

Abysses of Misery: The Persistence of English Prison Hulks and Swedish Fortress Prisons ca 1780-1850

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Declaration

Whilst registered as a candidate for the above degree, I have not been registered for any other research award. The results and conclusions embodied in this thesis are the work of the named candidate and have not been submitted for any other academic award.

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Abstract

This thesis compares the English decommissioned ships used as confinement of convicts known as prison hulks to the Swedish fortress prisons in the late eighteenth- to the mid-nineteenth century. Both prisons were of an improvised nature in the manner that they were not originally built to confine offenders. Prisoners were consequently kept in prison rooms under horrible conditions either below the deck of the prison hulks or within the vaults of the fortresses. Despite the inefficiency of both prisons being evident to an overwhelming majority of their contemporaries, they persisted for many years. This has provoked the question of how they managed to continue their operation despite continuously and relentlessly being considered antitheses to modern forms of confinement. Historical research on prisons has not satisfactorily pursued this question and instead chiefly focused on the emergence and development of penitentiaries and cellular prisons. This thesis instead seeks to explore how older forms of confinement not only persisted but were developed and refined in an era of prison reform. By using the theory of path dependency, this thesis will argue that both prisons managed to persist because of numerous instances of institutional reproduction. These range from, drawn-out discussions and debates on new forms of confinement, overcrowding, disease, strong prison subcultures, and mismanagement. To ensure a sharp focus, the prison hulks around Portsmouth and the fortress prisons around Gothenburg have been selected for comparison based on their general equivalence. However, references to other geographical locations will be prominent throughout.

Keywords: prison hulks, fortress prisons, path dependency, comparative history, prison history.

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Abbreviations in footnotes

Duncan Campbell Papers – DCP

Göteborgs och Bohus Läns Landskanslis Arkiv – GBL

Home Office – HO

House of Commons Papers – HOCP

Karlstens Fästningsfängelses Arkiv – KFFA

Nya Älvsborgs Fästningsfängelses Arkiv – NÄFFA

Styrelsen över Fängelser och Arbetsinrättningar i Riket – SÖF

The National Archives – TNA

Pionjärkårens Arkiv – PA

Introduction

“By the light of the torches, we saw the black Hulk lying out a little way from the mud of shore, like a wicked Noah’s ark. Cribbed and barred and moored rusty chains, the prison-ship seemed in my young eyes to be ironed like the prisoners.”¹ So ends the episode of Charles Dickens’ *Great Expectations* when the convict Magwitch is caught and brought back to the prison hulk from which he had escaped. Crime and punishment were certainly central themes in Dickens’s writing, but perhaps lesser known is the fact that he also visited several prisons and asylums in both England and the United States during his lifetime.² Moreover, he was very much engaged in the penological debates of his time, but there are no records of him ever visiting a prison hulk.³ Conceivably, this is why the prison hulk served as a mere backdrop in one of his most celebrated works of literature and why a description of life onboard was not included. Over half a century earlier, at the beginning of the nineteenth century, philosopher Jeremy Bentham instead referred to the prison hulks as the “English Black Holes”; they were easy to get into, he argued, but almost impossible to get out of alive.⁴ Bentham most likely never set foot on a prison hulk either, but they were undoubtedly a convenient antithesis to his rational and utilitarian prison, the panopticon. The prison hulks indeed evoked political, social, and cultural disdain during their history in England. Originally set out as a temporary expedient to confine convicts in the wake of a halt in penal transportation to the American colonies due to the Revolution in 1776, the prison hulks still managed to persist for over 80 years.⁵

Roughly at the same time, Sweden confined its worst and most hardened criminals in early-modern fortresses.⁶ Following several treaties with its arch-nemesis Denmark throughout the second half of the seventeenth century, Sweden eventually gained its present-day borders on the Scandinavian peninsula. Tasked with the construction of defensive installations on the

¹ Charles Dickens, *Great Expectations* (London: Penguin English Library, 2012), 46.

² Philip Collins, *Dickens and Crime*, 2nd ed, (London: McMillan, 1965), 5, 11.

³ Jørgen Riber Christensen, “Foucault’s Heterotopia and The Hulks in *Great Expectations*”, *The Dickensian*, 113 no. 1 (2017) 39.

⁴ Tim Causer and Philip Schofield, *Panopticon Versus New South Wales and Other Writings on Australia*. (London: UCL Press, 2022), 295.

⁵ Helen Johnston *Crime in England 1815–1880: Experiencing the Criminal Justice System* (London: Routledge, 2015), 2-3, 73-76, 80-88, 91. McConville, Seán. *A history of English Prison Administration: Volume I 1750-1877*. (London: Routledge & Kegan Paul, 1981), 105-107. Charles Campbell *The Intolerable Hulks: British Shipboard Confinement 1776-1857* (Bowie: Heritage Books, 1994), 152

⁶ Similarly, prisoners were confined in castles in England from the at least the Middle Ages, most notably perhaps the Tower of London. Further, Lancaster Castle was extensively remodelled and used as a prison from the 1790s until 2011. These prisons will however not be considered in this thesis which instead will focus mainly on the English prison hulks. Richard Nevell, “Castles as Prisons”, *Castle Studies Group Journal*, no. 28 (2014): 203-224. Michael Winstanley, “Lancaster Castle: The Courts and Criminal Prison, 1800-1916: Transformations and Decline”, *Contrebis* 38, (2020): 78-88.

newly won soil, were not only free labourers, but also a significant proportion of convicted criminals who would later be confined within the vaults of the fortresses.⁷ Like the prison hulks, these prisons were dreaded and held in contempt by prisoners as well as the general public.⁸ By the end of the eighteenth- and beginning of the nineteenth centuries, the fortress prisons also came to be considered the direct opposite of modern and rational forms of confinement by prison reformers and politicians alike. Concomitantly, this was the time when the fortress prisons saw an unprecedented influx of prisoners and subsequent overcrowding. The most notorious was the Karlsten fortress prison on the island of Marstrand just north of Gothenburg on the Swedish west coast, and the undeniably most well-known fortress prisoner was Lars Mohlin. Dressed in women's clothing, Mohlin roamed around Sweden for many years burglarizing and robbing unsuspecting men, a remarkable crime streak for which he was sentenced to life in Karlsten fortress prison. He was confined there from 1813 to 1839 and called it a "Troll Hill" referring to, not only the position of the fortress on top of the highest elevation on the island, but also of course the dreadful nature of the prison it housed. Further, in his autobiography, he summons up the memory of his gloomy approach in the prison carriage: "At last I saw the Carlsten's [sic!] lighthouse; a cold shudder came over me from the thought that this was my grave."⁹

Like the prison hulks, the fortress prisons were indeed easy to get into, but almost impossible to get out of alive. Despite the widespread dread, contempt, and their ad-hoc, or perhaps even improvised nature, the fortress prisons, like the prison hulks, would persist well into the second half of the nineteenth century. This thesis will thus explore how the prison hulks and fortress prisons managed to persist despite fierce criticisms and better alternatives being available. In 1799, Swedish jurist Lars Tengwall referred to what he perceived as antiquated forms of imprisonment, such as subterranean dungeons and fortress prisons, as "eländets afgrunder", which translates roughly to abysses of misery.¹⁰ I have found it to be an exceptionally illustrative catchall term for the prison hulks and fortress prison; throughout their operational history, they were indeed regarded as bottomless pits. Chronologically this thesis compares these two institutions from the late eighteenth century to the middle of the nineteenth century, this time frame encompasses their rise, consolidation, and subsequent disuse. However, to ensure the fruitfulness of historical comparative research, further delineation is

⁷ Christer Feiff. *Fästningsfångar* (Mölnadal: Mölnalds bokförlag, 1999), 13.

⁸ Claes Krantz, *Under Järnkronan: Ett Kapitel Svensk Kriminalhistoria*, (Stockholm: Wahlström & Widstrand, 1963), 19–22.

⁹ Lasse-Maja. *Lasse-Majas Besynnerliga Äventyr: Berättade av Honom Självt*. (Tvååker: Nordlitt, 2016), 196–197.

¹⁰ Lars Tengwall, *Tankar om Fängelse å Personer och Qwarstad å Gods*. (Lund: Johan Lundblad, 1799), 24.

required. Historians Jürgen Kocka and Gerhardt Haupt contend that the micro, and meso-level of analysis account for a greater level of detail and accordingly lend themselves better for comparisons of institutions.¹¹

On a national level within the chosen chronology, Sweden and England present great social, demographical, political, economic, and cultural differences. Perhaps the greatest difference is the fact that England had all but completed the industrial revolution by the 1850s, while Sweden only started its industrialization at that time.¹² At first glance, a comparison of an agrarian society to that of an industrialized one might be considered skewed from the outset. Nevertheless, although industrialisation brought great change to society at large, this does not necessarily translate into broad penal change. As this thesis will argue, the prison hulks and fortress prisons were to a great extent early modern prisons. Prisoners were kept in large and unsanitary rooms, they were for the most part kept idle, and special treatment and bribery was rife. The timeframe of this thesis further coincides with what influential scholars of prison history such as David Rothman, Michel Foucault, and Michael Ignatieff consider the birth of the modern prison.¹³ This has generally been referred to as revisionism of the earlier linear and whiggish history of prisons and constitutes an important element of the “cultural turn”. Nevertheless, the persistence of older forms of confinement, such as prison hulks and fortress prisons, well into the second half of the nineteenth century complicates their argument of a sharp break between old and new forms of punishment. Dutch historian Pieter Spierenburg, although admitting scholarly debt to the revisionists, is sceptical of this breakpoint and instead points to confinement in the early modern period as constituting a more suitable genesis for the modern prison. Perhaps the most sweeping philosophical alternative to the revisionists, Spierenburg instead bases his own theory on Norbert Elias’s civilizing process, and argues for a slow change in modes of punishment.¹⁴ However, his focus on increasing sensibilities, which

¹¹ Heinz-Gerhard Haupt, Jürgen Kocka, “Comparative History: Methods, Aims, Problems.” in *Comparison and History: Europe in Cross-national Perspective*, ed. Cohen, Deborah & O’Connor, Maura, (London: Routledge, 2004), 29–30, 33.

¹² Patrick K. O’Brien, “Deconstructing the British Industrial Revolution as a Conjuncture and Paradigm for Global Economic History.” in Horn, Jeff, Leonard N. Rosenband, and Merritt Roe Smith, eds. *Reconceptualizing the Industrial Revolution*. <https://ebookcentral.proquest.com/lib/portsmouth-ebooks/detail.action?docID=3339185>. 21-24. Kristine Bruland, “Reconceptualizing Industrialization in Scandinavia” in Horn, Jeff, Leonard N. Rosenband, and Merritt Roe Smith, eds. *Reconceptualizing the Industrial Revolution*. <https://ebookcentral.proquest.com/lib/portsmouth-ebooks/detail.action?docID=3339185>. 125-17.

¹³ David J. Rothman. *The Discovery of the Asylum: Social Order and Disorder in the New Republic*. (New York: Routledge, 2017). Michel Foucault, *Discipline and Punish: The Birth of the Prison*. (Harmondsworth: Penguin Books, 1991). Michael Ignatieff, *A Just Measure of Pain of Pain: The Penitentiary in the Industrial Revolution, 1750-1850*. (London: McMillan, 1978).

¹⁴ Pieter Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression: From a Preindustrial Metropolis to the European Experience*. (Cambridge: Cambridge University Press, 1984).

came to reject older, and what became perceived as barbaric forms of confinement, does not satisfactorily answer the question as to why older forms of confinement managed to persist for as long as they did. Historian Patricia O'Brien has instead focused on conditions within prisons as shaping the modern prison. She agrees with the revisionists on the periodisation of the birth of the prison, and her study is therefore mostly limited to the modern prison.¹⁵ Despite being a useful framework for analysis, it does not necessarily explain the persistence of older forms of confinement.

Rather than abandoning these perspectives altogether, I have found that the theory of path dependency can amalgamate many central themes of these perspectives into a uniform theoretical framework. In its most basic form, path dependency seeks to identify how earlier conditions create lasting and important consequences for any given institution's change or stasis.¹⁶ Instead of focusing on either breakpoints or continuity, the emphasis is instead set on how institutions are continually reproduced despite being inefficient, outdated, or even unwanted. Reproduction is not only dependent on the administration and management of an institution, but also on what transpires within the institution itself which has a great impact on the development of institutions. However, all timeworn routines should not be considered path-dependent processes. Most importantly, a path-dependent process is linked to an initial contingency; that is, the path chosen must be one of several available. Chapter two of this thesis will thus be dedicated to what I have outlined as the initial phases of both prisons. The disorder following the American Revolution instigated a crisis in British criminal justice, which in turn introduced the prison hulks. The fortress prisons were considerably older institutions, nevertheless, until the late eighteenth century, their role as a penal sanction was negligible and fragmented. The focus will thus be set on the late eighteenth- and early nineteenth centuries as constituting the initial phase of the fortress prisons as they operated until their disuse. In both kingdoms, the number of enforced death sentences was in decline and the number of offenders in confinement was increasing which meant that other forms of punishment had to be taken into consideration.¹⁷ The late eighteenth- and early nineteenth century thus constituted a moment of uncertainty and contingency which would ultimately lead to the introduction of the prison hulks

¹⁵ Patricia O'Brien, *The Promise of Punishment: Prisons in Nineteenth-Century France*. (Princeton: Princeton University Press, 1982).

¹⁶ James Mahoney, "Path Dependence in Historical Sociology" *Theory and Society* 29, no.4 (2000): 507-548. <http://www.jstor.org/stable/3108585>. Ashley T Rubin, "The Promises and Pitfalls of Path Dependence Frameworks for Analyzing Penal Change." *Punishment & Society*, 25 no. 1 (2023): 264-284. <https://doi.org/10.1177/14624745211043543>

¹⁷ V.A.C Gatrell, *The Hanging Tree: Execution and the English People 1770-1868*. (Oxford: Oxford University Press, 1994), 7. Jan Sundin, *För Gud, Staten och Folket: Brott och Rättskipning i Sverige 1600-1840*. (Stockholm: Institutet för rättshistorisk forskning, 1992), 221-222.

and an increased reliance on the fortress prisons. As this chapter will conclude, this meant the beginning of a path-dependent process in both kingdoms which would have a considerable impact on the persistence of either prison. In order to establish a firm foundation for the subsequent chapters, I have found it necessary to draw upon mainly sources of an official character, as they relay the contingency and uncertainty of the formative years of both prisons. The main drawback of this choice is perhaps that legislative sources, acts, and committee reports merely convey the decision-makers' often tendentious perspective. Nevertheless, I would argue that the biased nature of these sources is precisely what makes them useful in a path-dependent analysis. As will be discussed in this chapter, the fact that much attention was given to the introduction of penitentiaries, houses of correction or the resumption of transportation meant that the prison hulks and fortress prisons could continue their operation largely undisturbed. Absent-mindedness, drawn-out debates, and uncertainty thus allowed for both prisons to be locked-in the penal repertoire. These sources will however be complemented by correspondence between those in charge of the early prison hulks and fortress prisons to paint a richer picture.

To further operationalise, and bring the comparison down to the micro, and meso-level proposed by Haupt and Kocka, the prison hulks around Portsmouth and the fortress prisons near Gothenburg have been selected as most suitable for comparison. Both localities were geographically peripheral to the centres of power in their respective kingdoms. A comparison of the prison hulks in Woolwich, London to the fortress prisons around Gothenburg, for example, would have meant additional variables to take into consideration. Likewise, a comparison of the prison hulks in Woolwich to the fortress prisons around Stockholm would also be flawed; the fortress prisons in that region were not only of marginal significance, but their operational time was also exceedingly irregular. The choice could also have fallen on a comparison of the public works and fortress prisons in Karlskrona and the prison hulks in Portsmouth, both being naval ports. Nevertheless, Karlskrona's public work and fortress prisons were over long periods of time reserved for prisoners sentenced by the court of admiralty, and thus more closely associated with military matters than the prison hulks in Portsmouth. There were also military prison hulks in Portsmouth, especially during and after the drawn-out wars with France from the late eighteenth- to early nineteenth centuries. Nevertheless, there is no equivalent to the prisoner-of-war hulks in Sweden, even though some fortresses in the region around Stockholm housed a few prisoners of war roughly at the same time. The prisoner-of-war hulks have been researched elsewhere and will not be considered in

this thesis which instead will focus on the civilian, or convict prison hulks.¹⁸ Other prison hulk stations existed besides Woolwich and Portsmouth; however, their operational history was shorter and more uneven. In summary, the underlying principle for the comparison has been the general equivalence of the fortress prisons around Gothenburg and the prison hulks in Portsmouth. This equivalence is further reflected in the available source material which, on a practical level, further justifies the comparison. Lastly, the insistence on equivalence is also following what criminologist Francis Pakes calls a positivist approach to comparative research on criminal justice. The purpose of this approach is to find commonalities, and the fundamental assumption is that criminal justice is a universal phenomenon with similar underlying principles; this thesis aims to further that assumption.¹⁹

Comparative research also needs to assume a certain amount of freedom to be constructivist, to establish its own cases, and to be creative to generate new results. In some ways, it can be likened to an experimental method of research in that it sets up two or more objects of comparison to see how they react to each other. Historian Marc Bloch asserts in his seminal work on the comparative method in historical studies, that a researcher using a comparative method, should strive to find his or her own geographical framework. Preferably one that is not fixed from the outside, that is, by national borders, but rather from within, to: "...escape from a world of artificiality."²⁰ Bloch, similarly to Haupt and Kocka, points out that the more limited the scope of comparison, the richer the results, the reason being that the researcher is then capable of being more rigorous and critical. Most fruitful, Bloch concludes, are comparisons of two or more objects exhibiting similarities, but at the same time are dissimilar in how they have arisen; they should not be explicable by imitation.²¹ This corresponds well with, not only the nature of the prison hulks and fortress prisons, but also the theory of path dependency. The start of the path-dependent processes varied between both prisons, but as this thesis will argue, they persisted for similar reasons. Further, comparisons are also to a large extent an effective method of provoking new questions and offering new perspectives, this is why novel, and creative objects of comparison ought to be encouraged. The similarities of two or more objects of comparison should however not be too few, or too many.

¹⁸ See for example: Paul Chamberlain, *Hell Upon Water: Prisoners of War in Britain 1793–1815* (Staplehurst: History Press, 2016). Tim Leunig, Jelle van Lottum, and Bo Poulsen. "Surprisingly Gentle Confinement: British Treatment of Danish and Norwegian Prisoners of War During the Napoleonic Wars." *Scandinavian Economic History Review* 66, no. 3 (2018): 282-297. <https://doi.org/10.1080/03585522.2018.1516235>

¹⁹ Francis Pakes, *Comparative Criminal Justice*, (Cullompton: Willan, 2003), 14-16.

²⁰ Marc Bloch, "A Contribution Toward a Comparative History of European Societies." in *Land and Work in Mediaeval Europe: Selected Papers*. (London: Routledge & Keegan Paul, 1967), 71.

²¹ Bloch, "A Contribution Toward." 45.48, 54.

Historian Marcel Detienne maintains that this will impede the analysis, and the researcher must cautiously balance between these two extremes.²² I have found that the recommendations from Bloch and Detienne correspond well with the selection of the prison hulks and fortress prisons in their respective geographical settings. Additionally, these prisons have not before been considered in the same light, which is why I further believe the comparison is thoroughly justified.

Comparative research is nevertheless not all about finding similarities; it is also about discovering important and meaningful differences. Historian John H. Elliott, for example, notes that comparative research can be used to find out even more differences between two objects of comparison than previously thought existed. The insistence on similarities, he argues, is reductionist and does not do the complexities of the past justice. The picture would thus not be complete if the differences were not also considered and analysed, at least to some degree.²³ Criminal justice professors Terance D. Miethe and Hong Lu similarly argue that the strength of comparative historical analysis lies in identifying long-lasting patterns across time and space. However, exceptions to these patterns are also significant as they can restrict claims on uniformity and universalism.²⁴ These are of course appropriate remonstrations; however, this thesis will focus primarily on the similarities as it seeks to draw the prison hulks and fortress prisons closer together. The justification for this has been to avoid another extreme, which has been prevalent in earlier historical research on prisons, namely notions of national uniqueness. By focusing on similarities, this thesis has instead uncovered remarkable similarities regarding the longevity of these prisons in their respective kingdom. Further, to bring the prison hulks and the fortress prisons even closer together, a thematic comparative method has been chosen as the most suitable approach.²⁵ The other option at hand would be a chronological approach which, I argue, would amount to simply telling the story of each institution before comparing them. A thematic method coupled with continuous comparisons is, for this reason, far more preferable. The choice of themes has been based on what has been most salient in the source material, more specifically, what was deemed most significant for the contemporaries of these

²² Marcel Detienne, *Comparing the Incomparable*. (Stanford: Stanford University Press, 2008), 25.

²³ John Huxtable Elliott, *Empires of the Atlantic World: Britain and Spain in America, 1492-1830*. (New Haven: Yale University Press, 2006) XVI. Bloch is of the same opinion as Elliott, a comparative method should also involve an interest in differences, whether original or as a result of divergent paths. Bloch, "A Contribution Toward." 58.

²⁴ Terance D. Miethe & Hong Lu, *Punishment: A Comparative Historical Perspective*, (Cambridge: Cambridge University Press, 2005), 10-11.

²⁵ On the thematic approach to historical comparative method see for example: Nancy L Green "Forms of Comparison" in *Comparison and History: Europe in Cross-National Perspective*, ed. Deborah Cohen, & Maura O'Connor, (London: Routledge, 2004) 52-53.

institutions. There are several pitfalls to this approach, perhaps the most relevant being the risk of uncritically reiterating the original documentation and thus reinforcing the perceptions, ideas, and attitudes of individuals with set agendas. On the other hand, this approach also has its advantages, it communicates the main features, or aspects which were remarkably similar in both the prison hulks and fortress prisons. I have also found that a path-dependent comparison works better from a thematic perspective simply because it is not the chronology that is to be compared, but rather the aspects that allowed them to persist for as long as they did.

The first thematic chapter will thus explore and compare management and architectural matters. The reason for merging two ostensibly separate themes into one is based on the nature of the source material. In sources relating to both the fortress prisons and prison hulks, I have found that management and architectural matters are sometimes too difficult to separate from one another. Rather than dividing the sources over two chapters, and losing much of the substance in the process, management and architectural matters will thus be considered in the same light. Further, prisoners in both the fortress prisons and on board the prison hulks were confined in large prison rooms rather than in individual cells, for prison reformers, this practice was rapidly falling into disfavour. Instead, penitentiaries and separate confinement was preferred, and in comparison, the prison hulks and fortress prisons appeared ever more antiquated. Consequently, several steps by the management of both prisons to remedy the ensuing overcrowding and corruption of lesser criminals by older and more hardened offenders were taken, but none of them were particularly successful. Hindered by the architecture of the fortress prisons and the limited space of the prison hulks, many of the attempts therefore resulted in half-measures and compromise. Much of the reproach thus fell on the management for being unable to solve the problems associated with the prisons. Moreover, the criticisms were often deliberately exaggerated, nevertheless, they resulted in some practical change, albeit not always what prison reformers had intended. This chapter will thus seek to contrast the rhetoric of prison reformers and the management of both the prison hulks and the fortress prisons and explore the unintended practical consequences which the criticisms resulted in. A central conclusion in this chapter is that the perceived poor management facilitated increased governmental transparency and control resulting in subsequent attempts to remodel and refurbish both prisons. This would in turn lead to more effort and finances being invested in each prison thus further locking them in rather than hastening their demise.

Following this, the next thematic chapter will explore the discipline and attempts at reforming prisoners. The overcrowding and the large prison rooms were continuously considered detrimental to the possibility of reforming the prisoners from offenders to useful

members of society. Great efforts were thus made by chaplains to rehabilitate the prisoners through religious instruction, but their endeavours were greatly undermined by insubordination and defiant attitudes. Particular focus in this chapter has thus been put on this adversarial relationship and how it came to influence the development of discipline in both the prison hulks and fortress prisons. Unlike the previous chapter, this chapter will probe deeper into the prisons to see whether life inside the prisons either stimulated change or led to resigned inertia and to accomplish this requires wide range of sources. First and foremost, chaplains' reports and reports from the management of both prisons have been thoroughly consulted. However, since they tend to skew the realities of prison life in their favour, their reports have been counterweighed by other sources referencing, or at the very least hinting at the life inside prison. These sources are, interviews with prisoners in committee reports, court proceedings of infractions, and diaries of individual prisoners. By contrasting these sources, a picture of the complex life inside both prisons emerge. The 1830s thus stands out as the decade where the hopes of reforming prisoners were finally abandoned in both prisons. The resulting disillusionment on the part of chaplains did however not stop the efforts to improve the prisoners and little changed in practice. Despite being ineffective, by the 1830s routines were locked in and business carried on as usual. This chapter will ultimately argue that the official order of the prison continuously clashed with the unofficial order of the prisoners. This resulted in the emergence of a separate order which favoured the status quo over change which in turn inhibited change and further locked in both prisons.

The third, and last thematic chapter focuses on the rationale behind the labour performed by the prisoners. Whether as a punishment, a means to reform prisoners, or as a cheap public service, work was oftentimes arduous and backbreaking. However, many prisoners were also idle for reasons such as lack of work opportunities or infirmity. Throughout the chronology of this thesis, labour was nevertheless a heavily prioritized issue which is reflected in the source material. Similar to the previous chapter, this chapter seeks to contrast sources on the official rhetoric of prison labour to sources detailing the labour performed in both prisons. This means consulting committee reports, prison reformers' views on labour, and correspondence between those in charge of the prisons in question. To ensure a richer picture these sources have been supplemented by interviews with prisoners, diaries, and reports on prisoners' infractions related to labour. However, more pronounced than the previous chapter, this chapter will have a top-down perspective. The question to be answered in this chapter is whether the labour performed by prisoners can help to explain the longevity of either prison, or if it on the contrary eventually led to their disuse in favour of other alternatives. Accordingly, this chapter will argue that

despite the labour performed was generally unproductive and idleness was rife, the fact that other institutions were reliant and dependent on prison labour further entrenched both prisons. This means that sources reflecting other institutions such as branches of the military and public works institutions have also been consulted. Collectively, the sources indicate a vast interconnectedness and interdependency of prison labour throughout a larger system. Despite the ineffectiveness of prison labour and the idleness of many prisoners, this chapter will therefore conclude that the prison hulks and fortress prisons became further locked-in because they were a part of a larger system. Removing one part of this larger system of labour would destabilize it as a whole, stability thus ensured the continuance of the prisons even though the labour performed was for the most part inefficient. Lastly, in the final chapter conclusions will be drawn and elaborated on as well as put into the context of earlier research. This thesis will accordingly indicate the haphazard, uncertain, and sometimes unintended consequences of prison reform from the late eighteenth century to the mid-nineteenth century. The longevity of the prison hulks and fortress prisons, as this thesis will argue, illustrates this development, and I will further argue that these experiences might not have been restricted to a particular European nation.

Chapter One: Literature Review

Introduction

Any historical research on prisons during the eighteenth- and nineteenth centuries must consider the expansion and consolidation of the penitentiary as the model legal sanction. While the generic terms “imprisonment” or “confinement” can be broadly defined as the taking away of someone’s liberty, the penitentiary corresponds to purpose-built modern structures based on rational architecture and an aspiration to reform its inmates. Prison, on the other hand, refers to both the legal concept of deprivation of liberty with the intent to punish, and the physical structures used for the confinement of individuals suspected of crimes, or individuals already undergoing punishment.²⁶ The difference between the prison and the penitentiary should however not be understood as only dependent on chronology alone, they existed parallel to each other. Rather, it is in the architecture, organization, and objective that the main differences lie.²⁷ Still, this difference should not be exaggerated, ostensibly, the penitentiary was envisioned to be firmly based on rationality and individual reform, but in reality, and over time, it increasingly came to function primarily as a place of confinement. Concomitantly, the prison was influenced by ideals of reform and therefore took on some rational courses of action to rehabilitate its inmates. The distinction is nevertheless an important one to make, the introduction of the penitentiary and the reformative ideas of the eighteenth- and nineteenth centuries marked a significant shift in penal practice, a shift that was to transform entire legal systems. Consequently, during the second half of the nineteenth century, the older forms of imprisonment were gradually being phased out. In 1880, for example, the last prison attached to a fortress in Sweden, the penal prison in Varberg, closed for good, ending an almost four centuries-long penal practice.²⁸ The prison hulk system in turn, ended with the closing of the prison hulk station in Gibraltar in 1875.²⁹

²⁶ Roddy Nilsson, "The Swedish Prison System in Historical Perspective: a Story of Successful Failure?" *Journal of Scandinavian Studies in Criminology and Crime Prevention* 4, no. 1 (2003): 1-20.
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²⁷ The word penitentiary is derived from the Latin word “poenitentia” meaning penitence, which implies its primary focus on the individual as a remorseful sinner, not as a criminal. The archetype for this sort of confinement was the monk in the monastery. The Swedish equivalent for the word penitentiary is “Penitentiärfängelse”, however, this word never entered the official vernacular, instead, the first places of confinement built on the reformative ideas by the mid-nineteenth century were termed county prison (Länsfängelse) and crown prison (Kronohäkte). The difference between the two types of prisons is simply that the latter was of smaller size. Nilsson, Roddy. *En Vålbyggd Maskin, en Mardröm för Själens: Det Svenska Fängelsesystemet under 1800-talet*. PhD Diss., (Lund: Lund University Press, 1999), 25–26.

²⁸ Christer Feiff, *Fästningsfångar*, 75.

²⁹ Charles, Campbell, *The Intolerable Hulks: British Shipboard Confinement 1776-1857*. (Bowie: Heritage Books, 1994), 152.

The earlier research on prisons is somewhat concurrent on this point, but there is much dissension as to how to interpret this development. The first part of this chapter will therefore delve deeper into the historiography of the emergence of modern nineteenth-century prisons. Two rivalling perspectives, the reform-, and revisionist perspectives, will thus take the main stage. After assessing these heavily theory-laden perspectives, the second part of this chapter will move into the prisons themselves and explore research conducted on the experience of nineteenth-century prison life to present as comprehensive a picture as possible. Following this, the scope will zoom in on the relatively limited research on prison hulks and fortress prisons. Lastly, the theory of path dependency will be considered and put relative to the earlier research on prisons in general. The overall structure of this chapter can be described as initially capturing the broad theoretical elements of the previous research and then narrowing down on the objects of comparison and the theoretical framework that has been used in this thesis. The overriding conclusion is that the prison hulks and fortress prisons are largely absent from the historiography and that the theory of path dependency can help shed light on both prisons and firmly place them within the history of prisons.

The Main Perspectives

In their classic book, *Punishment and Social Structure*, originally published in 1939, Georg Rusche and Otto Kirchheimer make the bold claim that: “Punishment as such does not exist; only concrete systems of punishment and specific criminal practices exist.”³⁰ The authors state that previous studies on punishment had been conducted under a zeal of historicism which has consequently regarded the evolution of punishment and criminal law as a specific idea progressing linearly through time. Instead, the authors propose that punishment must be understood as a social phenomenon shaped by fluctuating economic factors and transformations of the labour market. In a slave economy, therefore, corrective mechanisms served to provide additional forced labour. The rise of feudalism saw an increase in corporal punishment given that the body constituted the only property for most of the population. Later, the early modern mercantile era saw further development of forced labour and eventually the prison factory. In the nineteenth century, the consolidation of the industrialist, and capitalist societies gave rise to

³⁰ Otto Kirchheimer, & Georg Rusche, *Punishment and Social Structure*. (New York, Routledge, 2017), 43. In a similar sense, the Norwegian criminologist Nils Christies maintains that crime does not exist, crime is created, significance must be added to a certain action and subsequently regarded as transcendence of socially-, politically- and culturally agreed-upon rules summarized under some system of judicial law for it to be a crime. Keeping this in mind, historical statistics do not necessarily reflect an increase or decrease in criminal behaviour, it more than anything else communicates what behaviour was considered unacceptable in a certain timeframe. Nils Christie, *Crime Control as Industry: Towards Gulags, Western Style* (New York: Routledge, 2001), 22–23, 49–54.

corrective institutions because of the need for labour in the free market.³¹ The main argument implies the concept of punishment as corresponding to the means of production, and therefore also, by extension, a certain determinism that is inherent to the Marxist analysis. Limiting punishment to the reproduction of exploitative and unequal social relations of domination and subordination can also be interpreted as reductionist as it fails to acknowledge the dynamism inherent in human relations.³² Although disputed, *Punishment and Social Structure* came to place the history of prisons firmly in the realm of social history and encouraged a new generation of academics to conduct research in this spirit.

