A. McHatton and William Pratt, their heirs, executors and administrators, the governor leases to the said McHatton and Pratt, for the term of five years, from October 1, 1844, the Penitentiary of Louisiana, located in the city of Baton Rouge, with the rights, privileges and appendages appertaining thereunto; the lessees obligate themselves, their heirs, executors and administrators to take charge of the Penitentiary of Louisiana, and to govern it conformably to the provisions of the Act of the General Assembly of the State, approved March 20, 1844, entitled 'Act to Improve the Administration of the Penitentiary of Louisiana'.

It is agreed by the parties, that, on October 1, 1844, the Penitentiary will be placed under the control of the said James A. McHatton and William Pratt, for a term of five years from that date.

That the said James A. McHatton and William Pratt, having taken possession of the said Penitentiary and its appurtenances, as aforesaid, will furnish as principal bondsmen, Geo. Tarleton, George W. Ward, Edward R. Johnson, R. J. Ward, James R. Ward, John Emmerson and B. W. Fonrall, as solid security for the sum of $25,000 to guarantee faithful execution of this contract, and upon receiving possession of the said Penitentiary, they will furnish other bond for the sum of $15,000, to guarantee to the state that amount advanced by the Governor, for the installation of machines to manufacture pack-cloth and hempen ropes, and to complete the machines necessary for the manufacture of cotton and woolen materials, conformably to the 9th Section of the aforesaid act.

And the lessees agree to reimburse the state with the said sum of $15,000 in three years from the date it is advanced, with interest at six per cent per year, payable in accordance with provisions of the 9th Section of said act.

And the lessees agree to give bond in favor of the State to guarantee payment for all manufactured articles which they shall buy, conformably to the 10th section of the said act, according to the estimate to be made, and payable upon the termi-
nation of the contract.
The said lessees further agree to deposit annually, payable quarterly, in the State Treasury $2,200 to pay the salary of the Clerk, Physician and the Chaplain of the Penitentiary as stipulated in the 5th and 6th sections of the said act, in order that the State may be relieved of all expenses of the Penitentiary during the duration of the said contract.
The said lessees agree to take charge of the said Penitentiary, under direction of the Board of Directors, and to administer it in accordance with the aforesaid act, which becomes part of this contract, and the governor, by virtue of the discretionary powers invested in him by the 15th section of the said act, seeing the nature of the contract, agrees for the present to exempt the said lessees, from payment of profit which might issue from the Penitentiary as stipulated by the 12th section of said act; and the said lessee obligate themselves, for the present, to furnish all facilities to the clerk, physician and chaplain of the Penitentiary (used) in the exercise of their respective duties, to treat the prisoners with kindness, and finally to conform entirely to the provisions of the aforesaid act, as if they were stipulated in the contract.
At the expiration of this contract, the State of Louisiana agrees to take all the manufactured articles in the said Penitentiary and the other materials, after the appraisement which shall be made in accordance with section 10 of the aforesaid act.
And the said lessees agree to maintain the said Penitentiary in good condition, as well as to return everything delivered to them, in accordance with the inventory which shall be drawn up before the delivery to the said lessees. The lessees agree further to leave in the Penitentiary or appurtenances, at the expiration of the contract, all alterations, improvements, additions, buildings, machines etc., of all kinds, which may be made or placed there during the term of lease, without cost to the state.
In testimony whereof we have subscribed this the ninth day of July of the year 1844.

(Signed) A. MOUTON
Governor of the State of Louisiana

W. M. PRATT
J. A. S. A. McHATTON
By his legal representative

W. M. PRATT
J. F. Preston, Zenon Ledoux, Jr.

witnesses
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BIOGRAPHY

Leon Stout, the compiler of this thesis, was born near Delhi, Louisiana, October 4, 1902. His elementary and high school training was received in the Stout's grade school and in the Central High School of Franklin Parish. Entering the State University in 1924, he received the A. B. degree four years later, and since that time has taught in the high schools at Collinston, Downsville, Coushatta, and Braithwaite.

In 1928 he began graduate work at Louisiana State University, where he has attended for four summer sessions, along with one term at the University of Alabama. He is now, in 1934, a candidate for the degree of Master of Arts, with History as his major subject.
Approved:

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