Expanding on the Marxist analysis of prisons, Dario Melossi and Massimo Pavarini further explore the connection between capitalism and prisons. Similarly to their Marxist predecessors, they confidently assert that: “In pre-capitalist societies, prison as a form of punishment did not exist.”³³ The disbanding of old feudal retainers and the primitive accumulation of capital in sixteenth-century England created new class distinctions between possessors and non-possessors. The ensuing urbanization, a result of large numbers of dispossessed workers, formed an unemployed mass that would end up as beggars, vagrants, and in some cases, even bandits, posed new control problems. The perceived idleness and criminality of this class gave rise to an Act in 1530 where all vagrants were to be formally registered as such. In extension, the Act also introduced the notorious Bridewell Palace in London as a place of confinement for idlers, vagrants, petty criminals, and thieves. The aim of this new institution, which was introduced in other parts of England as houses of correction, was to reform the inmates through discipline and compulsory labour, discourage vagrancy and idleness, and make its inhabitants self-sufficient. Melossi and Pavarini consequently argue that this type of institution, the Elizabethan Houses of Correction, provided the ideological foundation for the nineteenth-century prison. However, it is worth noting, and this is one of the authors’ main arguments, that the same development can be seen in the workhouses of Holland which in turn coincides with the initial period of Dutch capitalism in the first half of the

³¹ Kirchheimer & Rusche, *Punishment and Social Structure*.

³² David Garland stresses that Kirchheimer and Rusche overstate the importance of economic forces while simultaneously understating the importance of ideological- and political forces of the penal administrations and their subsequent influence on determining the policy of penal sanctions. The two authors’ preoccupation with economic factors also suggests that since all penal measures are motivated by economic incentives and thus only favour the ruling class, there can be no popular support for these measures. Rather than refuting all the theories of Rusche and Kirchheimer, Garland maintains the value of *Punishment and Social Structure*, chiefly in the way in which the authors opened an entirely new vista of understanding by pointing out the reciprocity of the labour market and penal policy. David Garland, *Punishment and Modern Society: A study in Social Theory*. (Oxford: Clarendon, 1990), 83-111.

³³ Dario Melossi & Massimo Pavarini. *The Prison and the Factory: Origins of the Penitentiary System*. London: Palgrave Macmillan, 2018), xxviii.

seventeenth century. What the authors call punitive segregation did not spring from individual genius, or the agency of reformers, but from the new emerging modes of production.³⁴ Although this thesis will not explore prison labour's relation to modes of production, the challenges posed by idleness and vagrancy in society at large and idleness within both the prison hulks and fortress prisons will be considered as shaping both prisons.

Another group of scholars, often referred to as revisionists, similarly came to challenge the traditional academic perception of the history of prisons. Although they hold opposing views on theory and methodology, they are united in the conviction that the penitentiary as such, cannot be understood as an independent institution without ties to society at large. The parallel history of other institutions and social structures must also be considered. Revisionist research is thus similar to the Marxist perspective in that it is a reaction to the traditional ways of writing the history of prisons through reforms and changes in legal systems brought on by increasing humanitarianism or secularism. In a Swedish context, the history of the prison up to the 1970s had principally been written by prison administrators, or individuals who sought to transform the prison as an institution. Accordingly, this perspective was heavily characterized by an evolutionary tendency.³⁵ The Anglo-American research on the history of the prison up until the 1970s exhibited similar tendencies.³⁶ Michel Foucault, the most prominent representative of the revisionist perspective, suggests that the locus of punishment in Western society shifted from being public and concentrated on inflicting physical pain, toward a rational mode of punishment targeting primarily the "soul" during the period 1750-1820. This shift was made possible through disciplinary measures concerned with the individual rather than the crime. Discipline, Foucault holds out, was predominantly conceived in military, religious,

³⁴ Melossi & Pavarini, *The Prison and the Factory*, 28-33, 38.

³⁵ The earliest example of this perspective is Siegfried Wieselgren who was Director General of the Board of Prisons in Sweden in the late nineteenth century. Wieselgren, *Sveriges Fängelser och Fångvård Från Äldre Tider till Våra Dagar*. (Stockholm: Nordstedt 1895). Torsten Eriksson, Director General for the Swedish correctional services during the 1960s, also drew heavily on the evolutionary perspective in his work on the development of prisons in Sweden. Torsten Eriksson *Kriminalvård: Idéer och Experiment* (Norrköping: KVS Förlag, 1995). Historian Staffan Rudstedt's general characterization of the Swedish nineteenth-century prison is also considered from an evolutionary perspective. In his somewhat shallow research, reform, secularisation and humanization are seen as the main drivers behind the development of Swedish prisons. Staffan Rudstedt, *I Fängelset: Den Svenska Fångvårdens Historia*. (Stockholm: Tiden, 1994) 53. Historian Marja Taussi Sjöberg has a slightly different approach in her research of the cellular prison in Härnösand. Her study chiefly follows three prisoners from their youth to their criminal offence via their time spent in the prison and to some extent their life after their prison sentence. The perspective adhered to is nevertheless evolutionary as Sjöberg refers to corporal punishment "finally" being replaced by prisons through the Penal Code of 1864. This change, she argues, was brought on primarily by secularisation. Marja Taussi Sjöberg, *Dufvans Fångar: Brottet, Straffet och Människan i 1800-talets Sverige*. (Stockholm: Författarförlaget, 1986) 12–13, 76–83, 109–111.

³⁶ Hermann Mannheim, *The Dilemma of Penal Reform*. (New York: Routledge, 2021) Thorsten Sellin, *Pioneering in Penology; the Amsterdam Houses of Correction in the Sixteenth and Seventeenth Centuries*. (Philadelphia: University of Philadelphia Press, 1944).

educational, and medical settings with techniques of subordination, classification, examination, penance, and the making of docile and susceptible bodies as the main driving forces.³⁷ The main drawback of Foucault's research is his unwillingness to separate official rhetoric from actual practice. His works are instead best understood within a wider critical project aimed at challenging perceptions of phenomena such as the scientific revolution, the social sciences, the Enlightenment project, social engineering, and the development of democracy in Western societies.³⁸

Concepts such as “reason”, “freedom” and “justice” are therefore all subjects of intensive scrutiny under the Foucauldian lens, it all comes at a price he argues. Consequently, rather than being a historical narrative, his seminal work on prisons, *Discipline and Punish*, is a structural analysis of power. Power for Foucault is not a property, it refers to forms of domination, subordination, and asymmetrical social relations. Further, the relationship between power and knowledge plays a critical part in this line of reasoning. It should not be understood as if knowledge generates power, instead, knowledge is the know-how, the techniques, and the strategies employed in social power relations. The exercise of power is always dependent on knowledge of the object being focused on, enquiries into the body thus constitute the basis for the history of punishment. The art of mastering the body is for Foucault, discipline, and as such has a long history, however, it was not until the period between 1750-1820, that disciplinary measures were to completely colonize the realm of punishment. This new, disciplinarian punishment, unlike the excessive corporal punishments of the ancien régime, developed its own methods of control, namely, what Foucault refers to as normalization, in short, they became corrective rather than punitive. To ensure total control, a virtual arsenal of arrangements emerged, surveillance, observation, examination, and identification for those refusing to conform, and lastly, and most importantly, the penitentiary.³⁹

The prison hulks and fortress prisons both contradict and confirm many of Foucault's axioms. For example, efforts were made to reform prisoners during the early nineteenth century, but with poor results and ultimately either prison resigned these efforts or instead stressed their

³⁷ Michel Foucault, *Discipline and Punish*, 16-19, 137, 144, 170, 231, 248, 293.

³⁸ Foucault's historical investigations should not be interpreted as attempts at reconstructing the past with the greatest possible objectivity and completeness. Sverre Raffnsøe, Marius Gudmand, and Morten Sørensen Thaning instead argue that: “*Surveiller et punir* is, for instance, not a complete history of the development of punishment and discipline but an interpretation that discloses the one-sidedness of the narrative of progress characteristic of the humanities and humanistic discourse in general.” Sverre Raffnsøe, Marius Gudmand-Høyer, and Morten Sørensen Thaning. *Michel Foucault: A Research Companion*. (New York: Palgrave Macmillan, 2016), 434.

³⁹ Foucault, *Discipline and Punish*, 26-28. Garland, *Punishment and Modern Society*, 131-146.

custodian properties. Both prisons also exhibited many traits of early modern prisons such as large prison rooms where prisoners were mixed indiscriminately. Despite this, many efforts were also made to separate the prisoners into classes, however, the measures were almost always unsuccessful. Further, corporal punishment was prevalent in both prisons throughout their operational history, lashings, for example, were even a prerequisite for most of the offenders sent to the fortress prisons until the 1850s. The postulation of a sharp break in punishment in 1750-1820 is thus not altogether viable in the case of either prison.

Where Foucault considers the routinization of discipline as a precursor for reform, the Canadian historian Michael Ignatieff instead applies the concept of symbolic persuasion. Benthamite rationalism and the Quaker and Evangelical language, Ignatieff suggest, provided the foundation for the ideology of discipline which would culminate with the penitentiary. He thus regards the late eighteenth century as a moment of acceleration for reformatory ideas concerning punishment. He further declares the English Nonconformist, philanthropist, and prison reformer John Howard the father of the modern penitentiary. Influenced by religious notions on the universality of sin and the malleability of man, Howard, and fellow prison reformers, devised the idea of a penitentiary, he argues. The penitentiary was to operate under strict discipline to remake men and accordingly instil legitimacy in the legal system, which at the time was in severe jeopardy due to poorly run prisons, gaols, and workhouses. Ignatieff considers Pentonville Prison in London, finished in 1842, the model prison for all of Europe, both in architecture and discipline. However, he concedes that the major elements of the modern penal system were not in place until 1877. Ignatieff also touches on the subject of the prison hulks, the few pages dedicated to them are mainly set during their inception in the 1770s; their future development and their eventual termination are unfortunately not explored.⁴⁰ Lastly, Ignatieff is highly critical of Foucault and deems his study on the penitentiary fatalistic, especially regarding his usage of the concept of the power-knowledge-body. While Foucault seeks to understand what he conceives as a carceral continuum, ranging from the rhetoric of reformers to coercive institutions, Ignatieff instead questions the motivations and ideology of

⁴⁰ Ignatieff, *A Just Measure of Pain of Pain*, 3, 11-12, 24, 66-67, 72, 80-82, 91, 156.

the reformers, not taking their principles at face value.⁴¹ This is an appropriate criticism of Foucault, but Ignatieff instead fails to account for the unintended consequences of the prison reformers' efforts. As this thesis will argue, the many debates and committees on prison reform prolonged the introduction of modern forms of confinement which ultimately meant the continuation of older forms of confinement.

Perhaps the earliest proponent of the revisionist perspective is the American historian David J Rothman.⁴² Rothman seeks to answer the question of why the American society in the Jacksonian era of the 1820s and 1830s came, to a far greater extent than in the colonial period, resort to the institutionalization of deviants, the mentally ill, the young delinquent, and the poor. He identifies this era as a decisive moment in American institutional history. Large-scale social change in terms of diminished social control, rapid population growth, anxieties concerning the disintegration of traditional family values, and expanding political loyalties no longer rooted in the localities were all crucial elements that led to the unprecedented institutionalization. The reasons for criminal behaviour in the Jacksonian era, Rothman suggests, were thought to be found in family disorganization and a corruptive society and were thus not an innate human attribute. This view on criminality stressed flawed childrearing, lack of discipline in the household, and the temptations of drinking establishments as the main factors that subsequently encouraged increased confinement. This environmental theory of the origins of crime, therefore, motivated the construction of penitentiaries. The objective of the penitentiary was, in the Jacksonian era, not conceived solely as a mere place of confinement, it was meant to reform the offender since the plasticity of man was a most prevalent notion. Reformers and visionaries of the asylum looked nostalgically back at the eighteenth century to recreate, what they perceived, as a stable social order and not forward to the nineteenth-century factory which has

⁴¹ Ignatieff, *A Just Measure of Pain of Pain*. 205. It should be noted that Ignatieff somewhat altered his stance on the history of the penitentiary in an article in 1981. In this article he claims that the revisionism of prison history, himself included, overestimated the ruling classes' influence on perpetuating the dichotomy of the "respectable" and "criminal" subjects, stating instead that the working classes were equally invested in the creation of this dichotomy. Furthermore, the revisionists exaggerated the centrality of the state and the institutions, to fully understand the evolution of the penitentiary, Ignatieff proposes a holistic approach, in other words, to study moral and punitive enforcements as distributed throughout the entire social body. Ignatieff, Michael. "State, Civil Society, and Total Institutions: A Critique of Recent Social Histories of Punishment." *Crime and Justice* no.3 (1981): 153-192.

⁴² It could however be argued that Foucault's *Madness and Civilization*, published in French in 1961 is a more suitable point of reference concerning the early revisionist works on confinement, see: "The Great Confinement" in Michel Foucault, *Madness and Civilization*. (London: Routledge Classics, 2001). 35-50.

been argued by Marxist historians.⁴³ Rothman further holds out that the growing institutionalization in the Jacksonian era was a uniquely American invention, although, he concedes, modelled on earlier forms of incarceration, the novelty was however the belief in the plasticity of man. To further strengthen his argument, he notes the European interest in Alexis Tocqueville's and other prison reformers' inspections of the Auburn and Philadelphia prisons in the 1820s and 1830s. However, the new institutions came to deteriorate relatively early on, and the reformatory ideal was replaced by that of a custodial one already by the 1850s. Negligence, abuses, and the loss of faith in reformatory ideals were the main reasons for this, this in turn has led to contemporary institutions with incarceration as its main purpose.⁴⁴ Similar to Foucault, Rothman thus argues that a sharp break, wherein the malleability of individuals was stressed, justified penitentiaries, but his assertion that this was eventually abandoned constitutes an added level to the analysis. In the case of the prison hulks and fortress prisons, the resignation from reformatory ideals can be observed several decades earlier than the 1850s, but they nevertheless stemmed from similar aspects.

The revisionist perspective has indeed given birth to new and innovative theoretical frameworks. Perhaps most convincing is the assessment that the earlier evolutionary perspective suffers from oversimplifications and generalizations, as well as a too narrow scope. The advantage of the perspective is therefore its highly analytical reappraisal that has generated an intellectually rigorous debate as well as an indisputably significant influence on subsequent generations of scholars, not only on the research of prisons, but on coercive institutions in general. The revisionist perspective has however become progressively disputed. Perhaps the most outspoken and theoretically refined of the critics is the Dutch historian Pieter Spierenburg. His disagreement is primarily based on the notion that revisionists tend to draw bold conclusions from a relatively weak foundation of source material. Spierenburg instead proposes a combination of sources from above with sources from below. Directives from penal justice officials need to be supplemented with sources detailing life inside prison he argues. He also considers the Marxist perspective problematic because of its inherent determinism.⁴⁵ By taking an approach beyond penitentiaries and prisons, and instead exploring the concept of bondage,

⁴³ David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic*. (New York: Routledge, 2002), 56-9, 68-72, 79, 83-84, 105 The main reason that the factory came to resemble the penitentiary, Rothman argues, was instead that public order officials and employers shared the same view of the body in the nineteenth century. David J Rothman, "Perfecting the Prison: United States, 1789-1865" in *The Oxford History of The Prison*, ed. Norval Morris, & David J Rothman, (Oxford: Oxford University Press, 1995) 111-129.

⁴⁴ Rothman, *The Discovery of the Asylum*, 94, 187-198, 239-240.

⁴⁵ Pieter Spierenburg, *The Prison Experience: Disciplinary Institutions and Their Inmates in Early Modern Europe*. (New Brunswick: Rutgers University Press, 1991), 171-175

Spierenburg suggests that the origin of penal confinement is to be found in the early modern moral entrepreneurship aimed at civilizing the populace of the still rudimentary European states. A change in attitudes toward idleness, poverty and marginality reinforced by the Reformation and Counter-reformation thus provided the ideological basis for confinement and discipline in early modern Europe.⁴⁶ Spierenburg thus proposes that when the Amsterdam workhouse opened as a prison for delinquents and vagrants exclusively in 1654, it became the first prison in Europe. From this moment on, a rise in confinement takes place all over Europe. There was no sharp break which gave birth to the penitentiary, Spierenburg argues in his outspoken polemic towards Foucault. Instead, there were changes in mentalities and sensibilities, and changes in social attitudes toward criminal offences, the body, and the family that eventually culminated with the penitentiary in the late nineteenth century.⁴⁷

While the revisionists argue that the evolutionary perspective neglected the wider institutional context, Spierenburg argues that the revisionists fail to consider the wider historical context. By making use of the theoretical framework of Norbert Elias's civilization process, Spierenburg seeks to demonstrate how positive attitudes towards the suffering of prisoners gave way to a gradual process of escalating sensitivity up to the nineteenth century.⁴⁸ Given that Spierenburg does not argue from a strict evolutionary perspective, it would be wrong to assign his works to this perspective, a more suitable epithet is perhaps a process-oriented perspective.⁴⁹ As with all generalizations, this perspective however also runs the risk of oversimplification or an inadequate consideration for details. Although Spierenburg is well-versed in archival research and presents a plethora of support for his arguments, it could be argued that he suffers from the same problems of determinism as he has accused the revisionists of. The history of the modern prison from Spierenburg's perspective, put simply, is presented as a linear process, his starting point is set earlier and instead of discipline, the focus is on sensibilities. Instead of insisting on either a sharp break or a process-oriented perspective, the comparison of the prison hulks to the fortress prisons partly seeks to nuance this dissension in the field of historical research on the emergence of modern forms of confinement. This thesis will thus suggest that older forms of confinement not only persisted side by side with the penitentiary but were also

⁴⁶ Pieter Spierenburg, "Body and the State: Early Modern Europe." in *The Oxford history of the Prison*, ed. Norval Morris, & David J Rothman, (Oxford: Oxford University Press, 1995), 49-77.

⁴⁷ Spierenburg is also highly sceptic of Foucault's assessment that the disappearance of public executions was caused by the political danger provoked by the brute force shown by the sovereign power, this argument is not founded on archival resources he argues. Foucault, according to Spierenburg, instead bases his argument on somewhat arbitrary writings from publicists in the second half of the eighteenth-century when public justice already had been under considerable attack. Spierenburg, *The Spectacle of Suffering*, 108.

⁴⁸ Spierenburg, *The Spectacle of Suffering*, 183-191, 200-201.

⁴⁹ Spierenburg, *The Prison Experience*, 13-16.

influenced by its ideals, refined, and only eventually abandoned. Further, there is a latent assumption in both perspectives that older forms of confinement were static and declining by the nineteenth century. This thesis will challenge this assumption and instead focus on what made the persistence and development of older forms of confinement possible in the era which saw the introduction of the penitentiary.

In a Swedish context, criminologist Hanns von Hofer explores the emergence of the prison. Following earlier revisionists, von Hofer argues that prisons did not emerge in a vacuum, their development was tightly interwoven with a broader institutionalization. Hospitals, asylums, and institutions for juveniles, to name a few, all consolidated their position in society in the early nineteenth century. The main driving force behind this was the increased importance attributed to the deprivation of liberty, and a rationalized differentiation in the new institutions, a move from collectivism towards individualization. This development was preceded by a transitional period between the former agrarian society to the new industrial mode of production. In a somewhat speculative model, von Hofer argues, much like the aforementioned Marxist researchers, that the changes in the modes of production brought new socio-economic problems. These problems were then interpreted as control problems which led to new strategies for social control and finally confinement in modern prisons.⁵⁰ The emphasis on social control strategies as the *raison d'être* for the modern prison is somewhat problematic, or at the very least, one-dimensional. Another shortcoming of the revisionist perspective consequently becomes apparent in the works of von Hofer, namely that of a too narrow and static chronology, as well as the notion that change comes primarily from above i.e., through political decisions. Nevertheless, social control strategies can help explain the persistence of older forms of confinement, at least partly. Challenges posed by vagrancy and displacement, for example, were integral to the reliance on fortress prisons, and the prison hulks were for many years a prerequisite to penal transportation. This thesis will thus suggest that control strategies did not just lead to the introduction of modern forms of confinement, but also strengthened and reshaped older forms of confinement.

Swedish historian Roddy Nilsson offers a different approach and considers the modern prison both a discourse and a phenomenon which emerged during the nineteenth century. The

⁵⁰ Hanns von Hofer, *Fängelset: Uppkomst-Avskräckning-Inkapacitering: Tre Kriminologiska Studier*. PhD Diss., (Stockholm: Stockholm Universitet Kriminologiska Institutionen, 1993), 32–39, 46–48, 58–61, 64. von Hofer also offers a rich statistical overview of the development of the prison in Sweden which to a substantial extent confirms his earlier line of reasoning. Hanns von Hofer, *Brott och Straff i Sverige: Historisk Kriminalstatistik 1750–2010. Diagram, Tabeller och Kommentarer*. (Stockholm: Stockholm Universitet Kriminologiska Institutionen, 2011), 183–189, 205–215.

prison he suggests, was shaped by the fusion of a discursive system of norms and the social practice of prisoners and the prison staff. By using a theoretical framework chiefly inspired by Foucault, Nilsson seeks to trace the discourses of the prison from eighteenth century criminal justice- and prison reformers Cesare Beccaria, Jeremy Bentham, and John Howard. The religious-philanthropic discourse of Howard and the rational-utilitarian discourse represented by Bentham was to be fused with subsequent reformers' liberal-progressive discourse in the early nineteenth century. The ideological underpinnings for this cross-fertilization were, according to Nilsson, following revisionists Rothman and Ignatieff, the belief in the malleability of man, the criminal could be reformed, the issue was only how he was to be reformed. The religious-philanthropic discourse emphasized a conversion process where the criminal was to achieve a change of consciousness from within, a religious sentiment that stressed that real reform was succeeded by a transformation of the mind. The rational-utilitarian discourse underlined that the criminal was to be reformed by stimuli from the outside, it was the behaviour that was to be transformed. This change was to be inculcated in the criminal through hard and honest labour in the prison.⁵¹ Despite the many merits of Nilsson's work, he fails to consider the persistence of older forms of confinement. His work is chiefly concerned with the emergence of cellular prisons in Sweden, however, the reliance on fortress prisons during the first half of the nineteenth century deserves greater attention. As will be discussed in-depth at a later stage, the fortress prisons also served as a potent antithesis to the cellular prisons thus profoundly shaping the penal discourse.

For criminologist David Garland, crime and social structure take the front stage, he employs a genealogical framework to: "...use history to rethink the present."⁵² The structure of crime control, Garland contends, stretches far back in history, certain components of this structure, such as the prison and the police can nevertheless be dated no further back than to around the mid-nineteenth century. However, overlying this structure is a modernist superstructure conceived in the early twentieth century, Garland designates this penal welfarism. The concept of penal welfarism involves certain correctional motives such as rehabilitation, individualized treatment, and criminological research through special

⁵¹ Nilsson, *En Vålbyggd Maskin*, 15–17, 70, 100, 119.

⁵² David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society*. (Oxford: Oxford University Press, 2001), 1. While Nilsson does not discuss the concept of genealogy in any considerable depth, he instead prefers the concept of contemporary history, i.e., to explore the present in order to better comprehend a current, complex problem, which in his case is related to the questions as to why the prison, despite all its failure, remains at the centre of legal punishment. Nilsson, *En Vålbyggd Maskin*, 23-25.

arrangements such as probation and juvenile courts.⁵³ The precursor to penal welfarism, the penal system of the nineteenth century, Garland argues in a fruitful dialectical critique of Foucauldian themes, exhibited no individualisation; it strived for uniformity through social control. He thus argues that normalisation, classification, and categorization did not occur in Britain before at least 1895.⁵⁴ As hinted at above, efforts to classify and categorize prisoners were made in the fortress prisons and on board the prison hulks to prevent the intermixing of criminals. Although the normalizing aspect might be more difficult to establish accurately, this thesis will argue that the prison hulks and fortress prisons strove towards categorising prisoners from at least the early nineteenth century. Thus, fears of the moral corruption of lesser criminals by hardened criminals in prison rooms of the prison hulks and fortress prisons could be considered a tentative precursor to Garland's penal welfarism.

Historian Margaret E. DeLacy shares Garland's periodization to some degree. By studying local Lancashire prisons, DeLacy concludes that local prisons were slow in adapting to the reformatory ideals of the nineteenth century. She argues that a conservative county bench, old and poorly designed prisons, understaffed prison administration, as well as local justices being eager to save money and thus not allocating funds for the conversion of old prisons into modern ones, were the reasons for the lengthy process. Further, while arguing that Lancashire was the industrial, and ideological heart of the new order of the nineteenth century, its prisons only marginally resembled the highly regimented Pentonville prison in London. DeLacy, like Garland, calls for modifications to the theories linking the development of repressive institutions to aspects such as reformist ideals and the industrial revolution. However, DeLacy does concede that the prisons of the 1840s were vastly different from their predecessors in the late eighteenth century. The prisons had grown, become more professional with more centralized governance, and perhaps the most important goal of the reformers had been reached, namely that of reducing the death rates by improving sanitary conditions.⁵⁵ Similarly, this thesis will not make the assertion that the industrial revolution constituted a major difference between

⁵³ Garland, *The Culture of Control*, 27, 44-51. French sociologist Jacques Donzelot introduces a similar generalization in a French context, the concept of a "tutelary complex" entail, in his theorizing, an expanding interventionism from the authorities in the general public's lives from the late nineteenth-century onwards. Jacques Donzelot, *The Policing of Families*. (Baltimore: John Hopkins University Press, 1997). Nilsson has in later works formulated a similar concept. What he labels a "treatment paradigm" constitutes an expanding institutionalization and individualized, treatment-based criminal policy, however, he dates this for the Swedish context no further back than the 1930s. Nilsson, Roddy. *Från Cellfångelse till Beteendeterapi: Fångelse, Kriminalpolitik och Vetande 1930-1980*. (Malmö: Egalité, 2013), 90-93.

⁵⁴ David Garland, *Punishment and Welfare: A History of Penal Strategies*. (Aldershot: Gower, 1985), 14-17, 31-32.

⁵⁵ Margaret DeLacy, *Prison Reform in Lancashire, 1700-1850: A Study in Local Administration*. (Stanford: Stanford University Press, 1986), 182-183, 189-190, 210-211.

Sweden and England when it comes to prison reform, especially not concerning the prison hulks and fortress prisons which were very much early modern prisons.

In researching perceptions and attitudes towards primarily female offenders and prisoners, historian Lucia Zedner, following Garland and DeLacy, explore to what extent the nineteenth-century prisons came to match the ideals of prison reformers. She argues that the revisionists render history static, their theories border on over-schematization, but most importantly, they take no account of gender. Penal policy, Zedner contends, was highly differentiated by and developed on notions of gender.⁵⁶ The discussions on the two systems of confinement, the separate, and the silent systems in the early- to mid-nineteenth century Zedner argues, were greatly impacted by perceptions of how female prisoners risked being morally corrupted by association, more so than their male counterparts. Women, in general, were perceived as naturally sociable and impressionable thus running the risk of becoming irrevocably corrupted by fellow prisoners communicating their sexual exploits, or the benefits of prostitution. Although the silent system persisted in some institutions, the association between women in prison were still condemned as late as the 1890s.⁵⁷ Concomitantly, doubts were also expressed as to the ability of female prisoners to cope with the separate system of confinement, many working in local prisons argued that the solitude could have adverse effects on “very nervous women.” The fact that the separate system had prevailed in England by the 1840s, Zedner argues, has led the revisionist historians to contend that the issues of penal policy had been resolved, however, she continues, by the 1850s, only about one-third of the local prisons had implemented the separate system.⁵⁸ The prison hulks and fortress prisons were reserved for male offenders and gender could thus serve as a fruitful analytical tool. Despite this, gender has been largely omitted in this thesis as I have found that other aspects had a greater impact on the persistence of both prisons well into the nineteenth century.⁵⁹

⁵⁶ Similarly, historian Martin J Weiner notes that early Victorian England held women in such high regard it bordered on the level of piety. The protection of the “gentler sex” consequently led to a war on male violence which resulted in prisons becoming predominantly male institutions. The courts, Weiner continues, focused generally on working-class men which had the consequence of creating new masculine ideals, the male was to be woman-respecting, law-abiding, self-disciplined, and sensitive. During the second half of the nineteenth-century, increased presumptions of women as innocent and weak were to help them in court resulting in a decline of female convictions. Martin J. Wiener, *Men of Blood: Violence, Manliness, and Criminal Justice in Victorian England*. (Cambridge: Cambridge University Press, 2004), 28-30, 35-38, 122-133.

⁵⁷ Lucia Zedner, *Women, Crime, and Custody in Victorian England*. (Oxford: Clarendon Press, 1994), 93–99, 106–109.

⁵⁸ Zedner, *Women, Crime, and Custody*, 113, 125-126.

⁵⁹ For examples on gender and criminal justice see: Mary Bosworth, “Confining Femininity: A History of Gender, Power and Imprisonment.” *Theoretical Criminology* 4, no. 3 (2000): 265-284.

<https://doi.org/10.1177/1362480600004003002>. Nicole Hahn Rafter, “Gender, Prisons, and Prison History.” *Social Science History* 9, no. 3 (1985): 233–47. <https://doi.org/10.2307/1170945>

Research on the emergence of the penitentiary and the modern prison has indeed attracted a lot of attention over the years, especially after the cultural turn of the 1970s. The dissension in the field has fostered many fruitful perspectives whether Marxist, revisionist, civilization process-oriented, social control theories, or gender theories, they all bring something new to the table. Nevertheless, the focus has generally been on structures, the agency of governments and authorities, the intended functions of prisons, and influential individuals. A growing body of research has thus sought to remedy this sometimes-one-dimensional perspective by instead exploring the prison from the inside-out rather than the opposite.

Stepping Through the Gates

In the shadow of the totalizing perspectives outlined above, more specialized, and narrow research projects on prisons have recently gained attention. Historian Patricia O'Brien's research on the nineteenth-century French prison experience is one of the earliest works in this perspective. Admitting academic debt to Foucault, she stresses the importance of the relationship between the prison and the social system in which it operates. She thus focuses on the profile of the prisoners, their impact on prison development, and how they adapted to life in prison.⁶⁰ During the nineteenth century, the inmates of modern prisons became members of a closed and formal society and had to adapt to these new circumstances. An overwhelming majority of the prisoners were semi-skilled or unskilled males, the female population were generally in their twenties and they as well, were a part of the labouring classes of society.⁶¹ Perhaps the most illuminating part of O'Brien's research is the exposition of emerging prison subcultures. Prison argot, tattooing, homosexuality, and graffiti should be understood as reactions to the depersonalizing prison regime, and not as an expression of biological inferiority or social inadaptability, O'Brien argues. This helped form a distinct prison subculture, akin to that of the urban subcultures given that most of the prisoners came from the larger cities of France. Recidivists, wise in the ways of the prison, stood at the top of the hierarchy and thus aided the transmission of prison subcultures from generation to generation. Prison subcultures reflected the reality of prison life while the rhetoric of discipline, isolation and rehabilitation reflected the intended, institutional reality of prisons which hardly, if ever came to fruition. O'Brien thus asserts that disturbances and violence in prisons have generally been treated as unfortunate irregularities of a rationally planned prison system, or as a natural reaction to an inhumane prison regime. When researched from the inside out, French nineteenth-century

⁶⁰ O'Brien, *The Promise of Punishment*, 9.

⁶¹ O'Brien *The Promise of Punishment*, 54–58

prison history, instead becomes a history of disorder and sporadic outbursts of chaos.⁶² Prison subcultures were prevalent in both the prison hulks and fortress prisons and will be thoroughly accounted for in this thesis. They were vigorously defiant against the order of the prison and, as this thesis will argue, this resulted in the eventual disenchantment of any hope of reformation of prisoners and the emergence of a separate prison order.

Drawing on more than two hundred autobiographical accounts from both prisoners and prison staff, historian Philip Priestley delivers perhaps the most extensive account of the lives of prisoners in nineteenth-century Britain. In his work *Victorian Prison Lives*, prisoners' biographies, from admission into prison, via the day-to-day life of religious instruction, labour, and discipline, to the day of release, are intertwined with the development of the penitentiary. The strength of Priestley's work thus lies in exploring and detailing prisoner's perceptions; however, many analyses are regrettably rather superficial and bordering on axiomatic. Episodes of the arduous labour prisoners had to endure such as oakum picking i.e., separating tar from hemp ropes by hand or the gruesome ordeals of hangings are passively recounted. Priestley argues that present-day prisons, which he maintains have their roots in the Victorian prison system, are based on retribution and punishment and are thus deeply flawed. Instead, he propagates the reform of prisons into institutions based on harm reduction and cognitive treatment. In this light, his somewhat descriptive style serves as an obvious polemic toward contemporary treatment of prisoners.⁶³

Similarly, but with greater analytical depth, historian Alyson Brown investigates prison disturbances and riots in the nineteenth century to explore prison resistance and what she perceives as modern prisons' inherent problem of legitimacy. The deterrent shift of British penal policy is more often than not associated with the Chairman of the Directors of the Convict Prisons Edmund Du Cane who held the position from 1869 to 1895. Although an assertive, and to some extent autocratic figure, Du Cane cannot solely be held responsible for this shift Brown argues. The pessimistic social attitudes towards criminality, declining faith in reformatory ideas, and pressure from parliament to enforce more deterrent prison regimes, all affected this shift. The deterrent penal policy that characterized the convict prisons of the latter half of the nineteenth century led to the most violent and gruesome examples of prisoner self harm in British history. A lack of inbuilt checks, and the perception of the hardened criminals as unresponsive to any rehabilitative treatment, segregation, or even punishment, resulted in

⁶² O'Brien, *The Promise of Punishment*, 74, 76, 88-89, 99, 107, 304.

⁶³ Philip Priestley, *Victorian Prison Lives: English Prison Biography, 1830-1914*. (London: Pimlico, 1999), XIII-XIV, 55-57, 193-194, 232-234.

dreadful conditions in the convict prisons. Brown's research is an excellent example of how changes to penal policy affected prisoners' lives, and how they attempted to resist. Violent outbreaks as a result of changes in penal policy have been most pronounced in the prison hulks, although there are many examples of how prisoners resisted the order of the fortress prisons. Although a slightly later chronology, Brown's research on prison disturbances is still relevant for the first half of the nineteenth century and this thesis will build upon some of her findings.⁶⁴

Historian Ulrika Norburg has, in a similar manner, researched the original prison facility of Hall southeast of Södertälje, Sweden from its inception in 1876 as a reformatory, to its transition to prison in 1940. Initially, a reformatory for juveniles, Hall was founded at the intersection of religiously inspired sentiments as well as a modern scientific context according to Norburg. The main source of inspiration was, the at the time well-renowned, and internationally visited, French reformatory of Mettray which opened in 1844. What was deemed attractive to the Swedish reformers and philanthropists of the mid-nineteenth century was the fact that the French reformatories were built on a "family model" which corresponded to the perceived need for a proper upbringing for juvenile offenders, as well as a near-military form of discipline. The juveniles were to be instructed in moral and religious upbringing, as well as agricultural training. The establishment of reformatories in Sweden was also an effect of parliamentary debates in the 1840s where concepts such as individualization and reform were keywords. Norburg also provides portrayals of the individuals housed at Hall. The majority of the juveniles held at the reformatory were of the ages of 12-14 and their parents were of working-class backgrounds. Further, Norburg studies interviews of the juveniles and concludes, for example, that the language that they spoke was that of a prison and not a reformatory.⁶⁵ Norburg's research thus advances the notion that the perception of those confined within a given institution sometimes contradicts the intentions of the reformers. It stresses the importance of separating official rhetoric from actual conditions, this thesis will strive to do the same. Juvenile prisoners were uncommon in the fortress prisons; however, many were confined on board the prison hulks. Starting in 1825 the *Euryalus* prison hulk in Chatham was reserved only for

⁶⁴ Alyson Brown, *English Society and the Prison: Time, Culture, and Politics in the Development of the Modern Prison, 1850-1920*. (Woodbridge: Boydell Press, 2003), 30–31, 39–43, 50–54, 83–89, 106–108.

⁶⁵ Norburg, Ulrika. *Fängelse, Skola, Uppfostringsanstalt eller Skyddshem: Åkerbrukskolonien Hall för Pojkar År 1876–1940*. PhD Diss., (Linköping: Linköpings universitet, Institutionen för Tema, 2015), 41-45, 53-58, 94-96, 146-147, 153-155. The anthology *Inspärrad*, for instance, is a well-researched compliment to Norburg's research. The authors' timeframes range from the late nineteenth century to the 1960s and the institutional width explored stretches from hospitals, asylums, and prisons. The chronology puts its emphasis on the incipient Swedish welfare state and thus falls outside the timeframe of this thesis. However, it points to a trend in historical research more interested in how institutions were perceived by individuals subjected to imprisonment than the official documentation. Roddy Nilsson, and Maria Vallström, eds. *Inspärrad: Röster från Intagna på Sinnessjukhus, Fängelser och Andra Anstalter 1850–1992*. (Lund: Nordic Academic Press, 2016), 12–19.

juveniles, nevertheless, this thesis will not include young offenders in any considerable depth. The reason for this is that references to prisoners' age are few in both the prison hulks and fortress prisons, further, juvenile delinquency, as a separate category within the penal system, has been more exhaustively explored elsewhere.⁶⁶ Unfortunately, experiences from prisoners on board the prison hulks or the fortress prisons are uncommon. However, on rare occasions, their voices shine through the source material. Some of them even wrote diaries, historian June Slee explores the diary of convict John Ward who was sentenced to ten years of transportation in 1838. Ward's diary covers the years 1829-1844 and depicts his life as a groom to an officer and gentleman, his eventual downfall, burglary, and reconciliation with his Christian beliefs in the penal settlement on Norfolk Island. His diary, she maintains, offers a rare glimpse into the lives of nineteenth-century aristocrats from a servant's perspective as well as his incarceration on the *York* hulk in Portsmouth where he was put to hard labour for nineteen months. Slee's study of the diary is somewhat descriptive with few pretensions towards critical analysis, her work is more of a report of the diary itself, filled with illustrations and notes which contextualize Ward's story.⁶⁷ In this thesis, I have used both John Ward's original diary to get a better understanding of life onboard the prison hulks in Portsmouth and Slee's work. In the case of the fortress prisons, prisoners' diaries had an overwhelming ethical dimension and were generally most concerned with moralizing over life in crime and there are thus few descriptions of the prison itself.⁶⁸ Although also extensively moralizing, the diary of H.F.A Lönegren, chaplain at Varberg penal prison situated within an old fortress, has been consulted in this thesis.

Most of the research conducted on prisoners' experiences of prison and how it affected its development has been restricted to modern prisons from the mid-nineteenth century and onwards. Additionally, a considerable amount of the research has been confined to the boundaries of specific Western nation-states. Research on the emergence of modern prisons has thus been increasingly contested by non-Western historians according to historian Mary Gibson. This recent research factors colonialism, race, and the agency of prisoners as

⁶⁶ See for example: Heather Shore & Pamela Cox. *Becoming Delinquent: British and European Youth, 1650-1950*. (Aldershot: Ashgate Dartmouth, 2002). Barry Godfrey, Pamela Cox, Heather Shore, & Zoe Alker. *Young Criminal Lives: Life Courses and Life Chances from 1850* (Oxford: Oxford University Press, 2017). Neil Davie Punishment, "Reform or Expediency? Juvenile Crime and the Prison Hulks, 1822-1843". Published in French as "Châtiment, Réforme ou Opportunisme? La Délinquance Juvénile et les Pontons Pénitentiaires Anglais, 1822-1843." in Michel Prum (ed.), *Catégoriser l'autre: Aires Anglophone et Lusophone*. (Paris, L'Harmattan, 2017).

⁶⁷ June Slee, *Crime, Punishment & Redemption: A Convict's story*. (Canberra: National Library of Australia, 2014), 1-5.

⁶⁸ Carl Lilja, *Den Beryktade Fästningsfångnen Johan Fredrik Liljas Märkvärdiga och Skiftesrika Lefnad: En Själfbekännelse om Hans Stora och Djerwa Stölder, Samt Mångfaldiga Rymningar, m.m.*, 3rd ed., (Stockholm: Rudolf Wall, 1853). Lasse Maja, *Lasse-Majas Besynnerliga Äventyr*.

fundamental themes for understanding the adoption of imprisonment in the non-Western world. The common denominator, Gibson argues, on the birth of the modern prison in the non-Western world, is thus the relation of race to punishment and the characteristics of inmate subcultures. She maintains that a global history of prisons can shift the focus from Enlightenment Europe to the age of European imperialism as most non-Western societies constructed their first modern prisons roughly a hundred years later than the Western world. Gibson thus urges for a reconceptualization, from the birth of the prison to the birth of imprisonment as the dominant form of punishment globally. The late nineteenth- and early twentieth century would thus instead be a better periodization she argues.⁶⁹ Eclipsed by a Western focus on the penitentiary, cellular prisons, and a decline in corporal punishment, institutions like penal transportation, prison hulks, galley slavery, fortress prisons, and subterranean dungeons have received little attention. Consequently, the next part of this chapter will focus on other perspectives on prison history and institutions which coexisted with modern prisons but have received considerably less academic attention.

The Persistence of Older Punishments

The most recent historian to give the greatest scholarly attention to early modern places of confinement is the previously mentioned Spierenburg. His focus has unfortunately mainly been on continental Europe, and neither English prison hulks nor Swedish fortress prisons are explored to any significant degree. However, he has given some attention to a similar punishment, namely galley slavery. This punishment comprised convicts forcibly labouring as oarsmen in the navy, mainly in the Mediterranean area. In France, Spierenburg continues, galley slavery served as a precursor to the modern prison. The wars of Louis XIV in the early seventeenth century demanded more oarsmen for the navy; hence convicts were more frequently sentenced to the galleys. After 1715 however, the need for oarsmen had severely decreased, and the galley slaves were instead employed as workers in naval dockyards. The system was abolished altogether in 1748, despite this, convicts were still being sentenced to the galleys since the sentence still existed in the judiciary. Eventually, the *bagne* system, which specified hard labour in French naval ports, replaced the galley system, a punishment used until 1854. In a polemic, once again directed at Foucault, Spierenburg argues that the evolution from galley slavery to the *bagne* system was the first step toward penal imprisonment in France.⁷⁰ Historian Jan Sundin has pointed out that when the French galley slavery was abolished and

⁶⁹ Mary Gibson, "Global Perspectives on the Birth of the Prison," *The American Historical Review* 116, no. 4, (2011), 1040-1041, 1057.

⁷⁰ Spierenburg, *The Prison Experience*, 24-25, 259-260, 270-272.

brought up on land in the bagnes, it came to resemble the Swedish fortress prisons.⁷¹ Although there are great similarities, this thesis will not assert that prison hulks and fortress prisons were precursors to modern prisons. On the contrary, and as has been stressed earlier, it will instead seek to answer how these prisons could persist well into the nineteenth century.

By using a similar theoretical framework, historian André Zysberg has studied the link between the use of galley slavery in Marseille to the bagne system of hard labour in the naval dockyards of Toulon, Brest, and Rochefort. Although roughly half of those sentenced to the galleys died while serving, some privileged convicts were allowed to work in workhouses, shops, and factories in Marseille, and some even started their own enterprises in between naval campaigns. Some of these convicts managed to earn enough money to buy their freedom, marry, settle down in Marseille and continue their profitable commercial activity. Allowances and freedoms bestowed upon the galley convicts were part of an age-old relationship between the port town of Marseille and the convicts and led to fewer escapes than might be expected. Following famine and an extended period of peace in the early eighteenth century, the galley system was slowly phased out. In 1748 the galley corps was officially disbanded and incorporated into the French Royal Navy which Zysberg considers the starting point of the bagne system. The bagne was a building akin to a barrack where the convicts were confined after a day of work, however, because of overcrowding some had to spend the night locked in aboard the old galleys or pontoons. The mid-nineteenth-century saw intense debates on the bagne system which was deemed too similar to the old galley tradition and thus reminiscent of the ancien régime, this, and a considerable increase in navy funds, as well as the completion of large port development projects ultimately rendered the system obsolete. The preferred penal measure for convicts sentenced to hard labour now became transportation to the colony of French Guyana.⁷² Unfortunately, neither Spierenburg nor Zysberg considers the persistence of the bagne system well into the nineteenth century as anything else than steps in an evolution toward the penitentiary and the modern prison in France.

In a turn away from the national perspective on punishment, the ambitious anthology *Global History of Convicts and Penal Colonies* edited by Clare Anderson seeks to provide a

⁷¹ Sundin, *För Gud, Staten och Folket*, 222.

⁷² André Zysberg, “Galley and Hard Labour Convicts in France (1550-1850).” in *The Emergence of Carceral Institutions: Prisons, Galleys and Lunatic Asylums 1550-1900*, ed. Pieter Spierenburg, (Rotterdam: Erasmus Univeriteit, 1984), 78-125. For more on French penal transportation see for example: Isabelle Merle, & Marine Coquet, (2019). “The Penal World in the French Empire: A Comparative Study of French Transportation and its Legacy in Guyana and New Caledonia.” *The Journal of Imperial and Commonwealth History*, 47 (2), (2019) 247–274. <https://doi.org/10.1080/03086534.2019.1605706> Briony Neilson, “‘Moral Rubbish in Close Proximity’: Penal Colonization and Strategies of Distance in Australia and New Caledonia, c.1853–1897.” *International Review of Social History* 64, no. 3 (2019): 445–71. <https://doi.org/10.1017/S0020859019000361>

global overview of convict mobility and carceral immobility spanning five centuries.⁷³ The focus is not on the flow of convicts from Europe, but rather on convict routes and penal colonies themselves. The overarching ambition is to delineate similar cultural patterns and themes across time and space concerning transportation and penal colonies. Transportation, it is implied, should be considered, not only as a punishment, but as a versatile sentence filling many roles such as colonization, prevention of rival occupation, preparations for migration and trading routes, and lastly, as a means of procuring natural resources. Expanding on this, Anderson also argues that transportation and penal colonies did not exist as an addendum to the national prison, they preceded it, shaped it, and coexisted with it. Examples given of this are penal colonies as provoking innovations such as textual record-keeping of convicts in the nineteenth century and later photographing and fingerprint recording. Penal settlements and colonies are also construed as socially and culturally distinct carceral spaces that brought together convicts of diverse origins which ultimately resulted in conceived syncretic cultures.⁷⁴ Not only is the anthology an excellent example of global comparative history, but it also seriously tackles the issue of early modern punishments persisting well into the nineteenth century.

In *Convicts: A Global History*, Anderson set out again to explore convicts and penal colonies in a global setting from the early modern period to the twentieth century. Her main argument is that traditional penological narratives are in dire need of modifications. The logic of nation and empire-building demanded the relocation of criminals on an unprecedented scale in this timeframe and the most widely used for this purpose was penal transportation. In a sharp polemic against revisionist historians, she argues that the mid-eighteenth-century was not an era in which Enlightenment rationality created the penitentiary and modern prisons. Instead, punitive mobility, Anderson contends, coexisted with increased incarceration. Further, penal settlements also functioned as spaces for international discussion and experimentation, thus influencing confinement globally. She further explores punitive mobility from a comparative perspective with examples ranging from Portuguese, French, and British to Chinese, Russian, and Japanese colonization, and penal transportation. Among the topics discussed are the many similarities between the British prison hulks in Bermuda and Gibraltar in the nineteenth century. Chiefly the labour performed by convicts, and she also notes similar patterns of resistance, either through escape attempts, feigning illness, working slowly, or refusing to submit to

⁷³ For a similar and more recent account but with a narrower chronology see: Jan C Jansen & Kirsten McKenzie, eds. *Mobility and Coercion in an Age of Wars and Revolutions: A Global History, c. 1750–1830*. (Cambridge: Cambridge University Press, 2024).

⁷⁴ Clare Anderson, ed. *A Global History of Convicts and Penal Colonies*. (London: Bloomsbury Publishing, 2018), 5, 11, 22.

corporal punishment. Anderson also discusses the European views on convicts and penal colonies until 1850 to establish a background to the International Penitentiary Congress in 1872. This congress was keen to observe the outcomes of the penal transportation of convicts to the colonies. Topics ranged from prison labour, classification of offenders, corporal punishment, and the training of guards and officers. Anderson underlines the international interest in British, French, and even Russian penal colonies. In conclusion, Anderson argues that a global perspective on penalty not only provides evidence for the persistence of early modern forms of punitive mobility, but also their expansion, development, and refinement well into the nineteenth century.⁷⁵

This thesis will endeavour to make a similar claim concerning the prison hulks and the fortress prisons; however, the scope of this thesis will be significantly narrower. The focus on two specific prisons not only leads to a greater degree of detail but will also highlight other aspects of how older forms of confinement could persist for as long as they did which have been overlooked with a broader scope. The earliest detailed study of English prison hulks is William Branch Johnson's *The English Prison Hulks* originally published in 1957. Although a sometimes descriptive and linearly presented history, the study is well-researched. Starting with the introduction of penal transportation and ending in the 1870s, Branch Johnson argues that the prison hulks were abandoned because legislators and the general public lost interest in these prisons. Further, there was a great number of prisoner-of-war hulks operating simultaneously which he sees as another reason for not abolishing the convict prison hulks.⁷⁶ Although not fundamentally wrong, it is a generalized argument; the management and operation of the convict prison hulks had little, to nothing, to do with the prisoner-of-war hulks. Additionally, as this thesis will argue, the prison hulks were not abandoned because legislators and the general public lost interest in them, quite the opposite, they managed to persist for this exact reason.

The Intolerable Hulks, by Charles Campbell, is one of the few other general historical depictions of English prison hulks. Campbell's interests lie in establishing a background for contemporary English and American criminal justice practices by examining the experiences of the prison hulks. He is not a historian by trade, and his interest in criminal justice practices stems from his experience as a caseworker at the National Training School for Boys in the 1950s which sets the tone of the study. The epilogue of the book is especially telling of Campbell's motives behind researching the prison hulks. The United States experienced an

⁷⁵ Clare Anderson, *Convicts: A Global History*. (Cambridge: Cambridge University Press, 2022), 9, 17, 33, 65, 72, 227, 247.

⁷⁶ William Branch Johnson, *The English Prison Hulks*. (Chichester: Phillimore, 1970), 1-4, 38, 44.

overcrowding problem in its prisons in the 1980s, the solution to this problem was to establish prison hulks in New York City. These prison hulks, which were barges, were extremely costly and ineffective, much like the English prison hulks of the nineteenth century, a blatant case of repetition of a terrible history he argues. Highly critical of the contemporary American “addiction to incarceration”, which Campbell claims parallels that of nineteenth-century England, he makes the point that incarceration is a failed idea in need of drastic changes. What Campbell proposes is a shift of focus, a focus on the root causes of crime, something he suggests is not taken more seriously now, than during the nineteenth century. Despite being a historical work aimed at politically commenting on the present, it is well-researched and provides a competent account of the prison hulks, and Campbell sometimes provides the reader with his own sympathetic opinions. For example, he claims the captain of the prison hulk *Justitia*, William Hatton, should have been fired, instead, he was allowed to “...slink off somewhere and live on his pension in reasonable comfort.” Campbell, not being a historian by trade, means his research is often lacking analytical depth, he takes an overall descriptive approach to paint a suggestive picture.⁷⁷

More recently, historian Anna Lois McKay employs the British prison hulks as a comparison to contemporary British use of barges to house asylum seekers. The key aspect of her article is that she ascribes the longevity of the nineteenth-century prison hulks to three aspects. Firstly, McKay argues that the prisons hulks persisted because they served as a prerequisite to penal transportation and thus served a purpose within a wider system. Secondly, there was a reluctance to invest in purpose-built prisons on land. Thirdly, convicts were in demand for cheap labour in the naval dockyards.⁷⁸ These are three aspects of the prison hulks that this thesis also proposes to be true, nevertheless, there are still several other aspects that McKay fails to consider. These range from unintended consequences of policy changes, government take-over, and the fact that managers, overseers, and crews heavily distorted and exaggerated the benefits of the prison hulks system in their favour. McKay has also researched the prison hulks in relation to the Anatomy Act of 1832. Chilling rumours had been brought into the light of the treatment of convicts’ bodies on board the prison hulks in Woolwich, London.⁷⁹ Other than giving an exceptional glimpse of the horrendous conditions on board the prison hulks, McKay also sheds light on conceptions of the dead body. The corpse of the

⁷⁷ Campbell, *The Intolerable Hulks*, IX-XI, 182, 205-212.

⁷⁸ Anna Lois McKay, “Asylum Barges in Historical Context” *History & Policy* August 7, 2023, <https://www.historyandpolicy.org/policy-papers/papers/asylum-barges-in-historical-context-britains-prison-hulks-expose-fault-lines-in-todays-policy>

⁷⁹ An episode previously outlined by Campbell, see: Campbell, *The Intolerable Hulks*, 159-163.

convicts, she argues, was void of any power, proper burials were only afforded to those who had relatives who could manage to bring the corpse from Woolwich to their hometown, and even there, the church authorities were reluctant to bury a convict. McKay holds out that this also meant a thorough dissatisfaction of the convicts on board the prison hulks, they perceived their bodies as mere property of the state.⁸⁰ McKay blends the perspective of the officials, the men in charge, with the perspective of the convicts and paints a more detailed picture of the prison hulks than both Branch-Johnson and Campbell. However, the timeframe researched is short, it was an episode on board the prison hulks in Woolwich and exposes more the practices of negligent medical men in the penal system than the actual prison hulks. Branch-Johnson, Campbell, and McKay all restrict their research to chiefly Woolwich, this is not surprising since that prison hulk station, in contrast to the other prison hulk stations, came under the most scrutiny.⁸¹ Research solely dedicated to prison hulks in general, and the prison hulks in Portsmouth in particular, is thus exceedingly scarce. Much attention has instead been devoted to penal transportation over the years in which the prison hulks feature to varying degrees.⁸²

Likewise, the Swedish fortress prisons have attracted little research.⁸³ Further, most of the research on fortress prisons has not been conducted by academically trained historians, nevertheless, it is generally well-researched, albeit lacking in analysis.⁸⁴ Cultural historian and superintendent at the Museum of Gothenburg, Christer Feiff, for example, employs an expressed didactic perspective in researching the fortress prisons. He has written three smaller texts about fortress prisons with a focus on the Swedish west coast, his research is thorough and follows a linear chronology from the earliest days of confinement in fortresses in the seventeenth century until the nineteenth century.⁸⁵ Some of the more academically interesting

⁸⁰ Anna Lois McKay, “‘Allowed to Die’? Prison Hulks, Convict Corpses and the Inquiry of 1847.” *Cultural and Social History* 18, no. 2 (2021): 163-181, <https://doi.org/10.1080/14780038.2021.1893917>.

⁸¹ Campbell, *The Intolerable Hulks*, 155, 200.

⁸² See for example: Alan George Lewis Shaw, *Convicts and the Colonies: A Study of Penal Transportation from Great Britain and Ireland to Australia and Other Parts of the British Empire*. (Dublin: Irish Historical Press, 1998). Robert Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia, 1787-1868* (London: Collins Harvill, 1987).

⁸³ Swedish historical research on prisons conducted from an evolutionistic perspective tends to put greater emphasis on the fortress prisons. Wieselgren frequently mentions the fortress prisons and even depicts the conditions within the vaults of these institutions to some extent. Wieselgren, *Sveriges Fångelser och Fångvård*, 415-419. Revisionist-oriented historians mention the fortress prisons less frequently. Roddy Nilsson, for example, compares the prison chaplains in the fortress prisons to those of the cellular prisons in the 1840s, besides that, the fortress prisons are mentioned only superficially. Nilsson, *En Vålbyggd Maskin*, 295-298.

⁸⁴ Varberg penal prison, situated within an old fortress, for example, has received some recent popular historical attention, see: Pablo Wiking-Faria, *Varbergs Fästning – En Tidsresa*. (Varberg: Hallands kulturhistoriska museum, 2016). Eva Bertsson Melin, “Den Stora Fångelseepoken på 1800-talet och dess Förhistoria” in *Varbergs Fästning*, ed. Pablo Wiking-Faria, (Varberg: Hallands Kulturhistoriska Museum, 2013).

⁸⁵ Christer Feiff, *Fångar och Försvare på Nya Älvsborg*. (Mölnadal: Mölndals Bokförlag, 1998) Feiff, *Fästningsfångar*. Christer Feiff, *Fästningsfångarna på Nya Älvsborg*. (Mölnadal: Mölndals Bokförlag, 2004).

parts of his research are, for example, his tentative investigation of prison subcultures. The subculture in the fortress prisons, he argues, emerged from the fact that prisoners were given a small cash allowance, parts of which were given to other prisoners higher up in the inmate hierarchy. Further, an interesting observation concerns the class of the guards and convicts. Feiff holds out that guards and convicts were generally of the same class, namely the lowest classes in society. Most prisoners in the Swedish fortress prisons in the nineteenth century were petty thieves, unmarried, middle-aged, and farm workers. Guards and prisoners thus shared the same perceptions of violence and hierarchy which led to the emergence of an independent justice system within the vaults of the fortress prisons.⁸⁶

Historian Bonnie Clementsson seeks to shed light on the early nineteenth century from the perspective of individuals from the lower strata of society, a perspective she argues, to a large extent has been neglected. She does this by biographing Carl Pettersson's life, a criminal who was eventually sentenced to life for four counts of theft. She focuses on the life of individuals outside of prison and not from inside the prisons themselves. Pettersson's life was chronicled in Karlsten fortress prison by newspaper editor Carl Fredrik Ridderstad whose object was to write a work of fiction on the life of criminals in Stockholm. Pettersson was a recidivist who spent most of his life either at a public workplace or in a fortress prison, he managed to escape a few times and was pardoned and eventually set free, but he would die the following year at the age of 59 having spent over 30 years in confinement.⁸⁷ Following her work on Pettersson, Clementsson expanded her research and recently finished a book on the lives of a total of seventeen criminals before they ended up in Karlsten fortress prison. Clementsson writes little about the life inside Karlsten fortress prison and instead focuses on the lives of criminals before they were sentenced to life in prison.⁸⁸

Perhaps the most exhaustive account of Karlsten's fortress prison has been written by Claes Krantz. As an author and journalist, Krantz's independent cultural historical research on Karlsten's fortress prison is meticulous in detail but with few references to historical research. Instead, he paints a vivid picture of the lives of the convicts, the guards, and the port town of Marstrand. Like most of the fortress prisons in Sweden, Karlsten was not built for confinement, but initially only functioned as a prison at intervals. Starting in 1721, after disruptions in the wake of the Great Northern War, Karlsten fortress prison was used as a place of confinement

⁸⁶ Feiff, *Fästningsfångar*, 23.

⁸⁷ Bonnie Clementsson, "Carl Pettersson: En Tjuv med viss Moral." *Personhistorisk tidskrift* 117 no. 1, (2021), 26, 28–29, 33, 35–36, 39, 42, <https://lup.lub.lu.se/record/006eba56-4f97-4bc3-b9c1-f88f77a0b471>

⁸⁸ Bonnie Clementsson, *Fängslade Öden: Tjuvar och Bedragare i 1800-talets Sverige*. (Lund: Historiska Media 2024).

and would remain so until its disuse over a century later. The isolated location of the island of Marstrand on the outmost border of the archipelago meant that it was an ideal place to send Sweden's most notorious criminals. By the late eighteenth century, the prison population grew exponentially and culminated in the 1850s with around 250 inmates, Karlsten was then permanently closed as a prison in 1854 due to concerns regarding the Crimean War.⁸⁹ Although Krantz's research is thorough and the stories are captivating, his account lacks analytical depth; Krantz wants to paint a picture, a picture of the horrible conditions of the fortress prisons but not much else. The research conducted on prison hulks and fortress prisons is in conclusion scarce, somewhat dated, and lacking analysis. Excluding McKay, none has explored why either prison managed to persist well into the nineteenth century despite being in disfavour for decades. Increasingly, however, the persistence of institutions such as penal transportation and convict colonies has gained more attention. The perspectives are taking on a more global and comparative character to challenge the previous historical research on prisons which usually has concentrated on a specific nation-state, it is within this framework that this thesis will seek to advance. Rather than considering the persistence of the prison hulks and fortress prisons as anachronisms or part of an evolutionary process, this thesis will argue that this longevity resulted from a path-dependent process. The last part of this chapter will therefore explore how a path-dependent analysis of prisons and punishment has been conducted and how it will be used in this thesis.

The Tool Chest

The theory of path dependency is multifaceted, and sometimes difficult to accurately define. Put exceptionally concisely, it can be characterized as a theory that analyses processes where early events or decisions constrain later events or decisions. The theory was first introduced by economist Paul A. David, who maintained that a path-dependent sequence of economic changes: "...is one in which important influences upon the eventual outcome can be exerted by temporally remote events, including happenings dominated by chance elements rather than systematic forces."⁹⁰ From the realm of economics, path-dependent analyses have found their way into the social sciences, historical sociology, and historical institutionalism, chiefly through the works of James Mahoney and Paul Pierson. The former has a similar definition of the theory as David, albeit with a greater emphasis on early contingent historical events.⁹¹

⁸⁹ Krantz, *Under Järnkronan*, 19–22, 221–224.

⁹⁰ Paul A David, "Clio and the Economics of QWERTY." *The American Economic Review* 75, no. 2 (1985) 332–37, <https://www.jstor.org/stable/1805621>.

⁹¹ Mahoney, "Path Dependence", 507.

Mahoney proposes a careful study of causal processes that are highly sensitive to events early in the historical sequence, that is to say, the earlier parts of the sequence tend to matter more than the later parts. Without the initial contingency, Mahoney argues, a path-dependent process cannot be correlated to unpredictability and inefficiency which are two of its main analytical objects.⁹²

One of the most important theoretical tools is the so-called critical junctures which are characterized as windows in time defined by uncertainty where one option of institutional arrangement is adopted from other possible options. They are critical because once they have been adopted, they become increasingly difficult to reverse.⁹³ After a critical juncture, feedback effects start to take hold of the institution. Feedback effects are consequences, decisions, and events that promote a certain course of action, they can be both intended and unintended, and can be used to understand how policies and practices become locked in. Mahoney identifies four categories of feedback effects, the categories are utilitarian, functional, and motivated by power relations or legitimacy. Each of the explanations has its unique way of describing why an institutional practice or policy becomes locked in, and in due course reproduced, the characteristics of the institution, and lastly, what its mechanisms of change are. The utilitarian explanation focuses on rational cost-benefit assessments of a given institution as a basis for its lock-in. The functional explanation stipulates that an institution becomes locked in because it serves a function in a larger system, eventually, it can be deemed as being less functional than other alternatives but will persist because the costs of change have become too high. Power explanations highlight the role of elite groups in society, the institution that will become locked in is dependent on what is beneficial to the ruling classes. Lastly, the legitimation explanation assumes that institutional lock-in depends on the moral decisions or passive acquiescence of actors that favour a given institution, even if previously available institutions might have been more legitimate. In this thesis, I will not limit myself to exclusively one of these explanations but rather choose freely from this repertoire to explain the institutional lock-in of the prison hulks and fortress prisons. In the following chapters, when I identify feedback effects, characteristics, and changes, there will be reason to develop these explanations, but as it is now,

⁹² Sociologist William Sewell advocates a similar approach with the concept of eventual temporality which rejects teleological and experimental temporality and instead focuses on contingency and unpredictable events that can alter durable historical trends. For Sewell, social processes are thus to be considered contingent, discontinuous, and open-ended instead of based on independence in causality or teleology. William H. Sewell Jr, *Logics of History: Social Theory and Social Transformation*. (Chicago: The University of Chicago Press, 2005), 102, 110.

⁹³ Mahoney, "Path Dependence", 509, 513-515. 62-64

it suffices to present them superficially.⁹⁴ The thematic chapters of this thesis will thus explore the concept of feedback effects concerning spatial and management organization, the prospect of reforming prisoners, and lastly prison labour. The intention is to investigate how these aspects of the prison hulks and fortress prisons may have accounted for their longevity.

Pierson, on the other hand, puts greater emphasis on functional feedback effects than Mahoney. He defines feedback effects as manifesting themselves when "...the cost of exit – of switching to some previously plausible alternative rise." Further, Pierson also points out that feedback effects tend to increase when others adopt the same option for a particular activity, that is to say, that institutions become increasingly locked in as it involves more institutions and organizations.⁹⁵ Similar to Mahoney, Pierson argues that a good starting point for a path-dependent analysis is to focus on the critical junctures, and then shift the focus to the feedback effects.⁹⁶ Accordingly, the next chapter of this thesis will deal with critical junctures and what I have identified as the start of the path-dependent processes, and the subsequent thematic chapter will explore feedback effects. Further, temporal matters are also of great significance to the path-dependent analysis. Pierson maintains that it is not only a question of what happens, but also when it happens, and this is connected to the assertion that earlier events shape the path-dependent process. Pierson thus contends that: "...an event that happens "too late" may have no effect, although it might have been of great consequence if the timing had been different."⁹⁷ The timing of events will consequently be considered throughout the entirety of this thesis.

⁹⁴ Mahoney, "Path Dependence", 516-517.

⁹⁵ Researchers Georg Schreyögg, Jochen Koch, and Jörg Sydow further define this as complementary feedback effects. They argue that that a similar institution might be operating toward a similar goal thus entrenching both institutions. Additionally, an institution might become locked in because its operation becomes more skilfully performed which makes change and a fresh start less attractive. Georg Sydow, Georg Schreyögg, & Jochen Koch, "Organizational Path Dependence: Opening the Black Box." *Academy of Management Review* 34, no. 4 (2009): 689–709, <https://doi.org/10.5465/amr.34.4.zok689>.

⁹⁶ Paul Pierson, "Increasing Returns, Path Dependence, and the Study of Politics." *The American Political Science Review* 94, no.2 (2000): 251-267. 252-255. <https://doi.org/10.2307/2586011>.

⁹⁷ Pierson, "Increasing returns", 263.

While Mahoney and Pierson's definition of path dependency is rather narrow, other researchers have refined the theory and applied it to the study of penal change.⁹⁸ For sociologist Ashley T. Rubin, for example, path dependency is a theory that identifies how earlier conditions can create "...lasting and important consequences for a given institution or organization's course of change or stasis."⁹⁹ She further acknowledges that there are several definitions of path dependency which vary in their degree of specificity which is why she regards path dependence as a loose collection of analytical tools, i.e., a theoretical tool chest from which researchers can draw selectively. Her overall definition of path dependency is somewhat similar to Mahoney's definition, but the call for initial contingency is toned down in Rubin's theorizing. This has the effect that the gaze shifts from the beginning and end of a process to what she calls a lesser-explored middle. In the hands of Rubin, path dependency therefore becomes an instrument that sets its focus on stasis or perceived inertia. Instead of seeking institutional innovation, she seeks to further emphasize institutional reproduction, or feedback effects. What Rubin calls exogenous shocks are eventually capable of interrupting stasis or inertia, this means that significant changes to society in culture, politics, or economy will eventually lead to changes in punishment. Nevertheless, the researcher must be cautious when referring to events as exogenous shocks, institutions, like courts, prisons, and legislature, are strongly resilient against these shocks according to Rubin. To address this, the tool of institutional layering can help the researcher move forward. Layering involves the renegotiation of some elements of an institution while leaving others in place, such as enacting new laws or rules, while others persist. This mechanism can explain the evolution of institutions without identifying major moments of rupture and without overemphasizing inertia.¹⁰⁰ However, as Rubin also concedes, the layers metaphor is descriptive and does not consider causality, it needs thus to be combined with other

⁹⁸ See for example: Benjamin R Weiss, "Carceral Lock-In: How Organizational Conditions Stymie the Development of Justice Alternatives in a Rape Crisis Center." *Theoretical Criminology* 26, no. 1 (2022): 91–111. <https://doi.org/10.1177/1362480620971784>. Heather Schoenfeld, "Mass Incarceration and the Paradox of Prison Conditions Litigation." *Law & Society Review* 44, no. 3/4 (2010): 731-767. <https://www.jstor.org/stable/40926316>. Claire Hamilton, "Beyond 'Stagnation and Change'?: Path dependency, Translation and the 'Layering' Over Time of Irish Penal Policy." *The Howard Journal of Crime and Justice*, 62 no. 1 (2023), 46–60. <https://doi.org/10.1111/hojo.12506>. Thomas Guiney & Henry Yeomans, "Explaining Penal Momentum: Path Dependence, Prison Population Forecasting and the Persistence of High Incarceration Rates in England and Wales." *The Howard Journal of Crime and Justice*, 62 no. 1 (2023): 29-45. <https://doi.org/10.1111/hojo.12507>. Nicole Kaufman, "Community Corrections at a Critical Juncture: Privatisation, Race, and the Redefinition of the Community after Attica". *The Howard Journal of Crime and Justice* 62, no. 1 (2023), 61–80. <https://doi.org/10.1111/hojo.12505>

⁹⁹ Rubin, "The Promises and Pitfalls", 266.

¹⁰⁰ Rubin, "The Promises and Pitfalls", 268-272, 278.

theoretical tools such as exogenous shocks, feedback effects, timing, and critical junctures.¹⁰¹ This thesis will consult all these theoretical tools where they are deemed appropriate.

Although a theory mostly used within the social sciences, this thesis will ultimately argue that path-dependent analyses have a lot to offer the humanities as well. Especially Rubin's treatment of the theory as a tool chest rather than a sometimes overly rigid program, shows great promise. This approach can indeed help historians raise new questions and nuance their findings. Regarding historical research on prisons, I argue that it can be utilized to challenge the teleology of the evolutionary perspective on the history of prisons by stressing stasis and inertia in the development of confinement. The Marxist perspective's determinism has a lot to gain from factoring aspects such as contingency and subsequent unpredictability. The revisionists' assertion of a sharp break in the history of punishment can be fruitfully contested by highlighting the persistence of older forms of confinement well into the nineteenth century. Lastly, historical perspectives exploring prisons from within can, for example, be expanded by studying how conditions in prisons were reproduced by the relationship between prisoners and prison staff which ultimately locked in the institution. However, this thesis will not argue that the theory of path dependency is a panacea which will resolve the dissension in the field of prison history once and for all. Rather it will seek to offer an alternative and novel understanding of the development of punishment within the chronology where modern forms of confinement took shape. Furthermore, the longevity of institutions like the prison hulks and fortress prisons appears anachronistic when considered from the perspectives outlined above, this thesis will propose that they be considered the result of path-dependent processes.

¹⁰¹ Ashley T. Rubin, "Penal Change as Penal Layering: A Case Study of Proto-Prison Adoption and Capital Punishment Reduction, 1785–1822." *Punishment & Society*, 18 no. 4 (2016): 426-435, <https://doi.org/10.1177/1462474516641376>. Professor of American Government Guy Peters has a similar conceptualization of layering in a path-dependent process. See: Guy B. Peters, *Institutional Theory in Political Science: The "New Institutionalism"* 4. ed, (Cheltenham: Edward Elgar Publishing Limited: 2019), 91.

Chapter Two: Establishing the Path

Introduction

The previous chapter culminated in a theoretical discussion of the path-dependent theory. Instrumental to this theory is the thorough analysis of early contingent events which will set the tone, so to speak, for the path-dependent process. Decisions made and events that occurred early in the history of the prison hulks and the fortress prisons will thus influence the development of each prison. In the case of the former, this encompasses the criminal justice crisis brought on by the American Revolution and the subsequent halt in penal transportation. With offenders still sentenced by the courts to transportation, but with no settlement to send the convicts, a contingent situation presented itself, and a quick solution had to be conceived. It is thus worth pointing out that the introduction of the prison hulks was not a premeditated decision, but rather a response to an unforeseen occurrence. A small window in time was opened and constraints on decision-making had been considerably loosened. That window would then be closed when the temporary solution of confining convicts on board the prison hulks was introduced in 1776 in Woolwich, London. However, it would only be a matter of time before acute challenges presented themselves. Within a year, the prison hulks were being plagued by infectious diseases, escapes, and mutinies. Rather than foreshadowing the demise of the prison hulks, this chapter will argue that the responses to these challenges, on the contrary, resulted in an expansion of the prison hulk system. Just over a decade after the introduction of the prison hulks, penal transportation was resumed, this time to the new penal settlement in Australia. Nevertheless, not even this would bring about a decreased reliance on, or the complete abandoning of the prison hulks. Instead, the prison hulk system commenced its first geographical dissemination, and the second prison hulk station would be Portsmouth. This chapter will contend that by this time, the prison hulks were firmly locked into the English criminal justice system.

While the establishment of the prison hulks in England fit rather neatly into the theory of path dependency, the history of fortress prisons in Sweden is a bit more complicated. Firstly, they were considerably older than the prison hulks, preceding them by just over a century, nevertheless, their early operational history was highly irregular. Secondly, they were also more eclectic than the prison hulks; the reason for being confined in a fortress prison could range from simply being unable to find employment to being pardoned from the death penalty. Thirdly, the fortresses were all architecturally unique, and until the late eighteenth century, the management was unstandardized. Since the path-dependent theory stresses the initial phases of

any given institution as the logical starting point for analysis, this would mean a thorough analysis of the fortress prisons in the second half of the seventeenth century. I contend, however, that this would be a fruitless endeavour for the three reasons just listed. The fortress prisons of the late seventeenth century were also of marginal significance and seemingly arbitrary. Although the arbitrariness would be a constant companion, the number of prisoners confined in fortresses would steadily increase over the following century, and by start the nineteenth century, the numbers increased dramatically. Correlating to this development was a significant decrease in the number of executions in Sweden, however, correlation is of course not the same as causation. The Swedish Civil Code of 1734 and subsequent revisions to this legislation in the 1770s still relied heavily on the death penalty. This chapter will thus argue that the death penalty and the fortress prisons did not displace one another, rather, they coexisted. I will thus draw heavily on Rubin's research and what she calls American "proto prisons". These were rudimentary places of confinement which were increasingly relied upon from the late eighteenth century and onwards, however, they were no wholesale replacements for the death penalty. Proto prisons instead added another layer to the death penalty and only gradually displaced it.¹⁰² This chapter will argue that a similar development took place in the case of the fortress prisons and that it consequently started a path-dependent process. Lastly, a comparison that will focus primarily on drawing out the similarities between the prison hulks and fortress prisons will conclude this chapter. The overall argument pursued is that despite their rather varied origins, the prison hulks and the fortress prisons consolidated their roles in the penal repertoire by the late eighteenth and early nineteenth centuries for similar reasons.

Penal Transportation and the Prison Hulks

In early eighteenth-century in England, under a body of laws, popularly designated the "Bloody Code", not fewer than 200 crimes were punishable by a death sentence. In theory, legislation appeared inflexible, however, in practice, it could be applied more accommodatingly. Judiciary practice could either mitigate the extent of offenses in the name of clemency or sometimes amplify the scope of the crime committed to set an example.¹⁰³ Although execution rates would not reach the levels of the sixteenth and seventeenth centuries, the eighteenth century saw great fluctuations in the number of death sentences enforced. Execution rates during the first half of the eighteenth century were low; however, these numbers would increase by nearly five times in the second half of the century, and these numbers remained high well into the 1820s.¹⁰⁴ Penal

¹⁰² Rubin, "Penal Change as Penal Layering", 421-423.

¹⁰³ Ignatieff, *A Just Measure of Pain of Pain*, 17.

¹⁰⁴ Gatrell, *The Hanging Tree*, 7, 32.

transportation, in the form of banishment, had been practiced in England since at least the twelfth century, but the earliest legislation dates to 1597 when justices were authorized to banish vagabonds and beggars.¹⁰⁵ From the late seventeenth century onwards, with a mounting crime wave, and subsequent rise in death sentences, transportation came to be increasingly used in place of executions. The Transportation Act of 1718 was then to broaden the scope of penal transportation once again by authorizing the transportation of an increased number of criminals such as recidivists and grand larcenists. Further, there was an increased need for convict labour in the North American colonies which, by extension, made for lucrative opportunities for private convict transporters. The Transportation Act also provided the Government with increased legitimacy and political stability in refraining from the arbitrary use of the death penalty. Lastly, it also provided an opportunity to consolidate British presence in the New World as well as increased opportunities for commerce.¹⁰⁶ By the late 1760s transportation to the American colonies thus amounted to 70 percent of all sentences at the Old Bailey.¹⁰⁷ However, by 1776 penal transportation came to an abrupt halt due to the American Revolution; a state of emergency had befallen the so-beneficial use of transportation. A new Act had to be rapidly drawn up, the introduction to which is well worth quoting at some length:

Whereas the Transportation of Convicts to his Majesty's colonies and plantations in America, now in else within that part of Great Britain called England, by virtue of the several statutes authorizing such Transportation, is found to be attended with various inconveniences [...] such convicts being males might be employed with benefit of the public in raising sand, soil, and gravel from, and cleansing the River Thames; or being males unfit for so severe labour, or being females, might be kept to hard labour of another kind within England.¹⁰⁸

The Act would later be known as the “Hard Labour Act” or the “Hulks Act”.¹⁰⁹ The real name of this act was, “An Act to authorize for a limited Time, the Punishment by Hard Labour of Offenders, who, for certain Crimes, are or shall become liable to be transported to any of His Majesty's Colonies and Plantations.” It was, as mentioned, intended as an emergency solution, as the name suggests, and was thus set to be in force for only two years. The phrasing “various

¹⁰⁵ Seán McConville, *A History of English Prison Administration Vol. 1 750-1877*. (London: Routledge & Kegan Paul, 1981), 105.

¹⁰⁶ Shaw, *Convicts and the Colonies*, 28-29, 32-33. David Meredith & Deborah Oxley, “Condemned to the Colonies. Penal Transportation as the Solution to Britain's Law and Order Problem” *Leidschrift: Organisatie en Regulering van Migratie in de Nieuwe Tijd* 22, no. 4, (2007): 19-39. <https://hdl.handle.net/1887/73237>.

¹⁰⁷ Ignatieff, *A Just Measure of Pain of Pain*, 20.

¹⁰⁸ Criminal Law Act of 1776, 16 George III, c. 43, 1776.

¹⁰⁹ Campbell, *The Intolerable Hulks*, 12.

inconveniences” is thus, looking back from a historical vantage point, an obvious understatement. The sentence of hard labour under the new Act was to be no less than three, and no more than ten years. The Act does not express where, or how the convicts were to be confined, no prison or house of correction was envisioned, it merely stated that convicts sentenced to transportation henceforth should be put to hard labour in England, and mainly on the banks of the river Thames. This makes the name the Hulks Act rather confusing since there is no mention of decommissioned vessels to be used as places of confinement.¹¹⁰ However, the terminology allows for a great deal of interpretation, and this constituted a window of opportunity, at this stage, the decision to confine convicts on board prison hulks was still only one of many possibilities. The American Revolution and the imprecise nature of The Hard Labour Act thus created the initial contingency that is central to the path-dependent analysis. However further investigation into how exactly the prison hulks came to fruition is required to trace the subsequent development and to identify possible feedback effects.

The man behind the prison hulk system in England was a businessman by the name of Duncan Campbell, and he would become the first manager of the prison hulks in Woolwich almost by default. Campbell had come to be a junior partner in the trading house of fellow businessman John Stewart in 1754, and their company had obtained the contracts for the transportation of convicts to the North American colonies. The business, known later as JS&C, lucratively shipped convicts to the colonies of Virginia and Maryland until the death of Stewart in 1772, making Campbell the sole owner of the company and the transportation contracts. After the outbreak of the Revolutionary War in the North American colonies, Campbell was however still obliged by these transportation contracts. While the war prevented Campbell from enforcing the sentences, he still received convicts under the sentence of transportation. The idea to instead confine the convicts on board ships on the river Thames at Woolwich, London, was Campbell’s own.¹¹¹ The first ship used for convict confinement was *Justitia* and the ship *Taylor* functioned as a receiving hulk, both were fully seaworthy vessels that had served as ships within JS&C in their Jamaica trade.¹¹² The earliest mention of convicts being sent to the *Justitia* dates to the 28th of August 1776. The keeper of the Fisherton Gaol in Salisbury, Thomas Biggs, sent a letter to Campbell stating that he had two convicts sentenced to hard labour on the river Thames and inquired Campbell what he was to do with them. Biggs received the answer that

¹¹⁰ Criminal Law Act of 1776, 16 George III, c. 43, 1776.

¹¹¹ Dan Byrnes, “Emptying the Hulks: Duncan Campbell and the First Three Fleets to Australia” *The Push from the Bush*, no.24, (1987): 2-23. <http://www.danbyrnes.com.au/blackheath/article2.htm>. McConville, *A history of English prison administration*, 105-106.

¹¹² Campbell, *The Intolerable Hulks*, 28

the ship *Justitia* was now finally ready to receive convicts and thus began the over eighty-year-long history of English prison hulks.¹¹³ The establishment of the first prison hulks was thus the result of a great deal of chance and the individual agency of Campbell. But the timing was also pivotal, the increased reliance on transportation as a legal sanction during the second half of the eighteenth century thus foreshadowed the prison hulks and their eventual consolidation in the legal justice system.

It would not be long until the hastily put-together prison hulks came under scrutiny, the first one to comprehensively inspect them was no other than renowned prison reformer John Howard. In October 1776, Howard made his first visit to convicts under the sentence of transportations, or “transports”, as he called them in the first edition of his seminal work *The State of Prisons*. At this time, perhaps because the prison hulks were new and provisional, he saw no real reason for complaint.¹¹⁴ Worth mentioning is also that the prison hulks at Woolwich had received convicts only for about two months by the time of Howard’s first visit. Rather underwhelmingly he mentions the convicts on board *Justitia* in the following manner: “...I wished to have found them more healthy; and their provision good of the sort; and to have joined them in divine service.”¹¹⁵ Nevertheless, Howard’s faint concerns about the well-being of the convicts on board *Justitia*, coupled with some remarkable escapes and mutinies, led to the formation of a special committee in the House of Commons which was to inquire into the management of the prison hulks.¹¹⁶ The committee was chaired by, and named after politician Sir Charles Bunbury. Its first report was presented on the 15th of April in 1778, and it was meticulous in its detail.¹¹⁷

First interviewed in this report was Campbell who held the title manager of the prison hulks. Campbell, rather defensively, stated that he had been given no instructions on how to confine the convicts nor how to fit out a vessel for the confinement of 120 convicts. *Justitia* was thus simply fitted according to its previous operation as a convict transport vessel. Campbell must have had some knowledge of the prisoner-of-war hulks, but this statement also points to his experience as a convict transporter being integral to the inception of the prison hulks. The initial statements thus had an air of Campbell making things up as he went along; he was, as he put it, merely responding to an emergency using his experience as a convict

¹¹³ Letter from Thomas Biggs, 28 Aug 1776, DCP, Series 1, Business Letter Books, 2 Mar. 1772 - 31 Dec. 1794, Vol. 1, Letter book A, 2, 934. <https://collection.sl.nsw.gov.au/record/9gk0bGv9>.

¹¹⁴ Branch Johnson, *The English Prison Hulks*, 8.

¹¹⁵ John Howard, *The State of Prisons in England and Wales with Preliminary Observations, and an Account of Some Foreign Prisons*, 1st ed. (London: William Eyres, 1777), 75.

¹¹⁶ McConville, *A History of English Prison Administration*, 107.

¹¹⁷ For a similar assessment see: Campbell, *The Intolerable Hulks*, 19.

transporter.¹¹⁸ Serious problems would, nevertheless, arise for Campbell's new venture. "Infection", which almost certainly implies what was known as gaol fever, referring to typhoid outbreaks, plagued the prison hulks. A hospital ship was thus rapidly commissioned to alleviate some of the burdens and, to stop the infection from further spreading on board *Justitia*. This might seem a rather inconsequential course of action but was nevertheless one of the earliest expansions of the prison hulk system. Put simply, more resources were being invested into a temporary solution which would eventually make it harder to reverse. Further, Campbell maintained that the situation regarding the many mutinies had been improved upon, but there were still a small number of convicts who in desperation attempted to kill their keepers on board the prison hulks, they were consequently put in heavy irons. Overall, Campbell further conveys the impression of having been given a tough task, a task with no real conceivable precedent in an early stage of uncertainty. Problems were arising all the time and Campbell was forced to attend to them one at a time.¹¹⁹

Howard, who also testified to the Bunbury Committee, gave an account of his first visit to *Justitia* in 1776, and the scene set was now a gloomy one. After making two rounds on the decks and looking, as he claimed, each of the convicts in their eyes, he stated that not all of them were fully clothed and that there were clear signs of mismanagement. One convict expressed to Howard that he was ready to "sink into the Earth" because of ravages brought on by a venereal disease that had been plaguing him for quite some time. Howard, therefore, asked the officer on deck if there had been anything done for this man, but the officer simply stated that the convict had received medical treatment, something the convict in question denied. However, after speaking to several more convicts and inquiring as to their health, Howard soon found out that there was no medical treatment available on board the prison hulk at all. This was following Campbell's original contract, which did not specify that he was required to have a physician on board. He was nevertheless required to provide able-bodied convict labour for dredging projects, and as disease mounted, he eventually had to make provisions for medical care.¹²⁰ The initial precaution taken was the separation of the sick from the healthy, this meant simply raising a few dividing planks below decks. Further, Campbell had stated that there were no foul smells from the sick and infirm, Howard instead insisted that the smell from the sick was very much tangible. The smell, he continued, was indeed the smell of gaol fever, a disease

¹¹⁸ Campbell's Testimony, 15 Apr 1778, The Bunbury Committee, HOCP, Journals of the House of Commons (1688-1834) vol. 36, <https://parlipapers.proquest.com/parlipapers/docview/t70.d75.jhc-010072?accountid=13268>.

¹¹⁹ Campbell's Testimony, 15 Apr 1778, The Bunbury Committee.

¹²⁰ Campbell, *The Intolerable Hulks*, 35-36.

he had devoted considerable efforts to present recommendations on how to prevent.¹²¹ Campbell claimed that the gaol fever had been brought on board by convicts who had previously been confined in local prisons and jails; he contended that the disease had not started on board the prison hulks. This position was not shared by Howard who instead maintained that he had recently been visiting the local prisons and jails in question and that no gaol fever had been observed there.¹²² Regardless of where the disease started, in the first years of the operation of the prison hulks, the death rates were exceptionally high, one in four convicts had succumbed to the disease. Campbell had not taken any real medical precautions whatsoever to stave off the spread of the disease most likely owing to the haphazard manner the prison hulks were put into operation.¹²³

In the wake of the spread of gaol fever and mounting overcrowding on both *Justitia* and *Tayloe*, an additional prison hulk was acquired. The new prison hulk, the *Censor*, took the convicts from the *Tayloe* at the height of the gaol fever epidemic. The *Censor* was a decommissioned British Navy frigate and was most likely saved from being broken up because it came at a great bargain price for Campbell. Although only slightly bigger than *Tayloe*, the average number of convicts on board the *Censor* was over twice as many.¹²⁴ The spread of gaol fever and the overcrowding on board the prison hulks meant that more resources and efforts poured into the operation. While intended as a temporary expedient, the prison hulks were thus expanding because of the many challenges Campbell was facing. The responses to these challenges, I contend, constituted the earliest feedback effects to the prison hulks. Howard made a second visit to the prison hulks; this time he visited both the *Justitia* and the *Tayloe*. His report to the Bunbury Committee painted an improved, albeit still rather pessimistic picture of the conditions on board the prison hulks. The disagreeable odour was now gone, the convicts' diet was improved, an apothecary visited the prison hulks every other day, and the convicts did not complain over their bad health as they had done before. Nevertheless, the quality of the clothing worn by the convicts was still poor and there was no chaplain in regular attendance. In their concluding remarks, the Bunbury Committee ascertained that one in four convicts sentenced to the prison hulks died there, mainly due to gaol fever. Most of these deaths occurred on board

¹²¹ McConville, *A History of English Prison Administration*, 51, 85.

¹²² Campbell's Testimony, 15 Apr 1778, The Bunbury Committee.

¹²³ Ignatieff, *The Promise of Punishment*, 80-81. Branch Johnson however argues that epidemics most likely started on board the prison hulks and not in the local prisons. Wherever the diseases and epidemics started is of less importance, the significant part is that the prison hulks in their inception were no more or less sanitary than other places of confinement and that no precautions had been taken to stop the spread. Branch Johnson, *The English Prison Hulks*, 11.

¹²⁴ Campbell, *The Intolerable Hulks*, 31, 235.

the *Censor*, despite being the bigger, roomier, and airier of the two hulks. Perhaps because of the size and perceived spaciousness of the *Censor* as well as the disagreements regarding where the fever originated, the committee reluctantly conceded that the gaol fever “principally” was brought from the county gaols.¹²⁵

To reduce the high death rates, and simultaneously improve the health of the convicts, the Bunbury Committee proposed a separate hospital hulk to the *Censor*. They were further concerned that no clergyman had been made to attend the prison hulks regularly and that the convicts received no funeral ceremonies or regular divine service. What they however deemed as resolved, was that the prison hulks, since their inception, despite the high death rates and the criticism of Howard, had improved. It was also the opinion of the Bunbury Committee that the prison hulks should remain in service for “a certain time”, for how long was not specified.¹²⁶ The high death rates resulting from gaol fever thus ultimately resulted in the expansion and continuation of the early prison hulk system. Consequently, increasing efforts and resources were unremittingly poured into what was initially conceived as a temporary expedient. However, discussions and deliberations regarding a new suitable destination for penal transportation, and the construction of penitentiaries which could render the prison hulks obsolete had already begun.

Transportation Resumes

The second report to the Bunbury Committee started with Campbell listing the progress made in the management of the prison hulks. The productivity of the convicts’ labour had increased because of improved diet, and in reference to the gaol fever, Campbell stated that the prison hulks were now both airier and roomier. There was still no clergyman in regular attendance on board the *Justitia* or the *Censor*, however, one Methodist preacher was said to have voluntarily visited the prison hulks a few times. The momentum and attention to detail of the first report to the Bunbury Committee seems to have been lost, despite the death rates on board the prison hulks still being high. Combined, the *Justitia* and the *Censor* could confine a total of 510 convicts, and the report rather meekly stated that 132 convicts had died over the last year. Assistant Surgeon of the Artillery, Dodo Eckens, confirmed the death rate and added that at least eight convicts had died from “lowness of spirit” without any other observable illness. These diagnoses were later confirmed by a visiting doctor in the same report who further stated that he had visited many gaols in London but had never seen such “dejection of spirits” as he

¹²⁵ Howard’s Testimony, 15 Apr 1778, The Bunbury Committee.

¹²⁶ Propositions to the Committee, 15 Apr 1778, The Bunbury Committee.

had observed on board the prison hulks. Captain of the prison hulks in Woolwich, Steward Erskine, confirmed much of Campbell's report and added that the convicts sent to the prison hulks from the local prisons and jails were indeed suffering from dejection of spirits. However, he noted, some improvements had been observed lately. The improvements in the spirits of the convicts were ascribed, by Erskine, to the expectations of possible pardons, or even the promise of eventual transportation to a penal settlement, which is a powerful testimony to the horrible conditions on board the prison hulks.¹²⁷

The high death rate, and ostensibly appalling conditions on board the prison hulks, were however not much different than other places of confinement in late eighteenth-century Britain. Further, the men confined on board the prison hulks were convicted felons, the opinion of the committee was most likely that it was a wretched group of people not deserving any better.¹²⁸ General social conditions were only slightly better, housing and community conditions in poorer areas resembled that of the overcrowded, disease-ridden, and malodorous prisons such as Newgate in London. Since prisons dealt mainly with the poorer classes, who for the most part lived in squalor, it was argued that any improvement to prisons could instigate crime as the conditions there could be better.¹²⁹ While issues regarding the condition and death rate on board the prison hulks were deliberated on rather laconically, the question concerning a new destination for penal transportation was discussed with greater enthusiasm. The Bunbury Committee invited several dignitaries to the colonial enterprise to give their opinions on plausible destinations for convicts sentenced to transportation.¹³⁰ The most thoroughly discussed option was Africa. John Roberts, Governor of the Cape Coast Castle, proposed a location 400 miles inland from the mouth of the river Gambia. Another possible location was a town in Senegal called Podor. Gibraltar was also considered; it was proposed that the convicts could work on repairing the garrisons and fortifications and be kept on board prison hulks at night.¹³¹ Joseph Banks, botanist, and passenger on James Cook's first voyage in the Pacific on the *Endeavour*, instead suggested Botany Bay on the eastern coast of Australia, as a suitable penal destination for convicts. instead suggested Botany Bay on the eastern coast of Australia,

¹²⁷ Campbell's testimony, 1 Apr 1779, The Bunbury Committee, HOCP, Journals of the House of Commons (1688-1834) vol. 37, 308-315. <https://parlipapers.proquest.com/parlipapers/docview/t70.d75.jhc-010176?accountid=13268>

¹²⁸ Campbell, *The Intolerable Hulks*, 36-37.

¹²⁹ McConville, *A History of English Prison Administration*, 52-53.

¹³⁰ Introduction to the Report, 1 Apr 1779, The Bunbury Committee.

¹³¹ John Robert's proposition, 1 Apr 1779, The Bunbury Committee. The discussion on Gibraltar as a suitable penal destination did not arouse much interest. However, a hulk station was established there in 1842, the convicts were employed on public works until the station closed in 1875. Campbell, *The Intolerable Hulks*, 152, 155.

as a suitable penal destination for convicts. The area was scarcely populated, and the few natives there were described as naked and treacherous but “extremely cowardly.” Unlike the proposed locations in Africa, the climate was described as mild and moderate, and not too different from that of Toulouse in Southern France. Sufficient parts of the soil were fertile, there were plenty of fish and edible vegetables, and also good prospects of raising livestock. The possibilities of the colony being advantageous to the mother country were deemed seemingly endless.¹³² The decision as to where to send the convicts would nevertheless drag on for about a decade, and for the time being, the government was content on simply continuing to confine convicts on board prison hulks.¹³³ Parallel to the actions taken to stave off the gaol fever, the drawn-out debates on where to send the convicts would prove to be the second most potent feedback effect on the early prison hulk system. Indecisiveness regarding penal transportation and disinterest in the prison hulks meant that the operation could continue undisturbed. The prison hulks were thus further locked in because of the passive acquiescence of the Bunbury Committee.

Sir Charles Bunbury stated to the House of Commons in early 1779 that the Hulks Act had proven to be impracticable. But it was not the prison hulks themselves he considered the problem; it was the strain the sentence of transportation without a penal destination had put on the local prisons and jails. The prison hulks could not accommodate all convicts sentenced to transportation, and this resulted in overcrowding in the local prisons and jails which he now considered places of: “...cruel neglect and misery as are shocking to humanity, and repugnant to sound policy.” Some in the committee replied that they had never consented to the Hulks Act but recognized its necessity. Other voices maintained that the Hulks Act was useful, even though it was temporary; there were simply no other measures to be taken.¹³⁴ The question of resuming transportation was thus not only of significance to the prison hulks, but the entire penal system, despite this the debates would drag on. Although the Bunbury Committee concluded by indeed stating that transportation must be resumed soon, for the moment, the government had other things on its mind, chiefly questions regarding the construction of penitentiaries. In 1779, therefore, an Act was passed which was to enforce imprisonment in penitentiaries as an alternative to the death penalty and transportation. The Act was drafted by Howard and Jurist and Tory politician William Blackstone, and it was set to enable the building of “...two substantial Edifices, to be called *Penitentiary Houses* for confining and employing

¹³² Joseph Bank’s Proposition, 1 Apr 1779, The Bunbury Committee.

¹³³ Shaw, *Convicts and the Colonies*, 43.

¹³⁴ Debate on the “Hulks Act”, 5 February 1779, HOCP, 26 November 1778-3 July 1779, 5th February 1779. https://parlipapers.proquest.com/parlipapers/docview/t70.d75.pr_1774_1780-000760?accountid=13268

Convicts.”¹³⁵ Prison reformers and philanthropists were jubilant, but soon disputes over the costs and the location of the new buildings broke out and delayed the construction of penitentiaries well into the nineteenth century.¹³⁶ Again, indecisiveness, dissension, and prolonged debates enabled the continuance of the prison hulks. Perhaps even more significant, the 1779 Penitentiary Act also authorised the courts for the next five years, to send convicts to “...any Parts beyond the Seas” or keep them on board the prison hulks.¹³⁷ The prison hulks thus remained in service and saw increased use as the question regarding the penitentiaries dragged on and no better alternative was in sight.¹³⁸ A temporary Transportation Act in 1784, which replaced the 1779 Penitentiary Act, instead actively sought to revive the transportation system. However, it also authorized the prison hulk system once again to continue its operation and firmly established it as a preliminary to transportation, and for the time being, even substituting transportation. This Act also meant the appointment of Campbell as Overseer of the prison hulk system in England and Wales, before this, he had been the manager of the prison hulks in Woolwich.¹³⁹ The terms of the appointment further stated that new places of confinement were needed at: “...such place of confinement within England or the Dominion of Wales, either at land or on board any ships or vessel in the river Thames or any navigable or other River, or within the Limits of any Port of England or Wales.”¹⁴⁰ This was the first step in the dissemination of the prison hulk system to other parts of Britain than Woolwich. Unlike the “Hulks Act”, Campbell’s appointment was also the first official document to thus sanction the use of prison hulks as a place of confinement for convicts.

Overcrowding in local prisons and jails coupled with prolonged debates on a suitable destination for transportation and the construction of penitentiaries had thus created a new state of emergency by the mid-1780s. This state of emergency meant that the prison hulks could no longer be abandoned, the criminal justice system was dependent on their operation. Then,

¹³⁵ Penitentiary Act of 1779, 19 George III, c. 74, 1779.

¹³⁶ Construction was to be delayed up to 1812 and in 1816 the Millbank penitentiary in London opened its gates. Millbank was extravagantly built but was a virtual maze with intricate systems of stairs and passages and ended up a major fiasco. The personnel and governors at Millbank also proved incapable of performing their tasks, and convicts who had been used to the lackadaisical routines of the prison hulks and local prisons and jails revolted to the strict regimen of solitude and hard labour. Campbell, *The Intolerable Hulks*, 91. Ignatieff, *The Promise of Punishment*, 171.

¹³⁷ Penitentiary Act of 1779. Shaw, *Convicts and the Colonies*, 44.

¹³⁸ Through a string of local prison Acts in the 1780s, it was however possible for justices to make alterations to local prisons in place of the Penitentiary Act of 1779. Magistrate Sir Onesiphorus Paul was thus able to convert the Gloucester Gaol to a penitentiary which would open in 1791. McConville, *A History of English Prison Administration*, 98-104.

¹³⁹ McConville, *A History of English Prison Administration*, 109.

¹⁴⁰ Campbell is Appointed Overseer, 1784, DCP, Series 3, Miscellaneous papers, 1776-1802, Vol. 8. 12-16. <https://collection.sl.nsw.gov.au/record/npAdwko1>.

finally, almost a decade after Bank's suggestion, Botany Bay was chosen as the new penal settlement. Under the previously mentioned temporary Transportation Act of 1784, the first fleet carrying convicts to Australia left Portsmouth in 1787. One year later, with the new Transportation Act of 1788, and a newly established criminal court in Australia, official transportation to all settlements in Australia could finally commence.¹⁴¹ By this time the prison hulk system had been significantly expanded in Woolwich and was now also extended to Portsmouth and nearby Langstone Harbour. Even though transportation had been resumed, the prison hulks had further consolidated and entrenched their role and even greater expansion of the system would ensue in the following years.¹⁴² The timing was thus key here, had transportation been resumed before the 1780s, in that short period since the American Revolution, then the prison hulks might have been temporary as originally intended.

Legislative Foundations of the Fortress Prisons

Before the passing of the Civil Code of 1734, Sweden was bound by medieval legislation with great local variations dating back well into the fifteenth century. The new Civil Code is however best understood as a codification of earlier legal praxis which by 1734 was expanded to all of Sweden.¹⁴³ Still, some novel legislation was presented, such as the abolition of torture and running of the gauntlet for civilians, although the former continued to be practised to some extent. There were only a handful of criminal acts that led to imprisonment under the new Civil Code, and these were generally in combination with corporal punishment and public shaming. There were no general rules as to the duration of sentences in confinement nor any interrelation between the few different types of existing penal imprisonments. The Civil Code was therefore somewhat ambiguous regarding the confinement of offenders, around seventy criminal acts were instead punishable by death.¹⁴⁴ In theory, the Civil Code of 1734, similar to the Bloody Code, made extensive use of the death penalty but in practice, executions were declining during the eighteenth century. Local variations in terms of places of confinement were prevalent, ranging from subterranean dungeons below churches or city halls to rudimentary local and county jails, castles, and fortress prisons. These places of confinement usually housed individuals suspected of having committed a crime or convicted criminals who awaited corporal

¹⁴¹ Shaw, *Convicts and the Colonies*, 45-49. In the same year, Campbell was appointed overseer to the hulks *La Fortunée* and *Ceres* at Langstone Harbour. The appointment stressed the same exasperated conditions as the earlier appointment in 1784. DCP, Miscellaneous Papers, 18-24.

¹⁴² Campbell, *The Intolerable Hulks*, 61-62.

¹⁴³ Sundin, *För Gud Staten och Folket*, 193.

¹⁴⁴ Ivar Seth & Stig Jägerskiöld, *Överheten och Svärdet: Dödsstraffdebatten i Sverige 1809-1974*. (Stockholm: Institutionen för Rättshistorisk Forskning, 1984), 14-15.

punishment or execution. As such, eighteenth century Swedish prisons were generally not places for long-term confinement.¹⁴⁵

Fortress prisons were most commonly used to house the most hardened offenders and those who had committed the most severe crimes. In practice, it was thus generally a reprieve from the death penalty, however, other categories of criminals such as prisoners of war and vagrants were also frequently confined in the fortress prisons. The Civil Code of 1734 specified only seven criminal acts with the expressed punishment of confinement in a fortress prison. These were, debtors betraying their creditors, counterfeiting, intent to perform bestiality, forging public records, embezzlement of public funds, theft from churches valued below a fixed sum of money, and inability to pay the debt for premarital sex.¹⁴⁶ The heterogeneous character of these crimes and the relatively small number of criminal acts that had pronounced legal support for a sentence to a fortress prison attest to the marginal significance the Civil Code of 1734 had concerning imprisonment. Legislation regarding property crimes was then tightened in the 1740s, burglary, and assisted burglary, for example, were now to be punished by hanging. Despite this, the number of executions did not increase, instead, the numbers decreased over the following decades. Practice thus developed contrary to legislation, a reasonable explanation for this is that the tightening of the legislation intended to deter crime rather than enforce executions. The relatively sharp decline in the number of executions enforced was thus a result of an increased tendency by the Court of Appeals and the Judicial Audit to grant the Royal Pardon. During the second half of the eighteenth century, lower courts would also begin to sentence recidivists and offenders found guilty of grand larceny directly to the fortress prisons.¹⁴⁷

New legislation was introduced in the late eighteenth century which coincided with an increase in the number of prisoners confined in the fortress prisons. In 1779, amendments were made to the Civil Code by king Gustav III. The background to the amendments was said to be that the current punishments were not in accord with the nature of the crimes committed. Additionally, the severity of the current punishments was also said not to chime in with "...our gentle and gracious hearts."¹⁴⁸ The courts were also alleged by the king to be arbitrary, which undermined the trust in the entire legal machinery. On these grounds' "improvements" and

¹⁴⁵ Nilsson, *En Vålbyggd Maskin*, 102–104.

¹⁴⁶ Swedish Civil Code of 1734, *Sveriges Rikes Lag: Gillad och Antagen på Riksdagen Åhr 1734*, Stockholm: Historiographi regni tryckerij, 1736. "Handels Balk": Chapter XVI, §4. "Missgerningsbalken": Chapter VII 1§, Chapter X 2§, Chapter VIII 2§, Chapter XLV 2§, Chapter XLVI 2§, Chapter LIII 3§.

¹⁴⁷ Sundin, *För Gud Staten och Folket*, 193–195, 218.

¹⁴⁸ King Gustav III's Amendments, Kongl. Maj:ts Nådiga Förordning Angående Ändring uti Allmänna Lagens Stadgande i Åtskilliga Rum. Gifwen Stockholms Slott på Riks-Salen then 20 Januari 1779. 319.

“corrections” to legislation, and a decreased use of the death penalty were all said to be direly needed. Relative to the fortress prisons, a slight shift can be discerned in the legislation resulting from the 1779 amendments. Bigamy, breach of domestic peace, severe violence against prison transporters, rape, a third sentence for theft, and enticement to theft, were now all offences which were to be punished with a sentence to a fortress prison. Some of these acts had previously been punishable with the death sentence.¹⁴⁹

Considering only the legislation, it is difficult to ascertain whether the amendments had any real effects on the legal praxis, historical research is also conflicting on this point. Some have emphasised king Gustav III’s will to reform and an ideological shift towards a decrease in the use of the death penalty and an increased use of imprisonment and confinement. Already in 1832, for example, a committee debating revisions to the Civil Code, reported favourably on how the 1779 amendments had replaced the gallows with a sentence in a fortress prison. However, they argued this had not led to more humane conditions within these prisons but had instead resulted in overcrowding in the fortresses.¹⁵⁰ Legal historian Göran Inger similarly maintains that, besides the death penalty, imprisonment became the most important punishment after the Civil Code of 1734.¹⁵¹ Historian Christer Feiff contends that this development was caused by more humane perceptions of certain crimes, which is a vague description, but in essence, not necessarily faulty.¹⁵² The historian Ivar Seth, a bit more precise, points to a Royal Circular sent by king Gustav III already in 1777, which stipulated that no death sentence was to be enforced without the monarch’s permission. He argues that the king only decided to keep the death penalty in the penal repertoire in his 1779 amendments for its perceived deterrent effects. This, he continues was an effect of the teachings of Italian Enlightenment philosopher Cesare Beccaria who condemned torture and the death penalty.¹⁵³ Historian Jan Sundin argues that legal praxis remained virtually unchanged after the 1779 amendments. As an illustration, he points to the fact that the Swedish peasantry motioned for the reintroduction of the death penalty for a third and fourth sentence of theft as late as 1815 and 1817-1818. This, he argues is indicative of broad popular support for the death penalty in the late eighteenth and early nineteenth centuries. Reluctance to the reintroduction of the death penalty during this period was instead most prevalent among the political and juridical elite.¹⁵⁴ Historian Roddy Nilsson

¹⁴⁹ King Gustav III’s Amendments, 321–327.

¹⁵⁰ Report on the Law Committee’s Proposition 1832, *Betänkande öfver Kongl. Lag Comitééens Förslag till Allmän Strafflag Inlemnadt till Juridiska Faculteten i Lund den 21 December 1832.*

¹⁵¹ Göran Inger, *Svensk Rättshistoria 2nd ed.* (Stockholm: Liber Förlag), 195.

¹⁵² Feiff, *Fästningsfångar*, 16.

¹⁵³ Seth & Jägerskiöld, *Överheten och Svärdet*, 26–29.

¹⁵⁴ Sundin, *För Gud, Staten och Folket*, 194.

is highly sceptical against Inger's argument that imprisonment was the most important sanction besides the death penalty, instead, he argues that the fine was the most common punishment. Despite this, he cautiously maintains that a tendency toward increased use of fortress prisons can be discerned from the mid-1770s until the end of the century. However, he sees no correlation to the reforms of the same period and argues that legislation and legal praxis retained a staunch retributive character.¹⁵⁵

Again, the increased imprisonment in fortress prisons appears to have been a slow and gradual process, but as such, it was not a gradual replacement of the death penalty. In fact, despite a decrease in the number of executions from the mid-eighteenth century onwards, there would be an increase in the number of executions during the first decades of the nineteenth century. This was, according to historian von Hofer, a response to a rise in murders, however, the number of executions would never again come close to those of the early eighteenth century. A relatively high number of executions and increased sentences to fortress prisons would thus coexist throughout the second half of the eighteenth century.¹⁵⁶ Because of the dissension in how the Civil Code and its revisions in the 1770s ought to be interpreted regarding imprisonment, a useful approach could instead be to explore the management and the conditions in the fortress prisons themselves.

The fortresses were all primarily active military institutions and thus sorted under the governmental body the Board of War and were therefore, by extension, also the property of the Crown. What this meant in practice was that the Crown had the ultimate authority over all the fortresses and the Board of War acted as the executive body. As such, the attention was constantly split between the confinement of prisoners and the military affairs of the fortresses. Confinement seems to have been of significantly lesser concern for the Board of War, at least until the 1770s when the number of prisoners first started to steadily increase. In a circular dated 1777, the Crown and the Board of War thus presented a geographical system for the distribution of all prisoners. This system divided Sweden into several different areas which corresponded to a certain fortress prison. In practice, this meant that the location where a crime was committed, was also to be the basis for which fortress the offender was to be confined in. In rather vague terms, the circular also expressed that the fortress prisons were meant for male criminals who had been convicted of burglary a second time, or simply others who had been

¹⁵⁵ Nilsson, *En Vålbyggd Maskin*, 103–104.

¹⁵⁶ von Hofer, *Brott och Straff i Sverige*, 172.

sentenced to labour at a fortress prison.¹⁵⁷ It is unclear whether the circular reaffirmed earlier legal praxis and geographical divisions, or if it was something altogether novel. Nevertheless, it does indicate that the threshold for a sentence to a fortress prison was significantly lower than what was stipulated in official legislation and what has been considered in earlier historical research.

Before the late eighteenth century, the fortress prisons were unstandardized, irregular, exhibiting great local variations, and confining very few prisoners. Karlsten fortress prison, for example, had 27 prisoners in 1733, roughly 50 in the 1750s and around 30 in the 1760s.¹⁵⁸ Nya Älvsborg fortress saw its defensive role diminish from the 1720s onward, while its role as a prison increased slightly during the following decades, however, the number of prisoners would still be relatively low until the turn of the nineteenth century.¹⁵⁹ The geographically based distribution meant that Karlsten and Nya Älvsborg received, by far, the largest catchment area, the area stretched from Gothenburg on the west coast, to the county of Gävleborg on the east coast, north of Stockholm. Individuals who committed crimes in Stockholm, and the neighbouring counties of Västerås and Uppsala, were to be sent to Vaxholm fortress prison, however, if this fortress became overcrowded, prisoners could also be sent to Sveaborg fortress in Finland. The incorporation of the fortress prison in Finland most likely attests to the limited capacity of the Vaxholm fortress prison, and not a dramatic increase in the number of prisoners.¹⁶⁰

Nevertheless, the geographical distribution of prisoners appears to have not been particularly rigid. Lars Östberg, for example, was sentenced to lose his honour, receive twenty lashes, and be sent to Karlsten fortress prison, by the Stockholm County court in 1786. He had been a fire watch soldier and was sentenced for forgery and dishonest relationships with his superiors. Östberg also had a prior conviction for theft, no means to support himself, and no employment.¹⁶¹ Similarly, Lars Elfberg was sentenced in Stockholm and sent to the public works in Karlskrona in 1783, when he was dismissed two years later, he was forbidden to return to Stockholm. However, unable to provide for himself, and with no employment, he defied his banishment and was consequently arrested and sent to Karlsten fortress prison.¹⁶² Lastly, in

¹⁵⁷ Gustaf Adolph Horn & Axel Magnus von Arbin (ed.), *Wi, Grefwe Gustaf Adolph Horn, Président uti Kongl. Maj:ts och Riksens Krigs-Collegio ... then Förtekning Kongl. Collegium, Efter Inhemtade Underrättelser, Låtit Författa, på the Fästnings-Orter som Blifwit Utsedde til Arbetsställen för the Personer Hwilka för Brott til Fästnings-Arbete Warda Dömde ...*, (Stockholm: Kongl. Tryckeriet, 1778).

¹⁵⁸ Krantz, *Under Järnkronan*, 22.

¹⁵⁹ Feiff, *Fästningsfångar*, 72.

¹⁶⁰ Horn & von Arbin, *Wi, Grefwe Gustaf Adolph Horn. Feiff, Fästningsfångar*, 19, 76–77.

¹⁶¹ Lars Östberg, 1786, KFFA, Documents Received, Inkomna Handlingar, E I:1.

¹⁶² Lars Elfberg, 1786, KFFA, E I:1.

1787, farm worker Anders Carlsson was sentenced to the pillory for two hours and to receive thirty-eight lashes for theft in Eksjö in Jönköping County. Later in the same year, he was sentenced for burglary and received forty additional lashes and was then sent to Karlsten fortress prison. The fortress prison corresponding to Jönköping County was, according to the geographically based distribution system, Landskrona fortress prison.¹⁶³ The geographical system thus seems to essentially have functioned as a guiding principle which allowed for great deviations.

More importantly, this system was introduced to meet the increasing number of prisoners sentenced by the courts directly to fortress prisons, and thus not necessarily as a reprieve from the death penalty. This is the first concrete sign of the fortress prisons constituting an additional layer to the death penalty similar to Rubin's argument on the late eighteenth-century American rudimentary prisons. Rubin illustrates penal layering as an early, but significant change in penal reform. What she calls "proto-prisons" were thus the first generation of state-run facilities in America systematically used to punish convicted felons with confinement. Rather than indicating the abolition of the death penalty, they constituted an additional layer, added upon capital punishment.¹⁶⁴ This offers a more nuanced, and less polarizing way of explaining the increasing number of prisoners in the fortresses than has been hitherto considered in the historical debate. Indeed, legislation remained retributive and deterrent, still, legal praxis shifted towards imprisonment. However, imprisonment in the fortress prisons did not constitute a replacement for the death penalty but rather a viable alternative to capital punishment. The late 1770s thus constitute the earliest signs of a reliance on fortress prisons. While the legislation remained retributive but legal praxis shifted toward confinement, the large, looming, and often remote fortress prisons stood out as convenient prisons where offenders could be more or less buried within their vaults. The shifting legal praxis thus created a period of contingency, and the already-established fortress prisons became increasingly used as places of confinement because they were the most feasible alternatives at the time. The increased reliance on fortress prisons was thus not premeditated or a result of legislative reform but an unpredictable outcome of legal praxis.

By 1799, the increase of prisoners reached a breaking point, and several fortress prisons reported that their vaults were now overcrowded. The geographical distribution of prisoners was therefore in urgent need of revision. To even out the number of prisoners across Sweden, the Crown decided that a system based on where prisoners could be most useful as labourers

¹⁶³ Anders Carlsson, 1787, KFFA, Documents Received, Inkomna Handlingar, E I:2, 1787–1791.

¹⁶⁴ Rubin, "Penal Change as Penal Layering", 422–423.

was to be implemented, and the Board of War was to be responsible for its implementation.¹⁶⁵ However, already by 1801, inconveniences had once again arisen due to overcrowding. It was therefore further stipulated that the Board of War was to report semi-annually directly to the courts where there currently was room for prisoners. Confinement of prisoners thus became an increasing obligation, and the Board of War must have been ill-prepared because it was also decided to incorporate the possibility of sending Swedish prisoners to Finnish fortress prisons from all over Sweden, and not just from the Stockholm area. It was however not only the fortress prisons that were becoming overcrowded, but the county jails were also increasingly growing overcrowded, and around the turn of the century the entire system was becoming progressively unstable. Responsibility was thus also put on the commandants at each fortress to report to the Board of War the number of prisoners confined in their respective fortresses as often as possible.¹⁶⁶ By 1802 the commandant at Karlsten fortress prison, for example, reported that the fortress vaults were overcrowded and the guards were too few, a complete stop to all new admissions was consequently put in effect.¹⁶⁷ Thus, by the very last years of the eighteenth century and the early nineteenth century, the foundation for the fortress prisons and their continued operation was established. However, once again, it was a gradual process, one that started in the late 1770s, and culminated in 1799 with the first signs of overcrowding.

The Great Law Committee

In the wake of the Swedish loss of Finland to the Russian Empire in 1809, Swedish king Gustav IV Adolf was dethroned and abdicated the same year. A new form of government, which put greater limitations on the power of the monarch and freedom of the press was then quickly passed. During the parliament of 1809-1810, a committee was also launched to revise, simplify, and improve the Civil Code of 1734. It would be known as the Great Law Committee and it first convened in 1811.¹⁶⁸ However, before this, on the first of April 1810, a preparatory committee had been established to discuss the very nature of punishment. According to the preparatory committee, there existed two types of punishments, physical ones, and psychological ones. The physical punishments brought pain to the outer senses and sometimes

¹⁶⁵ Johan Liljencrants, (ed.), *Wi Johan Liljencrants, Friherre, f.d. Riks-Råd, Président i Kongl. Maj:ts och Rikets Commerce-Collegio ... af en, efter Behofwet, Mera Lämpad Fördelning af Arbetsfångar på Kongl. Maj:ts [!] och Rikets Fästningar ...*, (Stockholm: Kongl. tryckeriet, 1799).

¹⁶⁶ Carl Axel Wachtmeister, (ed.), *Wi, Carl A. Wachtmeister, Grefwe, Sweriges Rikes Drotts ... at Arbets-Fångars Antal på en del Fästningar Kommit at Öfwerstiga det, som Derstädes Kunnat Rymmas eller Syslosättas...*, (Stockholm: Kongl. Tryckeriet, 1801).

¹⁶⁷ Arvid Eric Posse, (ed.), *Wi, Carl Axel Wachtmeister, Grefwe, Swea Rikes Drotzet ... Arved Eric Posse, Grefwe ... at ej Flere Arbetsfångar än de der nu Befintelige Blifwa dit Försände...*, (Stockholm: Kongl. Tryckeriet, 1801).

¹⁶⁸ Inger, *Svensk Rättshistoria*, 207–210, 216.

also death. The psychological ones were instead aimed at the soul in the form of loss of freedom, civic reputation, and social standing. Concomitantly, there were also natural punishments which were to be considered side-effects of the two abovementioned punishments. These punishments were embedded within the criminal and were manifested in the feeling of having broken the laws of conscience and morality. When the courts sentenced an individual, it was therefore imperative to account for these natural punishments as well. Related to punishment was also correction, which was to be considered a lesser evil imposed on the subjects as a means to improve the criminals' disposition in general. The preparatory committee conceded that the line between punishment and correction was somewhat blurry, but the distinction was an important one to make. Correction set out to normalize the criminal and was to take on the appearance of a benevolent act from the government, as opposed to the unenthusiastic punishments.¹⁶⁹

A sentence to a fortress prison was not considered an act of correction in the preparatory committee's reasoning. On the contrary, it was considered both a physical and psychological punishment, and the second harshest punishment available in the penal repertoire after the death penalty and corporal punishment.¹⁷⁰ This sentiment illustrates how the fortress prisons indeed can be considered an additional layer to the death penalty. It also signals the preparatory committee's disdain for the fortress prisons. Despite this, at this stage, no calls for their disuse or modernization were articulated. The preparatory committee did however voice special concerns about corporal punishments. The reason for this was that public opinion had turned against all forms of corporal punishment. This self-declared responsiveness to public opinion may be the reason why the preparatory committee felt it needed to integrate a positive aspect to punishment, namely the half-hearted hope of reforming the criminals. In a dialectic between, on the one hand, prison and on the other corporal punishment, the committee eventually settled on prison as the superior form of punishment. However, as a cost-effective form of deterrence, corporal punishment still served a purpose in the penal arsenal.¹⁷¹

When the Great Law Committee convened, the direction shifted to assurance of public safety, and also the improvement of offenders. Tasked with these matters was national economics professor at Uppsala University, Lars Georg Rabenius who presented his proposition in 1813.¹⁷² The first and most severe punishment, according to Rabenius was, of

¹⁶⁹ Preparatory Committee to The Great Law Committee, 1810, *Stora Lagkommittén*, 1810 Chapter 8, on Punishment §37, §38, §39.

¹⁷⁰ Preparatory Committee 1810, Chapter 10, on the Purpose of Punishment §46.

¹⁷¹ Preparatory Committee 1810, Appendix regarding the Possibility in our Penal Law Restrict the use of Corporal Punishment and However Further the Use of Work-Prison punishment 1§, 3§, 4§, 5§.

¹⁷² Nilsson, *En Vålbyggd Maskin*, 127.

course, the death penalty which was to be performed by the severing of the head with an axe. If someone was sentenced to also have their hand cut off, this was to be done before the execution. After the execution, men were to be broken on the wheel and women were to be burned at the stake. Corporal punishment came next on this sliding scale, and it was to be performed by lashing.¹⁷³ The third most severe form of punishment was the fortress prisons. Rabenius maintained that: "Fortress [prison] with work is when, the convicted [criminal], in a fortress of the Crown, is assigned the harshest work he can perform and can be provided for. He should during the sentence be clad in irons or other ways be confined. To this punishment, only men are to be sentenced..."¹⁷⁴ The sentence to fortress prison was thus, in Rabenius's line of reasoning, thoroughly punitive without aspirations towards correction.

However, by the time of his proposition, the discourse on punishment had shifted. The retributive character of Rabenius's proposition was no longer viable and compatible with the ideals of the improvement and reformation of prisoners. The proposition was promptly disapproved and abandoned by the Great Law Committee; they argued that Rabenius relied too heavily on already existing legislation, corporal punishment, and the death penalty. Because of this dissent, Rabenius, and two other commissioners resigned the next year. Rabenius was thus replaced by the considerably younger and more liberal-minded Johan Gabriel Richert. Rabenius had argued that the general public was not yet ready for a milder administration of justice, while Richert on the other hand, argued that the death penalty had no place in criminal law, except in the case of murder and crimes against the safety of the Kingdom.¹⁷⁵ The timing was thus crucial, Rabenius's proposition would most likely be met with greater enthusiasm before the parliamentary year of 1810-1811. From the preparatory committee, via Rabenius' proposition to Richert's appointment as commissioner, a clear shift can be discerned. Firstly, imprisonment was deemed preferable for the majority of criminal acts. Secondly, the reliance on corporal punishment and the death penalty was regarded as outdated and not in accord with the crimes committed. What instead was proposed by the Law Committee in 1815, was increased imprisonment and the implementation of houses of corrections, however, there was no discussion on its practical implementation.¹⁷⁶ Eventually, penal labour for life was stipulated as an alternative to the death penalty, and it was also sanctioned as a punishment by the courts.¹⁷⁷ While penal labour was not restricted to only the fortress prisons, it ought to have been the most

¹⁷³ The Great Law Committee, 1811, *Stora Lagkommittén 1811*, Straffbalken L.G Rabenius Chapter 5, §1.

¹⁷⁴ The Great Law Committee, *Straffbalken L.G Rabenius Chapter 5*, §3.

¹⁷⁵ Seth & Jägerskiöld, *Överheten och Svärdet*, 33–35.

¹⁷⁶ Nilsson, *En Välbyggd Maskin*, 131.

¹⁷⁷ von Hofer, *Brott och Straff*, 171.

readily available option. The Great Law Committee's work in the early nineteenth century was thus, to a greater extent than the amendments of 1779, a displacement of the death penalty in favour of imprisonment. Nevertheless, without suitable places of confinement, the fortress prisons would see an ever-increasing number of prisoners; they were now firmly embedded within the criminal justice system.

The Great Law Committee's proposition was however criticized in several writings around 1815. Some argued that older hardened criminals should be sent to fortress prisons or quarries, and that rather than constructing houses of corrections, resources ought to be used for foster homes for poor children. Others argued for the establishment of penal colonies.¹⁷⁸ An example of the latter was an unknown author, who was not only critical of the houses of correction, but also of the fortress prisons. The author argued that the fortress prisons were merely used for confining, and sometimes putting criminals to hard labour, but they could never morally improve the prisoners. If, however, a prisoner would leave a fortress prison and not re-offend, it would be because of the petty and circumstantial nature of his crime, and not because of the nature of the fortress prison. Instead, most prisoners became morally corrupted from association with hardened criminals in these prisons. Additionally, corporal punishment was a barbaric practice, and the author noted that executions had decreased because of a governmental policy which had led to more prisoners in the fortresses. However, prisoners were still frequently escaping and roaming the country and endangering innocent civilians. The solution to these problems, the author envisioned, was a Swedish penal colony situated on a less inhabited island in Southern Africa, alternatively a deserted island in Polynesia. In such a desolate and remote place, the need for prison walls, guards, and upkeep was minimal, the prisoners had to work for their survival and learn how to live a decent life of industry, but most importantly, learn to respect property rights. Penal transportation of prisoners, the author concluded, would separate them from the material temptations of everyday life in Sweden, and serve as a way for prisoners to work while contemplating the error of their ways.¹⁷⁹ Penal transportation was however a punishment reserved almost exclusively for the colonial powers. The topic nevertheless flared up sporadically in Sweden during the first half of the nineteenth century, but it was never implemented, mainly due to practical and economical issues.¹⁸⁰

¹⁷⁸ Nilsson, *En Vålbyggd Maskin*, 132–134.

¹⁷⁹ *Reflexioner Öfver Nyttan af en Svensk Brott-Koloni*. (Stockholm: Johan Pehr Lindh, 1816), 8–9, 11–16, 35–36, 38.

¹⁸⁰ Nilsson, *En Vålbyggd Maskin*, 134–135.

In the early years of the nineteenth century, fortress prisons were thus more firmly established in the penal repertoire than they had been in the previous century. But it can hardly be considered an intentional or predictable development. Their increased use seems instead to correspond to an increased reluctance from, first the higher courts, and then the lower courts to sentence offenders to the death penalty throughout the second half of the eighteenth century. The revisions to the Civil Code in the 1770s gave little legal support for a sentence to a fortress prison, despite this the number of prisoners kept increasing. The devastating loss of Finland and the ensuing legislative activity did not manage to displace this development. On the contrary, it appears to have entrenched the role of the fortress prisons as no practical implementations of houses of correction proposed by the Great Law Committee came to fruition in the foreseeable future. Further, penal transportation was not a viable option, this left few alternatives remaining but to continue sending offenders to the fortress prisons.

Practicality

This chapter has outlined the foundations of the prison hulks and fortress prisons with a focus on criminal justice legislation in the eighteenth- and nineteenth centuries. To paint a richer, and more nuanced picture, this has then been supplemented with some observations on the practical nature of both prisons. As mentioned in this chapter's introduction, the origin of the prison hulks and fortress prisons varied. Broadly speaking, the fortress prisons grew in significance throughout the eighteenth century, while the prison hulks appeared suddenly in 1776. Despite this, the overall development of criminal justice legislation and praxis were strikingly similar in England and Sweden. Both the Bloody Code and the Civil Code of 1734 were heavily reliant on the death penalty as a deterrent, but legal praxis proved more lenient as the eighteenth century progressed. Deterrence was chiefly oriented towards property crimes which increased from the 1740s and onwards in both kingdoms. Historians Sundin and Gatrell thus maintain that although many were sentenced to death in both England and Sweden, the majority were pardoned. The criminals who were eventually executed were generally the most hardened ones and the purpose the executions were to set deterrent examples.¹⁸¹

Ideologically, the 1770s was a significant decade in both kingdoms. In 1764 Cesare Beccaria published his seminal work *Dei Delitti e Delle Pene*. Considered the father of modern criminal justice, Beccaria condemned the use of the death penalty and torture in the penal process while instead advocating imprisonment. His work rapidly spread throughout Europe and was subsequently translated into a wide array of languages. It was translated into English

¹⁸¹ Sundin, *För Gud, Staten och Folket*, 221–222. Gatrell, *The Hanging Tree*, 7.

as *An Essay on Crimes and Punishment* already in 1767, and 1770 into Swedish as *Afhandling Om Brott och Straff*. The theoretical background for his convictions was twofold. Firstly, Beccaria greatly emphasised the Enlightenment philosophical notion of the social contract, which he argued was incompatible with governments enforcing death penalties. Secondly, imprisonment, he contended, was of much greater value as a deterrent than the death penalty.¹⁸² Beccaria's influence on King Gustav III and his amendments and reforms in the 1770s has already been mentioned. In England, this influence was analogously most notable in those who sought to reform the Bloody Code. Amongst these were Sir Blackstone, lawyer and politician Sir Samuel Romilly, and Enlightenment philosopher Jeremy Bentham.¹⁸³ Howard's mission for reform was, on the other hand, more closely associated with a non-conformist conscience and Quaker philanthropism.¹⁸⁴

Nevertheless, as William Gattrell notes, there was no certainty in the movement of condemnations of the Bloody Code in the 1770s. It would take half a century of back and forth in debates and legislation for the harsh punishments to begin to be dismantled. Likewise, Enlightenment ideals can hardly be said to have influenced criminal justice legislation in any pervasive manner in late eighteenth-century Sweden. The Great Law Committee, which had stipulated imprisonment as the most suitable punishment and reduction of corporal punishment and the death penalty in 1811, would postpone much of their efforts to draw up a new criminal law until 1826.¹⁸⁵ However, in both England and Sweden, executions would again increase by the 1820s.¹⁸⁶ The timeframe which saw the emergence of the prison hulks and overcrowding of the previously marginal fortress prisons was therefore not a linear one with a steady decrease in the number of executions and a resulting increase in imprisonment. Both kingdoms thus retained retributive and harsh criminal justice legislation despite the influence of Enlightenment ideals.

The 1770s was also of course the decade of a decisive historical event for England, the American Revolution. Sociologist Ashley Rubin argues that 1776 thus constituted an exogenous shock with profound changes to the English penal structure.¹⁸⁷ Superficially this appears to be the case, however, others have toned down the importance of this event. Historian

¹⁸² McConville, *A History of English Prison Administration*, 80. Nilsson, *En Vålbyggd Maskin*, 71. John Hostettler, *Cesare Beccaria: The Genius of "On Crimes and Punishments"* (Hook: Waterside, 2010), 57-61, 142-144.

¹⁸³ McConville, *A History of English Prison Administration*, 83.

¹⁸⁴ Ignatieff, *A Just Measure of Pain of Pain*, 50-51.

¹⁸⁵ Seth & Jägerskiöld, *Överheten och Svärdet*, 34.

¹⁸⁶ Gattrell, *The Hanging Tree*, 237, 497. von Hofer, *Brott och Straff*, 172.

¹⁸⁷ Rubin, "The Promises and Pitfalls", 272.

Pieter Spierenburg for example, argues that imprisonment in England was on the rise already from the 1750s and onwards. The year 1772, rather than four years later, he continues, was the crucial year for the development of imprisonment as a legal sanction in England. This year, London magistrates maintained that transportation had demanded all their efforts, and that the prisons had thus been unduly neglected. Additionally, in the same year, the figures for transportation in Surrey had dropped considerably. Spierenburg concludes by stating that, without the American Revolution, imprisonment would still have risen in importance compared to penal transportation.¹⁸⁸ Correspondingly, historian Michael Ignatieff points to rising pardons from the death penalty in the 1750s as indicative of a tendency from judges to doubt the fairness of the Bloody Code, and punish minor infractions with death.¹⁸⁹ This would suggest that while the prison hulks, as a temporary solution to a crisis, were introduced almost overnight, a move towards increased imprisonment in England was not wholly dependent on the halt of transportation to the American colonies. To refer to the American Revolution as an exogenous shock with profound changes to the penal structure is therefore not altogether viable. A structure for increased imprisonment, or at the very least, a momentaneous decreased tendency towards the death sentence was already in place by 1776. Further, it was also assumed that transportation to the American colonies of Maryland and Virginia would be resumed after the fighting had stopped.¹⁹⁰

Two years later the Bunbury Committee commenced discussions on a new suitable penal destination indicating that the penal structure was indeed largely intact. It would therefore be more accurate to argue that the American Revolution brought about a critical juncture, a window in time where the constraints on decision-making were loosened. This further highlights the contingency of the situation in 1776, and the hastily drawn-up Hulks Act which, as discussed earlier, did not specify how the convicts were to be confined. The introduction of the prison hulks was therefore one of several plausible responses to the crisis and thus in no way preordained. When launched, the prison hulks were set to be temporary, which historian William Branch Johnson argues explains why prison reformers such as Howard initially showed somewhat faint interest in them.¹⁹¹ The key moment of institutional lock-in thus came when the spread of infectious diseases began to take hold. Mounting death rates forced Campbell to act, and rather than abandoning the prison hulks, more efforts were made, and more money spent.

¹⁸⁸ Spierenburg, *The Prison Experience*, 267.

¹⁸⁹ Ignatieff, *A Just Measure of Pain of Pain*, 19.

¹⁹⁰ Campbell, *The Intolerable Hulks*, 14.

¹⁹¹ Branch Johnson, *The English prison hulks*, 8.

As it was believed that transportation would resume soon the prison hulk system had to be kept operational for the time being. I argue that this corresponds to what sociologist James Mahoney conceptualizes as functional feedback effects. Institutional reproduction, or feedback effects, he argues, can be explained by their functional consequences such as the integration, adaption, or survival of a larger system.¹⁹² The larger system, which was to be maintained in this case, was penal transportation. It would be just over a decade until transportation could resume, and during this period the prison hulks were further locked in and eventually also disseminated to Portsmouth in 1787. By now the system was far too embedded in the criminal justice system and it would be too costly and inconvenient to abandon them, accordingly, this started the long history of the prison hulks in England. By 1844, the prison hulks were the main form of convict custody in Britain and during the years 1842-1843, they held a staggering total of 70 percent of all convicts in England.¹⁹³

Sweden's loss of Finland in 1809 can more appropriately be considered an exogenous shock. The dethroning of King Gustav IV Adolf, and the parliamentary year of 1809-1810, led to much legislative activity but concerning imprisonment, the effects soon proved to be marginal. Offenders could nonetheless no longer be sent to fortresses in Finland, but this does not appear to have caused much concern, most likely attesting to their insignificance in alleviating the Swedish fortress prisons. Penal transportation was for some, as discussed earlier, a viable option for the fortress prisons. However, this was not the opinion of the Great Law Committee which concluded in 1833 that the punishment of transportation was not tenable. It had been considered in earlier propositions and reflections on a new Penal Code, but in 1833 the committee argued that the English history of sending convicts to Australia had been unsatisfactory.¹⁹⁴ No similar critical juncture like the American Revolution can thus explain the increased use of fortress prisons in late eighteenth- and early nineteenth-century Sweden. Yet the overcrowding of the previously sparsely populated fortress prisons constituted a significant change in penal practice. Unlike the prison hulk's rapid emergence, the fortress prisons, as has been mentioned, only gradually rose in significance. This development is thus better considered as constituting an additional layer to the death penalty, rather than a wholesale replacement, or a result of increased humanitarianism as has been argued.¹⁹⁵ Rubin observed a similar development in early American prisons in the late eighteenth century. She found that contrary

¹⁹² Mahoney, "Path Dependence", 519.

¹⁹³ McConville, *A History of English Prison Administration*, 199.

¹⁹⁴ *Report on the Law Committee's Proposition for General Criminal legislation 1833, Betänkande i Anledning af Lag-Commiteens Förslag till Allmän Criminal lag 1833, Lagkommittén 1811-1833, Volume 9.*

¹⁹⁵ See for example: Feiff, *Fästningsfångar*.

to previous research, early American prisons were not replacements for the death penalty as some historians have argued. Multiple states, she holds out, authorized the use of proto-prisons, or early rudimentary prisons, before official action to restrict the death penalty to capital offences was enacted. Some states that built proto-prisons could reduce their reliance on capital punishment, while other states that restricted the death penalty to capital crimes, did not build proto-prisons until a decade later. This proves, according to Rubin, that some proto-prisons evolved in their own time, and not as a, "...quick response to capital punishment's reduction." Instead, she holds out, that it is more accurate to say that prisons in America only gradually displaced the death penalty. This more appropriately explains the increased reliance on the Swedish fortress prisons and their subsequent overcrowding in the late eighteenth century. Further, the concept of penal layering stipulates that the new layer is always influenced by the previous one.¹⁹⁶ The sentence to fortress prison therefore came to be heavily reliant on deterrence. The purpose of the punishment thus closely corresponded to the death penalty, more so than the prison hulks did. As will be discussed in chapter four, criminals sentenced to a fortress prison were publicly whipped, usually with forty lashes and then forced to confess their crimes in a pillory placed in the church in the parish where the crime had been committed. The use of public shaming and corporal punishment was abolished in 1855, one year after the most notorious Karlsten fortress prison was disused as a place of confinement and the number of prisoners in fortresses in general declined.

A sentence to a fortress prison was thus not a punishment solely focused on confinement; it was also a punishment which sought to inflict pain on the criminal's body thus echoing the death penalty. This also corresponds to why the fortress prisons were continually reproduced despite mounting criticisms from the late eighteenth century and onwards. What Mahoney characterizes as legitimation explanations is well-suited to understand the increased reliance on the fortress prisons. The feedback effects in this concept stem from actors' view of an institution as morally legitimate and voluntarily opt for its reproduction, it can take the form of active support or passive acquiescence.¹⁹⁷ The former explains the decreased tendency to enforce the death penalty, and the latter why the fortress prisons were increasingly relied on. The Great Law Committee stipulated that it sought to restrict the use of the death penalty but provided no suitable option for increased imprisonment hence why the fortress rose in significance; it was an unintended effect of their moral position on the death penalty.

¹⁹⁶ Rubin, "Penal Change as Penal Layering", 426-435.

¹⁹⁷ Mahoney, "Path Dependence", 523.

The comparison of the prison hulks and fortress prisons has thus shown that Enlightenment ideals played a subordinate role. The numbers of executions in respective countries did not decrease linearly, and legislation remained retributive and deterrent. Both prisons instead saw establishment and development for practical reasons. In Sweden, the fortress prisons remained one of the few options after the Great Law Committee sought to restrict the use of the death penalty and corporal punishment. But these were the ambitions of the higher classes of society, and not those of the general public. The fortress prisons presented a middle way, or a layer to the death penalty, blending elements from corporal punishment and confinement. More tangible, the prison hulks were established for almost purely practical reasons, specifically as a response to the halt in transportation to the North American colonies and the ensuing critical juncture. Delays in finding a new suitable destination for transportation, overcrowding of local jails and prisons, and the debates and dissension on the construction of penitentiaries left the prison hulks indispensable, and so the system started its dissemination. Building on these conclusions the next chapter will set its aim to compare practical elements of both the prison hulks and fortress prisons, more precisely management and architecture.

Chapter Three: Management and Architecture

Introduction

As concluded in the previous chapter, the start of the path-dependent process for the prison hulks and the fortress prisons varied. However, they were both established in the penal repertoire for practical reasons. This corresponds to what researchers Sydow, Schreyögg, and Koch characterize as the preformation phase, an open situation defined by a search for alternatives. This phase is thus highly contingent, but faint contours of a path can nevertheless be discerned. Following this is, the formation phase, where the path becomes clearer, nonetheless, it is important to acknowledge that the process is still contingent. Notions of teleology must thus be avoided since other alternatives might still be viable.¹⁹⁸

There was thus no guarantee that the prison hulks would persist for as long as they did. When introduced, the situation was still contingent, however, a path was forming. Early signs of this were the infectious diseases on board the prison hulks in Woolwich, which prompted additional resources and efforts. Acts were then passed in the late eighteenth century which, for varying reasons, authorized the continuance of the prison hulks, the path was consequently growing clearer. Similarly, the fortress prison remained one of the few remaining alternatives as the number of executions decreased in Sweden during the late eighteenth century. Overcrowding ensued which prompted increased responsibilities for the Board of War in the management of prisoners. The role of the fortresses as prisons was thus reinforced and the path became clearer. Infectious diseases and overcrowding were both related to and dependent on the physical nature and management of the prison hulks and the fortress prisons. This chapter will thus follow this indication and explore how the management and architectural aspects affected the path-dependent processes.

Starting with the fortress prisons, this chapter will follow two English prison reformers and their inspections of prisons, hospitals, and other institutions in Scandinavia during the second half of the eighteenth century. What they saw left them appalled, but more than anything, unimpressed. A Swedish prison reform movement would then see the first light of day by the very last years of the eighteenth century. Like their English role models, the Swedish prison reformers were struck by the poor conditions of Swedish prisons. It was especially the subterranean dungeons and the fortress prisons which they considered remnants of a barbaric past and the antitheses to modern forms of confinement. The fortresses were also first and foremost active military installations and prisons second. The Board of War was thus wary of

¹⁹⁸ Sydow, Schreyögg, & Koch, "Organizational Path Dependence", 692-694.

any architectural alterations as it could affect the defensive abilities of the fortresses. Furthermore, the fortresses were also fixed constructions, which in the case of Karlsten and Nya Älvsborg fortresses, meant that they could not physically expand outwards. From a historical vantage point, the architectural development of the fortress prisons might thus appear to be almost non-existent. Nevertheless, this chapter will explore attempts at architectural remodelling, and the inward expansion of the fortress prisons. Perhaps more significant was the introduction of the Board of Prisons and Labour Institutions and the subsequent categorizing of all prisons in Sweden. This chapter will thus argue that this placed the fortress prisons in a wider system which through so-called complementary feedback effects locked them further in the penal repertoire.¹⁹⁹

Turning to the prison hulks, this chapter explores how a petition from the convicts on board the *Lion* prison hulk in Portsmouth Harbour in 1800 resulted in extensive retrofitting of all prison hulks in England. The convicts' complaints of the treatment they received sparked renewed interest in these prisons and led to several inspections into the horrid conditions on board the prison hulks. The most potent criticism was related to the private and mercenary manner in which the prison hulks were managed under Campbell. Yet, like the fortress prisons, the prison hulks persisted, but the management shifted from being private to being largely a governmental enterprise. Inspections, debates, and committee reports would then culminate in the notion that, while the prison hulks were not desirable, they were at least improvable. This chapter will therefore argue that the events in the early nineteenth century constituted a critical juncture in the sense that it triggered events which led to increasing feedback effects and the reproduction of the prison hulks.²⁰⁰ The emphasis will be placed on the petition of the convicts on board *Lion*, the inspection of the *La Fortunée* prison hulk in Langstone Harbour in 1802, and committee reports in the early nineteenth century. Lastly, this chapter will conclude with a summarizing comparison where the main argument is that increased government involvement, in both prisons, resulted in managerial and architectural changes and consequently, further lock-in.

The Early Swedish Prison Reform Discourse

Following in the footsteps of prison reformer John Howard, English historian and priest William Coxe, travelled through Sweden, Russia, and Denmark in the 1770s where he visited numerous prisons and hospitals. The purpose of his journey was to further Howard's work on

¹⁹⁹ Sydow, Schreyögg, & Koch, "Organizational Path Dependence", 700.

²⁰⁰ Pierson, "Increasing Returns", 623.

the improvement and reformation of English prisons. Regarding punishment in general, Coxe referred to the penal laws of Sweden as “mild”, because: “...more than 120 strokes of the rod are never inflicted, and the criminal is never sentenced to bread and water for more than twenty-eight days.” He also commended the fact that torture had been abolished in Sweden and considered this a direct effect of the writings of Beccaria.²⁰¹ Coxe visited prisons in Stockholm, Uppsala, Mariestad, and Karlskrona, and found them, like the prisons in Denmark, to be well-kept.²⁰²

On his visit to Gothenburg, Coxe changed his tune, the prisons there, he stated, were the worst he had seen in all of Sweden. More specifically, the prison that was most offensive to Coxe was the prison in Gothenburg city hall. The prison rooms were located beneath the bottom floor in subterranean dungeons, which he described as exceedingly damp and unwholesome. When he stepped down into the dungeons, Coxe found six prisoners, four men and two women. The men were confined for misdemeanours, one of the women for debt, and the other for murdering her “bastard child”. All prisoners looked wan and unhealthy, and according to Coxe; this was due to the dampness of their prison rooms. By the time of his visit, the prisoners were to be sent out for a few minutes into the fresh air, the pleasure this brought the prisoners was visible in their countenances.²⁰³ The conditions of the prisons in Gothenburg were most likely similar to those in the fortress prisons; complaints of the dampness of the fortress vaults would be persistent throughout the eighteenth- and nineteenth centuries. Although the vaults of the fortresses tended to be larger and confined more prisoners, the conditions ought to have been similar. The prison rooms of Nya Älvsborg fortress prison, for example, were placed in the damp vaults in the curtain walls; the floors were rotten from the constant dripping from the ceiling.²⁰⁴

Travelling through Sweden in 1781, prison reformer John Howard himself observed that the residential houses were cleaner than those he had observed in Denmark which gave him high hopes for the condition of Swedish prisons. However, he was eventually disappointed and found them “...as dirty and offensive as those in Denmark.”²⁰⁵ His visit to Sweden was limited to Stockholm, like Coxe a few years before him, Howard commended the abolition of torture.

²⁰¹ William Coxe, *Account of the Prisons and Hospitals in Russia, Sweden, and Denmark: With Occasional Remarks on the Different Modes of Punishments in Those Countries*. (London: Cadell, 1781). 32.

²⁰² Nilsson, *En Vålbygd Maskin*, 105.

²⁰³ Coxe, *Account of the Prisons*, 45. Ingrid, Wirsin *Hus med Hiskliga Historier*, (Kungälv: Tre Böcker Förlag AB, 1997), 44–46.

²⁰⁴ Wieselgren, *Sveriges Fångelser och Fångvård*, 419.

²⁰⁵ John Howard, *The State of Prisons in England and Wales, With Preliminary Observations, and an Account of some Foreign Prisons and Hospitals*, 4th ed. (London: J. Johnson, C. Dilly, and T. Cadell, 1792), 82.

However, he described the prison rooms below the Stockholm courthouse as exceptionally dark, dirty, and offensive. The lack of fresh air in the rooms was palpable as some of the prisoners seemed to be stifled for air, some prisoners also appeared to Howard, as almost starved. Furthermore, there was no chapel and coffins were even kept at the ready for prisoners just outside their prison rooms. Regarding the debtors' prison, Howard had not much to say, except that the prisoners there were allowed to associate freely. Nevertheless, in a footnote to this paragraph, Howard claims that the separation of prisoners has its advantages, chiefly that it prevents prisoners from extorting money from other prisoners. The Stockholm spin house was not portrayed in any better light, the men and boys were not separated from each other, their countenances were described as sickly, and scurvy was plaguing the prisoners. An inspector had a convenient house near the spin house, and he received a large salary compared to other countries. Since he was employed at the spin house, Howard considered this inappropriate. Further, the condition of the spin house, and the appearance of the prisoners lend the inspector no credit. Howard maintained that prisons need to be free from resident inspectors with high salaries, what was needed, he continued, was humanity, care, and attention.²⁰⁶

Although Coxe found many of the prisons in Sweden to be somewhat well-kept, he most likely lacked the experience and meticulousness of Howard. None of the two visited fortress prisons, which does not come as a surprise as many of them such as Karlsten and Nya Älvsborg were active defensive installations. Coxe did however visit what he referred to as convicts in the Guardhouse of Karlskrona, it was most likely the Royal Guards building in the naval dockyard. The building was not a defensive installation and merely retained the designation fortress prison, and prisoners were kept in prison rooms beneath this building.²⁰⁷ There were sixty convicts in four rooms, those sentenced to life were kept in heavy irons which they could be taken off if they behaved well. Coxe's description was brief, the convicts worked at public works in the dockyard or town he simply concluded.²⁰⁸ The prisons of Sweden did thus not constitute positive examples to follow for the two English prison reformers. However, their accounts provide a rare and arguably somewhat more neutral glimpse of Swedish prisons during the late eighteenth century.

It was not until the 1790s that the poor conditions of Swedish prisons gained domestic attention. The Governor-General of Stockholm took on a more critical stance and described the Swedish prisons as cold, unhealthy, damp, and dark. The prisons were generally poorly

²⁰⁶ Howard, *State of Prisons*, 4th ed. 83–84.

²⁰⁷ Feiff, *Fästningsfångar*, 62–63.

²⁰⁸ Coxe, *Account of the Prisons*, 45.

maintained and comprised of small rooms connected to courthouses where prisoners would later stand trial. Concrete moves for prison reform would however not originate in Sweden, influences would instead come from prisons in the United States. In 1798 an article was published in the Minister of State and Officer Georg Adelsparre's journal describing the Walnut Street Jail in Philadelphia. The article was originally written by Danish Major General Ernst Fredrik Waltersdorff who in turn had based his article on the writings of French social reformer François de la Rochefoucauld-Liancourt. The article focused on how prisoners were to be reformed by awakening a sense of remorse over their past way of life and employing them in productive handiwork. What was radically new was that the prisoners were to be confined separately in cells in a purpose-built prison and their diet was to be strict and monotonous to provoke the prisoners into a moral afterthought of their previous sins.²⁰⁹ Swedish prisons in the 1780s and 1790s, on the contrary, were thus largely comprised of prison rooms in already existing structures such as city halls, courthouses, and fortresses. They were damp, unwholesome, and poorly ventilated, and their inadequacy as places of confinement was progressively becoming more obvious.

The Swedish prison reform discourse would thus gain momentum, and in 1799, physician David von Schulzenheim gave a noteworthy speech at the Swedish Academy of Science on the topic. His speech was mainly concerned with morals and medicine but also with the reform of prisoners and poor relief, the speech was later printed for the public in 1801.²¹⁰ He commenced by pragmatically stating that prisons, in reality, were simply places of confinement. In Enlightened Europe, which sought to elevate itself in terms of humanity, the prisons were however marked by unsanitary and vile conditions. Howard, the "excellent humanitarian", he continued, was the one responsible for bringing these conditions to general attention. In the spirit of Howard, von Schulzenheim therefore argued that the conditions in Swedish prisons were virtual death traps for the prisoners. Especially during winter, given that Swedish prisons were generally built in stone and sometimes also subterranean. There was also a significant lack of food and firewood, and the poor clothing provided could not keep the prisoners sufficiently warm. Although not mentioned explicitly, von Schulzenheim undoubtedly refers to fortress prisons. He maintains that prison rooms generally held approximately thirty prisoners and that the air was foul. Furthermore, von Schulzenheim argues that the prisoners were confined wearing irons around their hands and sometimes around their necks, and diseases like scurvy and "prison fevers" took more lives than the executioner in these

²⁰⁹ Nilsson, *En Vålbyggd Maskin*, 105, 108–110.

²¹⁰ Eriksson, *Kriminalvård*, 218–219.

“horrible abodes”.²¹¹ By the late eighteenth century, the conditions in Karlsten fortress prison were virtually identical to this description. Each vault was furnished to hold twenty-eight to thirty-two prisoners, the air was foul, and prisoners wore irons on their hands, ankles, waists, and necks which were connected to a rod bolt by their feet.²¹² But there was light at the end of this miserable tunnel von Schulzenheim maintained; a Royal Decree in 1798 had stated that improvements were now underway. This Royal Decree asserted, among other things, that every Swedish town should have at least two jail rooms and that subterranean dungeons used for the confinement of prisoners were to be abolished.²¹³ Nevertheless, the immediate results of this Decree would be negligible due to strained public funds.²¹⁴ For von Schulzenheim, the American prisons, especially the Walnut Street jail in Philadelphia, which he claimed had perfected Howard’s visions, was the archetype for the modern prison. He continued to also commend this state’s abolishment of the death penalty in all cases except for murder and the repeal of corporal punishment and that labour performed in irons had been discontinued.²¹⁵ Although not mentioned unequivocally, it thus becomes clearer that von Schulzenheim considered the fortress prisons antitheses to modern forms of confinement and punishment in general. The fortress prisoners laboured in irons, corporal punishment was prevalent, and the vaults which confined up to thirty prisoners were constantly criticized as unwholesome.

In the same year as von Schulzenheim gave his speech, Swedish jurist Lars Tengwall wrote a dissertation on prisons and sequestration, the purpose of which was to consider the relationship between personal safety and the sanctity of property rights. He conducted an analysis based on the social contract of property and stated that no man was born evil and that there is no such thing as an incorrigible criminal. But if a criminal was allowed to escape punishment, he would become audacious and commit even worse criminal acts. So, the purpose of prisons, he continued, was to confine the criminal for a shorter time or his entire life if needed, and the only physical punishment inflicted should be the loss of his freedom. The prisoner was also to be put to work and be given a strict and limited diet, but he should not suffer any physical punishments. However, many Swedish prisons, as Tengwall saw it, were unjust and instead aggravated the punishment. These were the old prisons which were situated under churches, courthouses, city halls and the fortress prisons. In these prisons, the harshness

²¹¹ David von Schulzenheim, *Tal om den Offentliga Vården, i Hänseende til Folkets Seder och Helsa, samt de Fattigas Lifbergning*. (Stockholm: Joh. P. Lindh, 1801), 57–58.

²¹² Krantz, *Under Järnkronan*, 121, 127, 132.

²¹³ This Royal Decree referenced by Schulzenheim is also the measure that Wieselgren in 1895 ascribes as the introduction to prison reform in Sweden Wieselgren, *Sveriges Fångelser och Fångvård*, 296–297.

²¹⁴ Nilsson, *En Vålbyggd Maskin*, 106.

²¹⁵ von Schulzenheim *Tal om den Offentliga Vården*, 65–70, 76.

of older times became apparent. It was awful to witness, Tengwall stated, how in older times these institutions had been stripped of all comforts to make the prisoners' life as miserable as possible. He called them "abysses of misery" where the prisoners were sent to labour in irons during the day and then sleep on decaying hay mattresses at night. For an ordered society, this was unacceptable, these prisons ultimately inhibited the prisoner's chances of bettering himself. There is thus a clear correlation between the subterranean dungeon, often referred to simply as city prisons, and the fortress prisons; they both inhibited the reform of prisoners and instead aggravated their punishment.²¹⁶

From the visits of Howard and Coxe, to the early prison reform movement in Sweden, it becomes obvious that prisons such as the fortresses were considered the antithesis to the prisons of the future. They were increasingly being seen as horrendous places of confinement which unjustly augmented the punishment through the horrible conditions of the prison rooms. The start of the Swedish prison reform discourse thus largely hinges on the disdain for the old prisons in general and the fortress prisons in particular. It is however important to keep in mind that the poor conditions of older places of confinement, such as the fortress prisons, were not solely dependent on inadequate administration and poor standards. Following the principles of deterrence, they were also meant to be that way. Condemnation of older forms of confinement thus also meant disapproving of the entire criminal justice system.²¹⁷ Despite heavy criticism during their formation phase in the late eighteenth- and early nineteenth century, the fortress prisons were therefore by no means closer to being abandoned. They were instead reproduced because they were seen as morally legitimate by a majority of actors.²¹⁸ The early Swedish prison reform movement could thus not have any real impact on the fortress prisons; their management and architecture were still consistent with the principles of deterrence. The increasing number of prisoners confined within the vaults of the fortresses during this time would thus instead lock them further in as viable places of confinement.

The Board of Prisons

In 1825, the Board of Prisons and Labour Institutions was founded which brought about the first palpable signs of alteration in the management and architecture of the fortress prisons. Its first chairman was Carl Axel Löwenhielm who had been chairman of the 1820 Prison Committee where he had strongly advocated for the introduction of, what he called, correctional institutions. The Board of Prisons intended to ameliorate and centralize the administration of

²¹⁶ Tengwall, *Tankar om Fängelse å Personer*, 3–9, 14–15, 21–24.

²¹⁷ Nilsson, *En Vålbyggd Maskin*, 120.

²¹⁸ Mahoney, "Path Dependence", 523.

all the prisons and labour institutions to come to terms with the many issues associated with their scattered management. According to Löwenhielm, the divided management made the ambition to rehabilitate and reform prisoners much more difficult. The concern for the moral and social betterment of prisoners was, nevertheless, in his line of reasoning, mostly limited to vagrants who were employed at public work, some of which were confined in the fortress prisons.²¹⁹ However, already in 1826, Löwenhielm resigned because he was dissatisfied with the limited authority given to the Board of Prisons. The fortress prisons, for example, were still chiefly sorted under the Board of War. In the same year of his resignation, Löwenhielm published a work detailing his thoughts on how the correctional system in Sweden ought to develop in the future. His visions for the future were largely patriarchal with a strong emphasis on moral improvement, temperance, and the reform of prisoners through solitary confinement.²²⁰ The antithesis to the correctional institution was, according to Löwenhielm, the fortress prisons:

They are kept in dark vaults where they are packed together without regard for space, they are dressed in rags or naked; clad occasionally in irons which should not be necessary if the prison was built right and properly guarded, they are left idle or perform so-called work on the fortress which is of no value but is rewarded with 1, 2 or 3 sk:r daily beyond the remuneration; they are given no care for their souls, on the contrary, they sink deeper into corruption in their daily company with each other in the most disgusting immorality [...] Sunken into total brutishness they feel only the needs of the animal: sloth and food, and the still twinkling spark of spiritual life that follows their being are only displayed in their degradation in vice and godlessness.²²¹

The solution to the barbaric practices of the fortress prisons was, according to Löwenhielm, the cellular prison. In the cellular prisons, prisoners were only to be given a scarce food allowance, receive no reward for the labour they were forced to perform, and a visiting preacher was to be in regular attendance. At the very least, Löwenhielm maintained, prisoners should be confined above ground and not within “inappropriate” vaults.²²² The accounts given by Löwenhielm were most likely exaggerated to allow him to strengthen his arguments, and to further advocate for the cellular prison. Nevertheless, his opinions are indicative of the perceived archaic characteristics of the fortress prisons which had been expressed by von Schulzenheim and

²¹⁹ Wieselgren, *Sveriges Fängelser och Fångvård*, 352.

²²⁰ Nilsson, *En Vålbyggd Maskin*, 143, 145, 151–152.

²²¹ Carl Axel Löwenhielm, *Tankar om Corrections-Systemet och Fångvården* (Stockholm, Johan Hörberg, 1826) 65–66.

²²² Löwenhielm, *Tankar om Corrections-systemet*, 67.

Tengwall almost three decades earlier. However, for Löwenhielm the overcrowded vaults, and the fact that the fortresses were not built for confinement also played a central part in his argumentation. When prisoners were left to their own devices in improperly guarded and overcrowded prison rooms they would ultimately surrender to the most “disgusting immorality”, which most likely refers to, among other things, homosexual acts. Correspondingly, O’Brien contends that the cellular prison found some of its strongest advocates voicing similar sentiments. Homosexuality, it was argued in the nineteenth-century French prison reform discourse, was furthered by communal sleeping arrangements in prisons, she concludes.²²³ Historical accounts of homosexual acts in Swedish prisons are, as historian Göran Söderström maintains, rare, nevertheless, some have been kept in the records. In 1713, a gardener by the name of Persson Löfling was found guilty of homosexuality while in jail. The case was brought to the court of appeals where Persson Löfling was spared the death sentence and instead sentenced to life in Karlsten fortress prison. The case turned into a court precedent which stated that it was of utmost importance to keep homosexual acts quiet from the general public. Söderström maintains that this created a policy of discretion during the eighteenth century regarding male homosexual acts. The few other known instances of homosexuality in Swedish prisons during the eighteenth- and nineteenth centuries were usually ascribed to prisoners spared from the death penalty for bestiality, several of which took place in Karlsten fortress prison.²²⁴

It is thus difficult to argue, beyond any reasonable doubt, that Löwenhielm argued for cellular prisons by alluding to homosexual acts taking place in the old fortress prisons, at the same time it cannot be ruled out. More importantly, however, is that the antithetical nature of the fortress prisons to modern forms of confinement not only remained but was amplified by the 1820s. The detrimental and corrupting effects of the fortress prisons’ vaults were now increasingly being emphasised. The reason for this was a shift in Swedish criminal justice. Principles of deterrence had gradually given way to the notion that the offender was a morally corrupt individual who needed to be reformed.²²⁵ The vaults of the fortress prisons were not only ill-suited for this purpose but actively functioned contrariwise.

This ideological shift foreshadowed a reorganization of the Board of Prisons in 1826, and an instruction stating that all the prisons in Sweden were to be organized into three different

²²³ O’Brien, *The Promise of Punishment*, 94-95.

²²⁴ Göran Söderström. “Homosex i Fängelset: Några Rättsfall från 1700-Talet”. *Lambda Nordica* 4, no. 3-4, (1998): 67-74. 68. <https://www.lambdanordica.org/index.php/lambdanordica/article/view/75>.

²²⁵ Nilsson, *En Vålbyggd Maskin*, 159-160.

classes. The first class was the county jails, which were to be reserved for prisoners serving shorter sentences. Fortress prisons comprised the second class, and were to be reserved for prisoners serving longer, or life sentences, i.e., the incorrigibles. The third class was the correctional institutions where a greater focus was to be set on the reform of the prisoners. Instructions regarding the fortress prison followed up on previous regulations which had been proposed by the Prison Committee in 1823 and approved by Royal Decree in 1825.²²⁶ This Royal Decree stated that, as the most secure structures available, the fortresses were best suited to hold the most hardened criminals. Nya Älvsborg, Karlsten and Karlskrona fortress prisons were thus designated to hold criminals sentenced for capital offences such as murder, arson, robbery, theft, and forgery. The reason why these fortress prisons were singled out was also because of their alleged geographical and architectural security. The common characteristic was that they were all water-locked on archipelagic islands, a characteristic they did not share with any of the other fortress prisons operating at the time. Karlsten and Karlskrona fortress prisons were also active military structures. In short, what was being emphasised by the designation of these three fortresses was their outward security. To uphold these classifications, the Board of War was also to send in name rolls of all prisoners kept in fortresses so they could be confined according to the new regulations.²²⁷

Gradually, the Board of Prisons also saw their influence over the fortress prisons increase at the expense of the Board of War. In 1830, for example, a Royal Decree gave the Board of Prisons the jurisdiction over the upkeep of the prison vaults and kitchens as long as it did not interfere with fortifications. This was further verified in instructions to the Board of Prisons from the Crown in 1835.²²⁸ Before this, in 1827, the Board of Prisons had carried out extensive inspections of the vaults of Karlsten fortress to produce an estimate of repairs and for an expansion of the prison. The plan was to increase the number of prisoners from 133 to 304 by claiming additional vaults which at the time were being used as guardhouses.²²⁹ By 1835, the number of prisoners thus rose to 178, in 1847 that number had risen to 196, and by 1848 the

²²⁶ Wieselgren, *Sveriges Fängelser och Fångvård*, 364, 368.

²²⁷ "Kongl. Maj:ts Nådiga Bref till Krigs-Collegium angående Classificationen af Fästningarne i Riket. Stockholm den 26 augusti 1825.", *Svensk Författningssamling*, no.17, (Stockholm: Kongl. Tryckeriet, 1825), 282.

²²⁸ Wieselgren, *Sveriges Fängelser och Fångvård*, 408. "Kongl. Maj:ts Nådiga Instruction för Styrelsen öfwer Fängelser och Arbets-Inrättningar i Riket. Stockholm den 7 mars 1835.", *Svensk Författningssamling*, no.19, (Stockholm: Kongl. Tryckeriet, 1835), 1.

²²⁹ Maps and Designs on Marstrand, SÖF – 1969, Kansli- och Kameralbyråerna, 1860–1929, J:1, Kartor och Ritningar, 39.

number of prisoners was 278.²³⁰ Under the influence of the Board of Prisons the fortress prisons thus grew rather exponentially. Their first chairman, Löwenhielm, had condemned the fortress prisons and instead argued for the introduction of correctional institutions, the development however proceeded in the opposite direction. Furthermore, in 1839, the Board of Prisons also obtained authority as superintendents over the commandants in the fortress prisons concerning the custody and discipline of the prisoners. It had thus taken fourteen years from their foundation in 1825 for the Board to extend their authority over almost all prison-related aspects of the fortresses.²³¹

In 1837 Pehr Johan Netzell, a commissioner on the Board of Prisons, relayed testimony of his inspection of prisons and other institutions in southern Sweden. When visiting Nya Älvsborg fortress prison he found that the main complaint from the prisoners was the price of the food they had to buy from the commandant. The fact that the fortress prison was situated on a small island meant that all the food had to be brought by sea from Gothenburg thus increasing its price. Netzell stated that the commandant was aware of the issues with providing the prisoners with reasonably priced food, however, due to the limited space in the fortress and the lack of adequate kitchen facilities, the commandant had found himself incapable of improving on this matter. He argued that he had made the Board of War aware of the situation and requested a superstructure to be built on the guardhouse for these purposes, but to no apparent avail.²³² Likewise, at Karlsten fortress prison, the prisoners complained about the food. When Netzell visited he was presented with a letter signed by a large number of prisoners who all disapproved of the new kitchen facilities which recently had been built. Upon closer inspection, Netzell found that it was mainly the quantity of the food that had led the prisoners to complain. The quality, after having consulted a physician in the fortress, was deemed acceptable, further, Netzell suspected that the complaints did not relate to the food at all, but rather to the recent ban on alcohol for prisoners. Three additional vaults had also recently been refurbished to make room for more prisoners, and the development of further space had been approved by the Crown a year before Netzell's visit. Lastly, he stated that a question important

²³⁰ Pehr Johan Netzell, "Embets-Berättelse Afgifven till Protokollet hos Kongl. Styrelsen öfver Fängelser och Arbets-Inrättningar i Riket d.28 Oktober 1837" *Juridiskt Arkiv, Tionde Bandet, Utgifvet af Carl Schmidt* (Christianstad: Schmidt & Comp: 1839–1840), 72. Prison Rolls and Parish Register, KFFA, Fångrullor och Kyrkoböcker, D:6, 1847–1858, 34, 35.

²³¹ "Kongl. Maj:ts Nådiga Skrifwelse till Krigs-Collegium, med Nådig Föreskrift att Styrelsen öfwer Fängelser och Arbets-Inrättningar i Riket Hädanefter skall äga Öfwerinseendet och Tillsynen å Commendanten på Fästningarne, i Afseende på Fästningsfångars Bewakning samt Ordningens och Disciplinens Handhafwande bland dem m.m. Stockholm den 22 Januari 1839.", *Svensk författningssamling*, no.5, (Stockholm: Kongl. Tryckeriet, 1839) 1.

²³² Netzell, "Embets-berättelse", 70–72.

to himself and the Board of Prisons had been brought up during his visit, namely that of arranging solitary cells for punishing refractory prisoners. The military commander in chief at Karlsten fortress had therefore made provisions for three smaller vaults in the fortress tower to be used for these purposes, two light cells and one dark.²³³ These cells would however be finished a decade later in 1847.²³⁴ Despite their increased influence over the fortress prisons, the Board of Prisons still had great difficulties in architecturally remodelling the fortresses. There is not much that suggests that anything besides the claiming of additional vaults for an increased number of prisoners was accomplished architecture-wise.

Following Netzell's visit, the Board of Prisons produced annual reports detailing prisons and other institutions. Mentions of fortress prisons were scarce and by now almost exclusively negative. The 1847 report, for example, gave an account of two severe incidents in the fortress prisons. Both episodes involved prisoners serving life sentences who had killed other prisoners serving life sentences in Karlsten and Karlskrona fortress prisons respectively. The incident in Karlsten fortress prison involved former public work prisoner Swen Andersson who had fatally stabbed fellow inmate Håkan Pehrsson. Before being sentenced to Karlsten, Andersson was imprisoned in Nya Älvsborg for three years where he worked as a cobbler and was deemed by the commandant as having behaved very well.²³⁵ Why he then was transferred to Karlsten fortress prison was not stated in any of the records. Lack of work at Nya Älvsborg fortress prison is probably the most plausible explanation, in later years this prison had become almost exclusively reserved for old and infirm prisoners serving life sentences.²³⁶ After only six months in Karlsten fortress prison, Andersson started a long series of infractions. He spent a total of twelve days in solitary confinement for drunkenness and rudeness towards the commandant before the fatal stabbing. In another peculiar incident, Andersson, by his request, was downgraded from the sixth class of prisoners, i.e., the most well-behaved, to the third class, and for this, he was sentenced to be clad in irons for fourteen days. Exactly why he did this is difficult to ascertain but one explanation could be that he was dissatisfied with vault mates and sought to be moved to another vault. Nevertheless, the fatal stabbing was later deemed manslaughter, and for this, Andersson was sentenced to twenty-eight days of solitary confinement on bread and water. After serving his punishments, Andersson was finally transferred to Långholmen prison in Stockholm, he had been in Karlsten for only three years

²³³ Netzell, "Embets-Berättelse", 72–75.

²³⁴ Krantz, *Under Järnkronan*, 222.

²³⁵ Annual Report to the Board of Prisons, 1847, SÖF, Styrelsens Årsberättelser, B III a:1, 1847, 34–35.

²³⁶ Feiff, *Fästningsfångar*, 72–73.

and one month in total.²³⁷ In subsequent annual reports from the Board of Prisons, Karlsten fortress prison was constantly where the most severe infractions took place. In 1848 for example, two incidents were reported, this time there were two separate mutinies where prisoners from several of the vaults had resorted to violence, acted threateningly, ignored the instructions of the guards, and refused to perform their work. As punishment, the mutineers were all locked in their respective vaults, the first time for three weeks, and for an entire month the second time. The Board of Prisons was very concerned with these infractions and considered the actions taken by the commandant at Karlsten fortress prison insufficient, for this reason, they found it necessary to send a letter ordering the food rations to be reduced for all prisoners who refused to work.²³⁸

In the following year, there were no severe or major infractions committed at any of the fortress prisons.²³⁹ However, by 1850, the relative peace was broken, and Karlsten fortress prison was once again the scene of this year's most severe infraction. This time the prison director was attacked with a shovel by prisoner John Olof Wahlgren who at the time was occupied with fortification work. Born in 1818 in Stockholm, Wahlgren had served as a soldier in the Svea Life Guards regiment but three years before the attack on the director, he committed robbery and was sentenced to forty lashes and life in Karlsten fortress prison. Two months before the attack, Wahlgren was sentenced to fourteen days in solitary confinement for insubordination and for cursing at an officer.²⁴⁰ From the attack, the prison director sustained only minor injuries to his legs and was put out of commission for only a few days. Wahlgren stated that the reason for the attack was that he assumed that the prison director was the one responsible for the new and inferior bread given to prisoners.²⁴¹ The Board of Prisons grew increasingly concerned over the state of the fortress prisons and sent a letter to the commandant at Karlsten fortress stating again that prisoners who refused to work should be given a decreased amount of food. Wahlgren was mentioned by name in this letter as being locked up in a cell and given only water and half of the bread rations as punishment for the attack on the director. After twenty-eight days in solitary confinement, Wahlgren was sent to Varberg penal prison to be put in one of the new cells recently built there until further notice.²⁴² The Board of Prisons

²³⁷ Prison Rolls and Parish Register, KFFA, Fångrullor och Kyrkoböcker, D:3, 1842–1849, 234.

Swen Andersson, Prison Rolls, NFA, Stamrullor, DIII a:1, 1839–1848, 231.

²³⁸ Annual Report to the Board of Prisons, 1848, SÖF, Styrelsens Årsberättelser, B III a:1, 1848, 33.

²³⁹ Annual Report to the Board of Prisons, 1849, SÖF, Styrelsens Årsberättelser, B III a:1, 1849, 32.

²⁴⁰ Prison Rolls and Parish Register, KFFA, Fångrullor och Kyrkoböcker, D:7, 1848–1858, 92.

²⁴¹ Annual Report to the Board of Prisons, 1850, SÖF, Styrelsens Årsberättelser, B III a:1 1850, 27.

²⁴² John Olof Wahlgren, 30 Aug, 1850, KFFA, Documents Received, Inkomna Handlingar, E I:3, 1845–1859. Wiking-Faria, *Varbergs fästning*, 200, 209–211.

once again considered the punishments of prisoners who attacked guards or other personnel at the fortresses too lenient and therefore urged the Crown to consider harsher punishments for these types of infractions.²⁴³

In 1851 there were four more attacks on prison personnel in Karlsten fortress prison. On four separate occasions, prisoners attacked the director, the custodian, the fortifications commander, and a non-commissioned officer. But it was not only the guards who were victims of violence this year, a prisoner was also pushed off a high fortress wall by another prisoner resulting in severe injuries. All five violent prisoners were sentenced to solitary confinement in dark cells with decreased food rations. The Board of prisons was concerned about the violence and its development but pleased with the punishments. They maintained that solitary confinement in a dark cell was the most effective punishment to curb violent tempers in the fortress prisons.²⁴⁴ From a total of 3000 inmates in the fortresses and penal prisons in 1851, almost one out of ten had committed some kind of infraction over the past three years, which, the Board of Prisons considered an acceptable result. The results themselves were ascribed to effective discipline; however, the fortress prisons exhibited far more infractions than the newly built penal prisons due to the overall layout of these prisons. The fortresses were described as more difficult to supervise than the well-ordered penal prisons. The inner surveillance of the fortress prisons was thus constantly plagued with difficulties, and the Board of Prisons feared that many infractions were passing by unnoticed.²⁴⁵ The fortress prisons were also growing overcrowded as a result of an increased number of criminals being sentenced to life. The Board of Prisons thus designated that the former fortress in Varberg was to be reconstructed into a penal prison. Rather than locking up prisoners in fortress vaults, the penal prison at Varberg was furnished with 30 cells, a house for especially violent prisoners serving life, five workrooms, five dormitories for the prisoners, a chapel, a hospital, and a kitchen.²⁴⁶ From their early inspections of Varberg penal prison, the Board of Prisons were finally hopeful for the future.²⁴⁷ A new era in Swedish prison history was thus rapidly approaching as penal prisons came to be preferred over the less ordered and more difficult-to-supervise fortress prisons. The numerous infractions and the difficulties in remodelling the fortress prisons had finally reached a breaking point. The notion that the fortresses were the most secure prisons, which had been

²⁴³ Annual Report, 1850, 27.

²⁴⁴ Annual Report to the Board of Prisons, 1851, SÖF, Styrelsens Årsberättelser, B III a:1, 1851, 40.

²⁴⁵ Annual Report, 1848, 35.

²⁴⁶ Construction of Varberg Penal Prison, Records of Varberg Penal Prison, Varbergs Straffängelses Arkiv, Övriga Inkomna Handlingar, E III: 1, 1845–1862. Melin, "Den Stora Fängelseepoken", in *Varbergs Fästning*, Wiking-Faria (ed.), 199–206.

²⁴⁷ Annual Report, 1847, 41.

the foundation for the Royal Decree in 1825, had finally been shattered. The outer security of the secluded, heavily guarded, and water-locked fortresses could thus no longer be relied upon as a place of confinement for the most hardened criminals in Sweden. The Board of Prisons instead grew confident in the idea of solitary confinement, and in prisons purposely built for effective inner surveillance instead of large prison vaults in difficultly supervised fortresses. This shift, from a focus on outer security toward the inward security of prisons, would finally disrupt the path and by the 1850s the fortresses were being gradually phased out.

A Disgrace to the Nation

In 1800, a petition was sent to the Home Secretary William Cavendish-Bentinck, Duke of Portland, by the convicts on board the *Lion* prison hulk in Portsmouth Harbour. The convicts urged that some “humane gentleman” would come on board their prison hulk and scrutinize their poor living conditions. In the petition, the convicts painted a grim picture of their situation which they described as nothing short of barbaric; their beds were made of straw, the meat was “mephitic”, and for breakfast, they were given only half a pint of barley water which ultimately meant that many convicts were: “...starving alive.”²⁴⁸ But lack of a viable diet and lodging was not the only purpose of the petition, the convicts also received horrible treatment from the guards and officers on board the prison hulk. On several occasions, the guards and officers were said to refer to the convicts as “...the most notorious set that ever was born.”, and the convicts stated that they were treated accordingly. Guards and officers were also deliberately labelling almost all the prisoners as being of the worst of character to prevent them from transforming their sentences to enlistment as soldiers in the Navy or the Army. The convicts insisted that it was financially beneficial, under the current contract, to keep them on board the prison hulks and not discharge them into military service. There also seems to have been a lot of gratuitous violence doled out by the guards and officers to convicts who asserted that they were being beaten: “...so unmerciful that our flesh at time is in a congeal...”²⁴⁹

The alleged horrible conditions on board the *Lion* prison hulk in Portsmouth Harbour forced the Home Office to launch an investigation which resulted in a comprehensive report of the treatment of the convicts written by the mayor of Portsmouth, William Goldson. Following what the convicts had stated in their petition, Goldson’s report recounted that the violent manner in which the convicts were treated was indeed merciless and for the most part arbitrary. Some convicts, however, received more lenient treatment than others by the guards and officers, and

²⁴⁸ Petition to the Home Secretary, 1800, TNA HO 42/55/117, f 407.

²⁴⁹ Petition to the Home Secretary, f 408.

some, evidently, even received assistance in escaping. On the 28th of February 1798, four convicts escaped from an unnamed prison hulk in Portsmouth, or nearby Langstone Harbour concealed in a small fishing boat. The organizer behind the escape, a convict named Grossmith, native to the town of Portsea sentenced to transportation for theft had, according to the report, an “improper connection” with some of the officers. Perhaps the officers on guard also lived in Portsea or Portsmouth and had known Grossmith before the escape, the report did however not disclose this. His accomplice was a convict named Hall, before being sentenced to the prison hulk he had worked alongside Grossmith in Portsea. The other two escapees were convicts Swinbank and Lovett. Lovett was arrested again seven weeks after the escape and brought back to the prison hulk; however, he received no punishment, on the contrary, he was treated exceptionally leniently, as stated by other convicts, and he even managed to escape again. What happened to the other three convicts is somewhat obscure, Grossmith had been seen in Portsea after the escape and Hall had been seen at his home, as indicated by his neighbour, but for some reason, no search was initiated.²⁵⁰

This was contrary to how Duncan Campbell, overseer of the prison hulks, had advised his Captains in the 1780s. In a letter dated the 1st of August 1786, for example, Campbell commended Captain Hill of the prison hulk the *La Fortunée* in Langston Harbour for his proper placement of guards on deck and further stated that escape from the prison hulk would only be possible by the wilful neglect of the officers and guards. In another letter dated the 31st of August the same year, Hill was once again commended by Campbell, this time for the “example” he had made of a convict who had escaped but later been captured and brought back to the *La Fortunée*. Additionally, Campbell maintained that once a convict had managed to escape, there should be no mention of this in the newspapers, instead, a circular was to be sent out in the neighbourhood with an expressed reward for the capture of any escaped convicts.²⁵¹ All of these measures and procedures to prevent escapes and to deal with escaped convicts seem to have been put out of order in the case of the escape in 1798. Further, guards and officers were again suspected of having been accomplices in another escape in November 1798. This time, five convicts made their escape on a misty day using a smaller boat attached to a once again unspecified prison hulk in Portsmouth, or Langstone Harbour.²⁵² Abuses from guards and officers would be a constant problem facing the management of the prison hulks. They accepted

²⁵⁰ Report of an Investigation, 1800, TNA HO 42/50/113, f 281-282.

²⁵¹ Two Letters to Captain Hill, 1 Aug & 31 Aug 1786, DCP, Series 1, Business Letter Books, 2 Mar. 1772 - 31 Dec. 1794, Vol 5, Letter book E, 1, <https://collection.sl.nsw.gov.au/record/nX6OzoEY>.

²⁵² Report of an Investigation, f 283.

bribes, practised no impartiality, stole from convicts, and were often drunk but always ready to demonstrate their power through excessive violence.²⁵³

The overall condition of the *Lion* prison hulk received little to no remark in Goldson's report, it was instead the relationship between the convicts and the guards, officers, and overseers that gained the most attention. The chief's mate on board the *Lion*, Mr Rider, was also accused by the convicts of stealing the profits they had made from working in their leisure time or from selling various articles to other convicts on board the prison hulk. Goldson did however concede that the practice of working in leisure time was a privilege which did not correspond to the punishment of the convicts' sentences, further, the money earned could be used to bribe the guards, he warned.²⁵⁴ One of the principal complaints from the convicts in their petition had been their want for an improved diet. But it was not only the convicts on board the *Lion* prison hulk that had complained about the food. Convicts on board the *La Fortunée* in Langstone Harbour had also expressed concerns regarding the poor quality, and low quantity of the food to the commanding engineer when they were working ashore at nearby Fort Cumberland. The captain of the *La Fortunée* had allegedly heard about this and responded by stating that if the convicts ever complained again, he would punish them severely, however, this did not discourage the convicts. Once again in the presence of the commanding engineer, convicts further complained that they received none of the produce they had cultivated in the garden which had been allotted to them for this very purpose. Goldson called this a gross abuse and stated that this had led to a steep increase in the number of sick convicts.²⁵⁵ Goldson further expressed some remarks based on his observations of the prison hulk system in Portsmouth, and Langstone Harbours in general. The most overarching of which concerned the separation of hardened criminals from lesser criminals, regarding the treatment of convicts he declared that:

I am certainly fully aware that it is impossible for Government for some length of time entirely to remedy it, as it cannot be done until some mode of confinement can be adopted that will admit of compleat separation. But your Grace will perceive from some of the Evidence, that vices of the most enormous nature are almost tolerated, as no inquiry is made or any punishment ensues.²⁵⁶

²⁵³ Branch Johnson, *The English Prison Hulks*, 90-91.

²⁵⁴ Report of an Investigation, f 285.

²⁵⁵ Report of an Investigation, f 286.

²⁵⁶ Report of an Investigation, f 287.

Although Goldson's report was mainly concerned with the management of the prison hulks, he thus expressed faint apprehensions regarding their overall architecture. It is nevertheless difficult to ascertain what vices he had in mind when he opted for further separation of the prison hulks. Issues regarding the intermixing of convicts below decks were at this stage only of slight concern. Goldson instead continued and stated that no system for inquiring into the abuses of the prison hulks had been in place for over three years. On the occasions that abuses had been found, they had been reported to the local magistrates and courts who lacked any jurisdiction to launch inspections. The report, therefore, was concluded by Goldson proposing that a permanent inspector should be in place at the prison hulk establishment in Portsmouth, and Langstone Harbours. The proposed inspector should be appointed by the government and independent of Campbell's contractor who appointed the guards and officers. The Home Office appears to have heeded Goldson's request, and by late January 1801, a young magistrate named Aaron Graham set out to inspect the prison hulks in Portsmouth, and Langstone Harbours.²⁵⁷

Previously, in 1797, Graham had been appointed by parliament to investigate home port mutinies on board Royal Navy vessels. This task had given him some local knowledge as he had been a part of the successful quelling of a mutiny in the anchorage in the Solent, known as the Spithead, situated between Portsmouth and the Isle of Wight.²⁵⁸ In 1800, in private correspondence to the Under-Secretary of State at the Home Office, John King, Graham stated that he had planned to make an unannounced inspection of the prison hulks in Portsmouth, and Langstone Harbours. The purpose of the spontaneousness of the inspection was that he feared that the captains and contractors might want to set things in order, and by extension, deceive him of the actual conditions on board the prison hulks.²⁵⁹ Graham's official report after his unannounced visit was however rather meagre, he expressed some concerns regarding the transfer of some "debilitated" convicts from the *Lion*, which was to be broken up, to the new prison hulk, the *Laurel*. Lessons had been learned from the food rationing on board the *Lion* as Graham stated that the *Laurel* now would rectify some of the previous abuses suffered by the convicts. Graham proposed, for example, that two or three convicts every day were to see their meat weighed to ensure that they received their full allowance, further, there were to be serious punishments for the contractor if the convicts were deprived of any of their allotted food.²⁶⁰ Although the tone in Graham's report was somewhat casual, this changed rather dramatically

²⁵⁷ Report of an Investigation, f 288.

²⁵⁸ Campbell, *The Intolerable Hulks*, 77-78.

²⁵⁹ Letter from Aaron Graham, 27 Jan 1801, TNA HO 42/61/32, f 97-98.

²⁶⁰ Letter from Aaron Graham, 17 Feb 1801, TNA HO 42/61/49, f 156-157.

in an unofficial letter, marked private, once again to John King. In plain writing regarding the prison hulks in Portsmouth, and Langstone Harbours, Graham stated that he was afraid that the: "... present mode of conducting business is disgraceful to the nation." And that although he had: "...many reasons to believe that the Contractor is an honourable man but were he an angel it would not be in his power to prevent those iniquitous practices which I have the strongest proof must have existed for several years past."²⁶¹ Graham thus secretly verified that the prison hulks were indeed horrible places of confinement mainly due to poor management and not necessarily for architectural reasons.

The Blackhole

Despite Graham's concerns about the management of the prison hulks, not much would change in the immediate future. Additionally, the impetus for managerial and architectural change would not stem from the conditions on board the *Lion*, but from the conditions on board the prison hulk the *La Fortunée* in Langstone Harbour. When this prison hulk was originally fitted out in 1785, most of the attention was put on ventilation through secure portholes and as little separation on the decks as possible to ensure airiness. In a letter to Captain Hill of the *La Fortunée*, Campbell had encouraged cleanliness, dryness, and firmness in the handling of the convicts. Convicts were also to be regularly brought up on the deck for fresh air and their sleeping quarters were to be situated in the lower decks of the prison hulk. There was some rudimentary partitioning in the sleeping quarters, but nothing similar to cells or smaller partitioned prison rooms.²⁶² This concern with fresh air for the convicts on board the prison hulks was most likely an effect of the inspections and recommendations of Howard, who as asserted earlier, was concerned with gaol fever and the cramped prison rooms of the local prisons and jails. Nevertheless, John Grant, a convict who was granted a reprieve from the death penalty and sentenced to transportation to Australia in 1803, detailed his confinement in the Woolwich prison hulks in his diary. Before he was sent to the prison hulks, he spent some time in Newgate prison, he described the change of scenery as follows: "If Newgate was detestable, this new place of abode was infinitely worse, with the same overcrowding but without the adequate protection from the weather which Newgate for all its horrors, was well equipped." Further, he longed for the fresh sea breeze of transportation as opposed to the "fetid air" on board the prison hulks.²⁶³ The quality of air on board most prison hulks were thus most likely

²⁶¹ Letter from Aaron Graham, 14 Feb 1801, TNA HO 42/61/45, f 135–140.

²⁶² Two Letter to Captain Hill, 15 Nov 1785 & 20 Feb 1786, DCP, Series 1, Vol. 5.

²⁶³ W.S Hill-Reid, *John Grant's Journey: A Convict's Story 1803-1811*, (London: William Heinemann Ltd, 1957), 24, 27.

hardly better than during Howard's inspections in the 1770s and 1780s, however, other challenges were also on the horizon for Campbell.

In February 1802 a letter was presented to Lord Pelham, who in the same year had replaced the Duke of Portland as Home Secretary. The letter was written by the keeper of the Bodmin prison, Sir James Chapple, who over the years had sent several of his prisoners to the prison hulks in Portsmouth, and Langstone Harbours. While visiting these prison hulks in early 1802, Chapple had inquired as to the health of ten of his former prisoners whom he had sent there two years earlier. He was met with the ominous information that six had already died and that the remaining four were in poor health. Chapple thus further inquired other convicts on board the prison hulks as to what the principal cause of death was, the answer given was simply, want of food. Had the high death rate on board the prison hulks been the result of sickness, Chapple argued, then the guards and officers on board would surely be affected as well, however, they all appeared to be in perfect health. Chapple then continued to state in his letter that he on multiple occasions had reported to the Home Office on the high death rates on board the prison hulks in Portsmouth, and Langstone Harbours, but to no avail. He therefore suggested a new unannounced inspection of the prison hulks without the watchful eye of the guards and officers on board. Chapple concluded his letter by stating: "The late worthy Mr Howard was deceived when he visited: the overseers &c. being present, the convicts afraid to complain." After having read the letter, Lord Pelham sent orders to furnish prison reformer James Neild and politician Sir Henry St. John Mildmay, to inspect the prison hulks in Portsmouth, and Langstone Harbours. Contrary to the wishes of Chapple, their visit had been anticipated which prompted Neild to commence his report by stating that his accounts cannot in all respects be considered as conclusive as he had wished, nevertheless, the report was published by late 1802.²⁶⁴

First, Neild and Mildmay inspected the *Captivity* prison hulk which before its use as a convict prison hulk had housed prisoners of war. The *Captivity* was at this time the largest of the prison hulks in England and usually confined around 450 convicts, by 1802 it was anchored on the Gosport side of Portsmouth Harbour.²⁶⁵ The inspectors found that all possible precautions to ensure cleanliness and ventilation had been adhered to, at least to the degree that could be expected for such a relatively small place of confinement with so many convicts. A chapel, capable of housing all convicts had recently been constructed, however, as the

²⁶⁴ James Neild, *An Account of the Rise, Progress, and Present State, of the Society for the Discharge and Relief of Persons Imprisoned Throughout England and Wales*. (London: John Nichols and Son, 1802). 307, 321-322.

²⁶⁵ Campbell, *The Intolerable Hulks*, 78-79, 235.

inspectors noted, no chaplain had yet been appointed. The inspectors found no real reasons for complaint on board the *Laurel* prison hulk in Portsmouth Harbour either. Overall, the inspectors concluded that the prison hulks moored around Portsmouth Harbour were highly favourable given the difficult task of confining convicts on decommissioned ships. The captain of the *Captivity*, Thomas Thompson, was further described as a person of great humanity, he was also praised for the lower death rates at his station than the prison hulks in Langstone Harbour, which was where the inspectors headed next.²⁶⁶

Neild and Mildmay had been made aware by both convicts and “respectable and undoubted authorities” that their visit was anticipated and that the prison hulk the *La Fortunée* had been prepared for their inspection. Nonetheless, they found it in such a deplorable and dilapidated state that they questioned if it ever could be rendered effective for its purposes again. The timber on the quarterdeck was decayed to such a degree that water seeped through and passed right down to the hospital ward below. Furthermore, because of a lack of accommodations, convicts in all stages of infectious diseases were mixed in this hospital ward. The captain of the prison hulk also informed the inspectors that the quarterdeck could break down completely at any time should it be put under severe pressure. Moreover, the prison hulk had no chapel, which meant that divine service had to be performed on said quarterdeck. This meant that only a small number of convicts could attend every Sunday, the captain was also noted as never having attended divine service on board. The boarding on the prison hulk was thus out of repair, and the inspectors claimed that this made it impossible to observe the cleanliness which was required to keep the convicts in good health. The straw sacking of the convicts’ beds was changed only two, to three times a year which meant that the straw was more often than not reduced to vermin-filled powder.²⁶⁷

The quantity of food was the same as that of the *Captivity*, however, concerning the quality, it was far inferior. The meat served to the convicts was described as being of the “...coarsest and worst quality, and so extremely thin, that, although the allowance to each individual is professedly one pound of meat, it amounts scarcely, when served out to more than half a pound, in consequence of the weight of the bone.” The cheese was even worse, and the inspectors found it necessary to have a sample of it sent to London for inspection at the Secretary of State’s office. It is however likely that this does not represent what each convict received. Historian Pieter Spierenburg has explored how wealthy prisoners in mid-eighteenth-century Holland could pay for a different menu altogether and that additional food could be

²⁶⁶ Neild, *An Account*, 308, 310.

²⁶⁷ Neild, *An Account*, 313.

brought in by relatives and friends.²⁶⁸ Given the reports of bribes in the petition from the convicts on board the *Captivity* to Goldson, this might very well have been the case on board the *La Fortunée* as well.

Because of the general deplorable circumstances on board the *La Fortunée*, the inspectors also found it necessary to inquire into the health of the convicts and the death rate. The results were staggering, in 1797, when the number of convicts on board the prison hulks was the greatest, only nine out of 330 convicts had died, but in 1801, this number had increased to 120. When the inspection was conducted, on March 16th, 1802, the death rate had already reached 34, even though the convicts in worst health had already been removed to the *Laurel* in Portsmouth Harbour. The most common cause of death was dysentery brought on by fever and diarrhoea.²⁶⁹ The inspectors concluded that overcrowding, poor sanitary conditions, neglect in the medical department, and a substandard diet were the main reasons for the diseases and the high death rate. Overall, the complaints made by the inspectors concerned the original contract to which the *La Fortunée* still operated as the root of many of the problems. The fact that the contractor could choose his captain, surgeon, and other officers for the prison hulks meant that, to keep their employment, the crew tended to not complain. By extension, this also meant that complaints made by convicts were silenced to not raise concerns.²⁷⁰

The report had drawn much attention to the prison hulks at Portsmouth Harbour in general, and Langstone Harbour in particular. Enlightenment philosopher Jeremy Bentham contributed by entrenching the already negative perceptions of the prison hulk establishments. He was especially disapproving of Home Secretary Lord Pelham on whom he put the brunt of the blame for the horrendous conditions on board the prison hulks. In poorly disguised sarcasm, Bentham delivered some striking comments aimed at the Home Secretary: "... what a troublesome man this Sir Henry! What a troublesome man this Mr. Neild! Why could not they have kept quiet!" Furthermore, the prison hulks were labelled by Bentham overcrowded receptacles for convicts who would be better off in a penitentiary house. The prison hulks, he continued, had only been deemed viable by individuals without a sense of either humanity or justice. Neild, on the other hand, was praised as surpassing Howard in terms of compassion

²⁶⁸ Spierenburg, *The Prison Experience*, 178-180.

²⁶⁹ Neild, *An Account*, 314-316 The death rate on board *La Fortunée* was known to Graham before Neild and Mildmay's report. In a letter from December 11th, 1801, Graham stated that: "...sending them on board *La Fortunée* is actually to send one-fourth of them out of the world. Wicked and abandoned as the poor wretches may be I feel for their situation and the idea of merely shifting them from one small ship into another afford but a miserable prospect of bettering their condition.", Letter from Aaron Graham, 11 Dec 1801, TNA HO 42/62 f 590-592.

²⁷⁰ Neild, *An Account*, 317-318

towards the convicts. The reasons for the poor state of the prison hulks, in Bentham's reasoning, were their mere existence and their continued use even though they were set out to be only temporary. The neglect shown to those who wanted to see the prison hulk system abandoned, himself included, was inexcusable. Campbell, Graham, the contractors, captains, and officers had done nothing to bring about an end to the prison hulks, instead, they had worked to further their development, and this was of course also inexcusable.²⁷¹ This was perhaps an appropriate remonstrance, but by 1802, the prison hulks had already been firmly locked in as places of confinement; the horrible conditions on board the *La Fortunée* alone could hardly disrupt the path. Concluding his critique of the prison hulks, Bentham labelled the prison hulk *La Fortunée* a black hole because of its exceedingly high death rate. This was Lord Pelham's prison hulk, he continued, it was a place of confinement easy to enter but almost impossible to leave alive. Much of Bentham's critique, however valid it might have been, should be considered an advocacy of his invention, the Panopticon prison. This becomes more obvious when Bentham cites a letter from a convict on board the *Captivity*. The convict, Samuel Hadfield, was convicted in 1801 for petty larceny and sentenced to seven years of transportation. The letter attested to the grim circumstances on board the prison hulk, describing the overcrowded lower decks, the poor food, and the robberies committed against convicts by either guards or fellow convicts. Bentham thus asked himself rhetorically if these conditions were to be conceivable in his proposed Panopticon prison, and the heavily implied answer was of course no.²⁷²

On the 25th of March 1802, Graham was officially appointed Inspector of the prison hulks and thus effectively replaced Duncan Campbell, who had been the overseer of the prison hulks. Campbell had not resigned, but his contract was not renewed in 1802, and he died the following year.²⁷³ It is difficult to verify if Campbell's contract was not renewed because of the negative attention drawn to his management, and the horrible accounts that were continuously coming from the prison hulks in Portsmouth, and Langstone Harbours. Nevertheless, the timing certainly seems to point in that direction. Under Campbell's system, the contractors had great influence over everything from the appointment of guards and officers to the clothing of the prisoners, they also provided the vessels which were refurbished into prison hulks. However, with the appointment of Graham as inspector, the government stepped in and took over most of

²⁷¹ Tim Causer & Philip Schofield. *Panopticon Versus New South Wales and other Writings on Australia*. (London: UCL Press, 2022), 62, 275, 286, 290, 294-295.

²⁷² Causer & Schofield, *Panopticon Versus New South Wales*, 299-301, 308. John Hirst, "The Australian Experience: The Convict Colony" in *The Oxford history of the prison*, ed. Norval Morris, & David J Rothman, (Oxford: Oxford University Press, 1995) 245.

²⁷³ Campbell, *The Intolerable Hulks*, 77.

these matters. The contractors' duties were now limited to providing the articles used on board the prison hulks.²⁷⁴ As inspector of the prison hulks, Graham was further to inspect the prison hulks at least once quarterly and report on the behaviour of the officers and guards, the treatment and condition of the convicts, and the expenses and earnings of the prison hulk system as a whole.²⁷⁵ Soon after the appointment, Graham also began to initiate remodelling of the prison hulks themselves. This meant the implementation of additional separations to prevent communication between the different levels of the prison hulks, the substitution of bedsteads in favour of hammocks, and the construction of a chapel on board all prison hulks. Divisions of the lower decks had nevertheless already been attempted on board the *Dunkirk* prison hulk in Plymouth in the 1780s. The convicts were divided into seven compartments based on a class system; however, the results were inconsistent. Convicts were also allowed to move between the decks on board the *Dunkirk* while Graham's division of the decks was instead complete and absolute.²⁷⁶ The first two prison hulks fitted up according to the new regulations were the *Captivity* in Portsmouth Harbour and then later the *Portland* in Langstone Harbour, the system was deemed beneficial and was thus extended to the prison hulks in Woolwich in 1804.²⁷⁷ While not a radical change, but rather a small-scale adaptation to existing space, this served as an influential feedback effect for the prison hulk system. The system was evidently not in any real danger of being abandoned because of the horrible accounts from Portsmouth and Langstone Harbours. Quite the opposite, the reports resulted in increased government influence and further efforts to improve the system rather than abandoning it. There were thus no signs of the system losing its momentum, at this stage, it could only expand.

Neild would return to the prison hulks in Portsmouth, and Langstone Harbours on the 18th of September 1807, this time he performed his inspection alone. He found the *Captivity* and *Laurel* in good order with proper ventilation and appropriate attention taken to the overall cleanliness of the prison hulks.²⁷⁸ The *La Fortunée* had been broken up a year after Neild's first visit and in its place was now the *Portland*. Neild visited this prison hulk at dinner hour and therefore had the opportunity to examine the food provided to the convicts. The convicts still

²⁷⁴ Holford Committee, HOCP, vol. 3, 27 Jun 1812, Select Committee on Expediency of erecting Penitentiary-Houses, and State of Punishment in Hulks, Third Report, 137.

²⁷⁵ Campbell, *The Intolerable Hulks*, 78. UK Parliament, Hansard, Commons 22 June 1815, Commons Chamber, Confinement of Offenders in The Hulks.

²⁷⁶ Branch Johnson, *The English*, 30, 37.

²⁷⁷ HOCP, 1812 Holford Committee, 135.

²⁷⁸ James, Neild. *State of the Prisons in England, Scotland, and Wales: Extending to Various Places therein Assigned, not for the Debtor Only, but for Felons also, and other less Criminal Offenders. Together with some useful Documents, Observations, and Remarks, Adapted to Explain and Improve the Condition of Prisoners in General.* (London: John Nichols and Son 1812), 627-629.

complained about the quality of the food and, according to Neild, not without cause, the beef was still lean, coarse, and full of bones. Almost an acre of land had been allotted to the convicts for growing vegetables, however, the soil was of such poor quality that a sufficient supply of produce could not be yielded.²⁷⁹ Conditions in Langstone Harbour were thus still dire, nevertheless, Neild's 1807 report conveyed that things were improving from the devastating 1802 report. No outrage ensued from Neild's second report and the prison hulks could thus further consolidate their role as viable places of confinement.

During the parliamentary year 1810-1811, a committee appointed by the House of Commons and chaired by Barrister and Tory politician George Peter Holford convened. The purpose of the committee was to investigate the expediency of penitentiary houses and look into the state of the prison hulks. The first two reports provided little information on the prison hulks but instead rather lengthily discussed Bentham's Panopticon and the penitentiary. It was the third report that delved deeper into the state of the prison hulks. In this report, the committee conceded that the prison hulks were still operating under horrible conditions, but they saw no real reason to discontinue the system. On the contrary, the committee found it practicable to revise the system and, rather naively, simply remove the evils associated with it. After all, the prison hulks also had advantages they further argued. Prison hulks were relatively cost-effective, as opposed to the proposed penitentiaries; they were also mobile which meant that they could be moved to another port, should the need present itself. At this point, the prison hulks were thus firmly locked in the penal repertoire. The regulations implemented by Graham in 1802 were also discussed in some detail. In the evenings, the convicts were all locked in on their respective deck through an intricate system of hatches which were opened again in the morning. During the night, convicts were left to themselves, and no officer or guard ever ventured down after the hatches were closed without: "...risk of personal injury." When the hatches were closed, the committee reported that gambling and even hammering out of forged currency took place. There were nevertheless no complaints from the convicts of violence, although the Captain of the *Portland* admitted that signs of abuse were visible on some of the convicts. The committee speculated that this most likely attested to the fact that the convicts were afraid of repercussions from their fellow convicts if they were to complain to the guards. There was however one issue which the report described in unusually oblique and vague terms; this issue regarded rumours of what was referred to as: "...the more atrocious vice". This vice was said to be: "...held in as much abhorrence on board the Hulks as in other places, and any

²⁷⁹ Neild, *State of the Prisons*, 630-631.

person suspected of having been addicted to it has invariably been met with ill-usage from the rest of the prisoners.”²⁸⁰

The subject was not developed in any further detail, but the committee was most likely referring to homosexual acts. Historian Patricia O’Brien argues that there were widespread indications that homosexuality was commonly practised in nineteenth-century French prisons as discussed earlier concerning the fortress prisons. However, observers and inspectors tended to downplay them, or they simply refused to talk about it. Homosexual acts were also considered a serious problem because of their perceived contagion.²⁸¹ Similarly, historian Pieter Spierenburg maintains that early-modern sources contain surprisingly few references to homosexuality within prisons. Dutch magistrates therefore assigned prisoners found guilty of sodomy to separate rooms to prevent what they conceived as a possible infection of other prisoners.²⁸² Coercive homosexual acts were rife also within the British penal system during the nineteenth century and authorities frequently took steps, such as increased surveillance and corporal punishment, to prevent it. Convict John Ward, for example, remembered in his diary such a “depraved act” being performed by a convict called Greenball on the *York* prison hulk in the 1840s.²⁸³

Violence against convicts and those accused of the “atrocious vice”, as well as gambling and forgery, attests that when the hatches were closed at night, a separate regime was prevailing. To solve these problems, which the committee considered of utmost importance, they proposed a system which would allow the convicts to be under constant observation and divided into multiple classes. This class system was to be based on the convict's demeanour and required the keepers of the local jails and prisons to send detailed descriptions of each convict.²⁸⁴ All prison hulks were also to be retrofitted, the lower decks were to have nine cells on each side divided by a corridor which would allow the guards and officers to patrol the deck at any hour of the day. The mid-level decks were to be similarly constructed, but with a chapel and a room for the ship's company. The upper deck was analogous to the mid-level but left a space for the chapel's gallery as well as a few storerooms, the surgeons, and the chaplain's quarters. In essence, the committee proposed an expansion of the separation of each deck to increase surveillance of the convicts to combat illicit nighttime activities.²⁸⁵ The Holford Committee

²⁸⁰ HOCP, 1812, Holford Committee, 139.

²⁸¹ O’Brien, *The Promise of Punishment*, 90-93.

²⁸² Spierenburg, *The Prison Experience*, 194-195.

²⁸³ Slee, *Crime, Punishment & Redemption*, 92, 93.

²⁸⁴ HOCP, 1812, Holford Committee, 144-145

²⁸⁵ HOCP, 1812, Holford Committee, Appendix.

thus furthered the notion that although the prison hulks were deemed inappropriate in many respects, they were still improvable; calls for the prison hulks abandonment were by now almost non-existent. Nevertheless, architectural changes no longer stemmed from managerial difficulties but rather from the actions of the convicts. This would then shift the emphasis of the criticism from the prison hulks themselves to the convicts which in turn served as a somewhat passive feedback effect for the system as a whole. The new system of retrofitting the decks of the prison hulks was then approved in 1815.²⁸⁶

There are no indications that Graham had anything to do with the new retrofitting of the prison hulks. By 1812, he had faded into an administrative role and was subsequently succeeded by a clerk in the Criminal Department of the Home Office named John Henry Capper in 1814. Capper became Superintendent of the prison hulks whereas Graham had been the inspector, the new title did however not carry with it any significantly new duties. Capper would administrate the prison hulks until 1847, and his long tenure would be marked by neglect, his semi-annual reports relay detachment and whitewashing sentiments. Nevertheless, the first prison hulk to be retrofitted according to the new system was the *Retribution* in Woolwich and the system was later extended to the *Laurel* and *Captivity* in Portsmouth Harbour in 1816. The *Portland*, in Langstone Harbour, was by now rapidly decaying and no attempt to retrofit this prison hulk was made before it was broken up. The new system persisted virtually unchanged until the prison hulks were abandoned in England in the 1850s.²⁸⁷ The prison hulks had thus gone from being practically open for the convicts to wander around during Campbell's time to being partitioned under Graham. By Capper's tenure, the decks of the prison hulks reached their highest level of separation, however, in practice, things would soon prove to be less regimented than what had been hoped for.

Increased Government Influence and Architectural Change

This chapter has explored the managerial and architectural development of the prison hulks and fortress prisons. On the surface, they might appear highly dissimilar, nevertheless, this summarizing comparison will draw attention to several points of intersection and how they fit into the path-dependent theory. Perhaps the most salient dissimilarity is that the prison hulks saw intensive architectural and managerial change in a relatively short period while the fortress prisons remained virtually unchanged from how they were architecturally structured in the eighteenth century. The most significant similarity, however, was that both prisons were

²⁸⁶ Branch Johnson, *The English Prison*, 92.

²⁸⁷ Campbell, *The Intolerable Hulks*, 111, 117-121

marked by horrible conditions, a characteristic they shared with the bulk of prisons of the time. Nevertheless, this was not necessarily only a result of poor standards and management, it was also, in the case of the fortress prisons, to some extent, intentional. The guards and officers on board the prison hulks appear to have held similar sentiments. Individual sadistic tendencies alone cannot account for the violence and humiliation they subjected the convicts to. The perception that prison was supposed to be a horrible place of confinement was most likely prevalent in both the fortress prisons and on board the prison hulks. Deterrence was one justification for this, but the notion that the prisoners had broken the social contract and did not deserve any better was presumably also common. However, by the turn of the nineteenth century, with the help of prison reformers, these principles were more frequently being challenged. Deterrence began to give way to correction which would eventually spark new debates regarding the management and architecture of prisons. Nevertheless, by the time of this shift, the question was no longer whether the prison hulks or fortress prisons were to be abandoned, but rather how they could be adapted to serve other purposes. They were thus already firmly locked in their respective penal repertoires, depended on, and indispensable. Any managerial or architectural change could thus at the time only serve to further reproduce them as their paths had grown decisively clearer during the time the prison reform movements gained traction.

Death rates from diseases on board the prison hulks, were far greater than those within the vaults of the fortress prisons, most likely owing to more cramped living conditions, the decaying and damp timber, and greater exposure to the elements. The prison hulks thus came to be more intensely criticized than the fortress prisons. Before Graham became inspector in 1802, Campbell had managed the prison hulks in an almost mercenary or colonial manner, in all likelihood coloured by his time as convict transporter to the North American colonies. Guards and officers were appointed by the contractor who also obtained ships to be used as prison hulks and they were also responsible for their victualling. Further, the Justices of Middlesex had been responsible for commissioning the first prison hulks, the Home Office infrequently inspected them, the King's bench sentenced the convicts, and Parliament passed legislation. This division of responsibility had led to extensive neglect which had produced discomfort even a few years before the convicts on board the *Lion* prison hulk in Portsmouth Harbour wrote their petition detailing their horrible living conditions.²⁸⁸ Coupled with a prison reform movement which sought an increased governmental influence over prisons in general,

²⁸⁸ Campbell, *The Intolerable Hulks*, 78.

it was accordingly most likely only a matter of time before Campbell's enterprise was replaced by centralized administration. The highly influential Prison Reform Society, established by Quaker and philanthropist William Allen in 1817, for example, concluded by the early 1820s that the legitimacy of state institutions could only be guaranteed by centralization.²⁸⁹ Further, a far majority of the prison reformers in the 1820s held that unreformed prisons caused moral corruption because of indiscriminate mixture of prisoners; this was the foundation for almost all arguments that prisons ought to be remodelled.²⁹⁰

The administration of the prison hulks would most definitely be included in such concerns had they not been largely taken over by the government already in 1802. The petition sent by the convicts on board the *Lion* accordingly accelerated this process by highlighting the horrible conditions under which they were confined, the timing was thus crucial. Had a similar petition been sent to the Home Office in the 1780s, it is highly unlikely that the effects would have been the same. Goldson's report, Mr Chapple's letter to the Home Secretary, and the subsequent inspection of Neild and Mildmay presumably also gained widespread attention. It would therefore be accurate to consider this event a critical juncture, decisions were made in a relatively short period from the convicts' petition to the government take-over. This further led to Graham being appointed inspector and shortly thereafter he began architecturally modifying the prison hulks by separating the decks to combat the intermixing of convicts. The Holford Committee of 1812 would, in turn, entrench the notion that the system was capable of improvement which culminated in the retrofitting of the prison hulks. In just over ten years, the prison hulks had accordingly transformed from the almost unregulated mercenary management of Campbell, to being retrofitted under centralized governmental administration. These architectural and managerial changes thus served as feedback effects which would further entrench the prison hulks' role as places of confinement.

Additionally, campaigns for national penal reform in England, and the introduction of penitentiaries under the auspices of the government, had lost traction due to the effects of the French Revolution and the outbreak of the Napoleonic Wars. However, the foundation laid by prison reformers like Howard would prove durable, and well before the end of the war, campaigns were again resumed. The next generation of prison reformers, most notably Sir Samuel Romilly, would argue for mitigations in the use of capital measures and alternative and secondary punishments. He urged the House of Commons to reconsider the national

²⁸⁹ Ignatieff, *A Just Measure of Pain of Pain*, 146, 168.

²⁹⁰ William James Forsythe, *The Reform of Prisoners 1830-1900*, (London: Croom Helm, 1987), 19.

penitentiaries which would lead to the formation of the select committee headed by Holford.²⁹¹ Historian William Branch-Johnson argues that this committee saw their duty to discontinue the prison hulks but ignored it. Had they simply had more courage he continues, then the prison hulk system might have been brought to an earlier end.²⁹² This argument is not realistic, by the 1810s the prison hulks, as this chapter argues, were already locked into the penal repertoire and to reverse them would have been much too costly and inconvenient. Furthermore, there was still no real alternative to the prison hulks as the penitentiaries had not yet been realized ideologically or practically, and the government was still reluctant to invest in purpose-built prisons.²⁹³ The only viable option left was to make do with what was available and improve it as well as possible, but in doing so, the prison hulks were further locked in. There was thus a great deal of unintentional reproduction involved of the excessively criticized prison hulks. Construction of the Millbank Penitentiary did however start by 1813, and by 1816, it finally opened which culminated almost forty years of debate and postponement. It would nevertheless prove to be a fiasco. Millbank Penitentiary was somewhat loosely based on Bentham's Panopticon prison but ended up as a virtual maze of corridors, stairways, subterranean passages, and oddly placed workshops and storage rooms. A breakout of scurvy in the 1820s also led to an evacuation of the penitentiary and two additional prison hulks had to be launched in Woolwich.²⁹⁴ The construction of the first penitentiary in England did thus not lead to a decreased reliance on the prison hulks, on the contrary, it would further imbed them as punishment and even expand their numbers.

Likewise, in Sweden, the prison reform movement of the late eighteenth century appears to have lost some of its impetus during the first years of the following century. However, the number of offenders sentenced to prison was steadily rising, and by 1819 a provisional prison was consequently constructed in the former nunnery in the town of Vadstena. Most prisoners were vagrants, and meagre opportunities for work in the prison led to poor discipline and many escapes, thus to some degree mirroring the failure of the Millbank Penitentiary.²⁹⁵ Discussions and debates regarding prison reform consequently continued throughout the 1820s. Similar to the time of von Schulzenheim and Tengwall, inspiration once again came from English prison reformers. But this time from one of the then-strongest advocates of the penitentiary, Sir Thomas Fowell Buxton. In the spirit of Howard, Buxton had visited prisons in England and

²⁹¹ McConville, *A History of English Prison Administration*, 109-111.

²⁹² Branch Johnson, *The English prison hulks*, 44.

²⁹³ McConville, *A History of English Prison Administration*, 111- 131.

²⁹⁴ Campbell, *The Intolerable Hulks*, 91-94, 99.

²⁹⁵ Eriksson, *Kriminalvård*, 221.

elsewhere and concluded that the old prisons were overwhelmingly plagued by poor diets, idleness, unsanitary conditions, and an indiscriminate mixture of hardened criminals with lesser ones. The Prison Committee chaired by Löwenhielm, similarly found that prisoners were generally idle and that there was indeed an arbitrary mixture of hardened criminals with lesser ones after inspecting Swedish fortress prisons and public works. The Prison Committee thus presented their report in 1823 in which they argued for the introduction of correctional institutions to be built in the larger towns where work could be readily made available. Parliament fundamentally agreed with the report, however, they maintained that there were no financial means for the construction of correctional institutions at the time.²⁹⁶ The only viable option left was to continue to send offenders to already existing places of confinement such as the fortress prisons.

Although the Swedish prison reform movement was heavily influenced by developments in England, not everyone was as positive. Löwenhielm, for example, commented on Millbank Penitentiary in 1826 and stated that it was built on unsanitary marshlands and that it, as far as he knew, had already been abandoned. Further, he maintained that English prisons in general were dilapidating and that the punishments were too harsh. Sweden, although a less prosperous nation with regards to industrialization, he continued, was far richer in morality. He conceded that England and Sweden strove for the same prison reform, but he believed that Sweden would perfect the visions of prison reformers first in Europe.²⁹⁷ This was indicative of Löwenhielm's views on society at large, he nostalgically looked back at the Swedish agrarian society which he considered far superior in morals, order, and stability.²⁹⁸ By contrast, industrialized England appeared as the opposite. Nevertheless, English and Swedish prison reform movements were indeed striving toward the same goals, namely that of correction of prisoners rather than simply punitive measures, although the reasoning behind this might have slightly differed. However, until correction in purpose-built prisons could be fully and satisfactorily realized, both the prison hulks and fortress prisons, as already existing places of confinement, had to be continuously relied upon.

The prison reform movements, concerning the construction of new prisons, whether penitentiaries or correctional institutions, in both England and Sweden, had similar aspirations, but thus also faced similar challenges. A lack of political and ideological consensus as well as economic difficulties would delay any new construction. In this context, both the prison hulks

²⁹⁶ Nilsson, *En Vålbyggd Maskin*, 135–142.

²⁹⁷ Löwenhielm, *Tankar om Corrections-Systemet*, 7, 19–21.

²⁹⁸ Nilsson, *En Vålbyggd Maskin*, 151.

and fortress prisons managed to consolidate and expand their operation. Parallel to this larger context, attempts at architectural change as well as actual architectural reorganizations were introduced in both prisons. This was most distinguishable in the case of the prison hulks with the thorough separation of the decks in 1803, and then the partitioning of the decks following the report of the Holford Committee in 1812. The fortress prisons, on the other hand, were more inflexible. However, similar to the prison hulks, the administration of prisons in Sweden was scattered, and centralization was therefore deemed necessary to ensure the uniform treatment of prisoners. The Board of Prisons was accordingly introduced to ameliorate the administration of the prisons, jails, and houses of correction in Sweden. The most important problem to solve was the increased number of vagrants who were mixed with hardened criminals in prisons such as the fortresses.²⁹⁹ Further, there were great variations between the fortress prisons themselves, Löwenhielm noted that some prisoners were confined in “inhumane harshness” while others were treated relatively leniently. He therefore proposed that out of 400 prisoners sentenced to life, 250 to 300 could be confined and put to work in Malmö Castle. The rest of these prisoners could then be confined in similar institutions in the ports of Gothenburg or Karlskrona.³⁰⁰

Malmö Castle was by the 1820s not designated as a fortress prison but rather a “penal- and labour prison” because of the large number of vagrants confined there.³⁰¹ Although Löwenhielm did not expressly state that they should be abandoned, it becomes obvious that he envisioned a future without the fortress prisons. However, when the Board of Prisons was established, the fortress prisons were instead categorized on a scale where Karlsten, Nya Älvsborg, and Karlskrona were to confine the most hardened criminals. The fortress prisons were now more firmly part of a system of institutions and prisons thus inducing a higher level of interdependency which served as a decisive feedback effect.³⁰² The fortress prisons consequently became further locked in following the founding of the Board of Prisons, concomitantly, they were still sorted under the Board of War which made architectural change difficult. The only way to expand was thus inwards and as the influence the Board of Prisons had over the fortress prisons increased, so would the number of vaults claimed as well as the number of prisoners. Appeals and efforts for increased governmental influence and centralization in both England and Sweden thus ultimately led to architectural changes in the prison hulks and fortress prisons alike. The common denominator was thus what has been called

²⁹⁹ Nilsson, *En Välbyggd Maskin*, 142.

³⁰⁰ Löwenhielm, *Tankar om Corrections-Systemet*, 65, 68–69.

³⁰¹ Feiff, *Fästningsfångar*, 70–71.

³⁰² Pierson, “Increasing Returns”, 255.

coordination effects. These effects stem from the routinization of rule-guided behaviour between actors which rigidifies an organization or institution.³⁰³ The increased governmental influence in both prisons thus led to higher demands being placed on both the prison hulks and the fortress prisons, chiefly to prevent the arbitrary intermixing of prisoners. This prompted architectural change which meant that more effort and capital were invested in both prisons and with no better option, they became increasingly locked into their respective penal repertoire.

³⁰³ Sydow, Schreyögg, & Koch, "Organizational Path Dependence", 699.

Chapter Four: Discipline

Introduction

The indiscriminate mixture of prisoners was one, if not the, most central challenge, and greatest obstacle facing the prison hulks and fortress prisons, throughout their operational history. The preceding chapter has shown that increased government influence led to higher demands on each prison to prevent this mixture, nevertheless, as this chapter will argue, neither was very successful. Throughout the nineteenth century, it was argued in both England and Sweden, that the large prison rooms with prisoners of all ages, at different stages in their criminal careers, and sentenced for a wide range of crimes, actively corrupted each other. Prison chaplains, tasked with the moral improvement and reformation of prisoners, thus had a difficult and unrewarding undertaking in front of them. This chapter will explore how the struggle to reform prisoners developed, and how it affected the path-dependent process in both prisons.

The chaplains on board the prison hulks tended to excessively distort and embellish their reports, nevertheless, they provide some insights into their daily duties and thought processes. Further, although their reports were often less than truthful, they were not stagnant and slight changes in the chaplains' attitudes can be discerned. The reports from the chaplains in the fortress prisons have proven to be more sincere, or, at least more critical of their duties and the prisoners under their care. Their perspective was nonetheless, for the most part, paternalistic and one-dimensional. To compensate for the skewed picture painted by chaplains in both prisons, I have decided to include reports from committees, letters from inspectors, and other relevant source material concerning the reform of prisoners. Closely related to the work of the chaplains was also the question of education. Although seemingly minor steps toward schooling appear to have been taken in both the prison hulks and fortress prisons, I have found that the picture would not be complete without a mention of the rudimentary efforts by the chaplains and schoolmasters on this front.

Religious instruction and education were not strictly a matter of improving the prisoners, they also constituted a form of discipline. However, reform and discipline did not present themselves as dichotomies, they were two sides of the same coin. Because of the close relationship between religious instruction, education, and discipline, there was bound to be resistance from the prisoners. This chapter will thus also consider the defiance or complacency exhibited by the prisoners. Perhaps the most difficult task has been to find the often-muted voices of the prisoners themselves. I have therefore incorporated parts of the convict John Ward's diary detailing his life on board the *York* prison hulk in Portsmouth Harbour in the

1840s as well as convicts' testimonies to committees in the 1830s. In the case of the fortress prisons, I have included an extensive exposition of an illustrative court case in Karlsten fortress prison to contrast the chaplains' reports. Prisoners' defiant attitudes and behaviour can nevertheless also be found in the memoirs of the chaplain of Varberg penal prison in the 1860s. Although, as mentioned earlier, this was not a fortress prison, Varberg penal prison was situated inside the old fortress and the prisoners were confined in large dormitories. The observations made by this chaplain are in many respects also similar to the reports of the chaplains in the fortress prisons.³⁰⁴

For the contemporaries, efforts to morally improve and reform prisoners were ultimately deemed unsuccessful in both prisons. Not only that, The Board of Prisons and English committees dealing with prison hulks even continuously argued that these prisons aggravated the punishment and tarnished and corrupted the prisoners. Despite these harsh criticisms, both prisons managed to persist. While the previous chapters have found mostly positive feedback effects which reproduced both prisons, when considering the reform of prisoners this has been excessively difficult. Nevertheless, inefficiency and the continuance of suboptimal institutional arrangements lie at the heart of the path-dependent analysis.³⁰⁵ Consequently, this chapter will draw attention to the greatest similarity between the prison hulks and the fortress prisons, namely their perceived inadequacy as places of confinement for the reformation of prisoners. Religious instruction and education would thus instead largely function as disciplinary tools within both prisons. Strong subcultures below the decks of the prison hulks and within the vaults of the fortress prisons would actively defy this disciplinary regime and establish their parallel order. The clash between the official order of the prisons and the unofficial order of the prisoners would result in a deadlock which in turn created a separate order. This chapter will thus argue that this separate order of passive acquiescence favoured stability and the status quo over change which continuously reproduced both prisons.

Discipline and Chaplains on Board the Prison Hulks

In 1786, Duncan Campbell counselled Captain Hill of the *La Fortunée* prison hulk in Langstone Harbour on the proper ways to manage the convicts. The first piece of advice was, that to keep the order, the captain must be: "...very strict at the outset to obtain good habits, which if once established is easily maintained which on the other hand bad habits are difficult to get the better of."³⁰⁶ Campbell presumably gives this guidance based on his own experiences with the prison

³⁰⁴ Feiff, *Fästningsfångar*, 74-75.

³⁰⁵ Mahoney, "Path dependence", 515.

³⁰⁶ Letter to Captain Hill, 20 Feb 1786, DCP, Series 1, Vol. 5, 127-128.

hulks in Woolwich. However, in a letter written to Captain Hill only a week later, Campbell explicitly stated that he could not present: "... Woolwich as an example for your imitation..." The reason for this, Campbell stated, was that he had given the convicts too many "indulgencies" in the beginning which were hard to remove once they had been implemented. It is difficult to accurately determine what these indulgencies consisted of. One possibility is regarding the food, Campbell maintained that he had provided the convicts with too much food and then found it hard to reverse this decision without causing indignation.³⁰⁷ Historian William Branch Johnson claims, however, that the quality of the food in Woolwich had improved somewhat in 1778, but that the quantity had remained the same. Furthermore, he argues that the only tangible indulgence given was to sick convicts who were given "rice gruel, balm tea, and a little wine if necessary." If the indulgencies did not mean better food allowances, it could be a question of a more lenient attitude towards discipline because the first years of the prison hulks in Woolwich had indeed been turbulent. The most serious episode of which was an outright mutiny by 150 convicts armed with pikes, axes, and spades. The convicts had attempted to escape through the only way out of the Thames marshes where they worked, but the pass was guarded by twenty well-armed men who were eventually forced to open fire, killing many of the mutineers. The next day another escape attempt was made, however, this one was also prevented by gunfire, and the surviving convicts were punished with heavy irons.³⁰⁸ In 1778, Campbell stated in the Bunbury Committee that the Cat of Nine Tails was the usual punishment for refractory convicts and that those who had threatened to kill their keepers were put in heavy irons for one or two weeks.³⁰⁹

Whether the indulgences Campbell referred to in his letter to Captain Hill consisted of more food for the convicts, or a less severe disciplinary regime is thus unclear. However, what is clear is that Campbell in his advice to Captain Hill sought to not repeat the same mistakes in Portsmouth as those he had made in Woolwich. Despite this, it would take less than a month from the introduction of the prison hulks in Portsmouth in early 1786 for the first insurrection to take place on board an unspecified prison hulk, most likely *La Fortunée*.³¹⁰ Captain Hill had to take arms against: "...these wrong-headed wretches..." and to make an example to: "...prevent repetition of so daring an attack." Precisely what events had led up to the

³⁰⁷ Letter to Captain Hill, 27 Feb 1786, DCP, Series 1, Vol. 5, 133-134.

³⁰⁸ Branch Johnson, *The English Prison Hulks*, 6-7, 12, 17, 155.

³⁰⁹ Introduction to the Report, 15 April 1778, Bunbury Committee.

³¹⁰ In a letter one month before the insurrection in 1786, Campbell ordered Captain Hill to remove the convicts from a hulk called *Firm* to *La Fortunée*. Nevertheless, Charles Campbell maintains that the *La Fortunée* was launched two years later in 1788. Letter to Captain Hill, 20 Feb 1786, DCP, Series 1, Vol. 5, 127-128. Campbell, *The Intolerable Hulks*, 235.

insurrection was not discussed in any detail. Campbell simply asked in his letter to Captain Hill whether the insurrection had started as a complaint of the food and if it then was justified. During the insurrection, a shot had been fired, and Campbell wrote that he sincerely hoped it was placed among one of the ringleaders. Exactly how many were killed was not detailed, Campbell simply commended Captain Hill for calling a coroner to attend to: "... those killed in the affray." Surviving insurrectionists were punished by lashings, most likely severely because a surgeon had been ordered to be present during the punishment to take care of the wounded convicts. However, as Campbell argued in his letter, it was better to the punishments several time rather than to inflict many lashings at one time, this too most likely a lesson learned from the prison hulks in Woolwich.³¹¹ A few months later Campbell again advised Captain Hill on the punishment of convicts. The convicts were again described as wretches, but this time also as being: "...very destructive of their cloathing & shoes...". And should they fail in their proper care, then they were to be punished again with lashings.³¹² The early phase of the prison hulk establishment in Portsmouth thus seems to have been almost as turbulent as in Woolwich almost nine years earlier despite Campbell's advice.

On the 14th of March 1791, Campbell reported to Westminster that the embarkation of convicts bound for Australia had been completed from prison hulks in Woolwich and Portsmouth. The remaining convicts were then split up evenly between the two prison hulk stations.³¹³ This seems to have freed up some space on board the prison hulks in Portsmouth. Consequently, on the 30th of April the same year, William Carter, Mayor of Portsmouth, sent a letter to Home Secretary Lord Greenville requesting prisoners sentenced to transportation to be transferred to the prison hulks in Langstone Harbour due to overcrowding in the Portsmouth Borough Gaol.³¹⁴ Six years later in 1798, in the Select Committee on Finance, however, the prison hulks in Portsmouth were stated as confining 894 convicts while Woolwich confined a total of 508 convicts.³¹⁵ Besides statistical estimates, the committee also investigated the effects of the prison hulk system in general, the picture conveyed was a bleak one. Statistician, magistrate, and founder of the preventative police Patrick Colquhoun stated that he had: "...seldom or ever known an instance of an individual discharged from the Hulks, who had ever returned to honest industry; but that the indiscriminate mixture of Criminals, which takes place

³¹¹ Letter to Captain Hill, 27 Mar 1786, DCP, Series 1, Vol. 5, 154-155.

³¹² Letter to Captain Hill, 19 Jul 1786, DCP, DCP, Series 1, Vol. 5, 184-186.

³¹³ Letter from Duncan Campbell, 15 March 1791, TNA HO 42/18/119, f 281.

³¹⁴ Letter from William Carter, 30 April 1791, TNA HO 47/13/38, f 103.

³¹⁵ Select Committee on Finance, 26 Jun 1798, HOCP, Vol.13, Twenty-Eighth Report from the Select Committee on Finance, 347. <https://parlipapers.proquest.com/parlipapers/docview/t70.d75.rhc-000243?accountid=13268>

in those Establishments, renders them a complete seminary of vice and wickedness.” This was nevertheless not a new sentiment or one unique to the prison hulks. London magistrate Henry Fielding argued already in 1751 that the old prisons were indeed schools of vice.³¹⁶ Additionally, as historian Jeff James argues, Colquhoun’s interest in the convicts on board the prison hulks was fuelled by his merchant trading and policing along the river Thames. A third of London’s poor worked along the river and the convicts released from the prison hulks would congregate with and ultimately corrupt these labourers whom Colquhoun sought to control; his views should thus be considered far from impartial.³¹⁷

The cause of the indiscriminate mixture of convicts was, according to Colquhoun, that too many convicts under the sentence of transportation remained on board the prison hulks. Furthermore, Colquhoun argued that the reason for this was that Australia had not yet been sufficiently cultivated and could therefore not receive any more convicts. Colquhoun, like John Howard and Jeremy Bentham, instead argued for the implementation of permanent penitentiaries where convicts would work in communion during the day but spend the night in individual cells. Bentham notably used similar rhetoric as that of Colquhoun and stated regarding the prison hulks that: “...on the ground of moral health, as a school of post-liberation wickedness, it stands scarce at all above the level of New South Wales.”³¹⁸ A common consensus was thus that not only did the prison hulks not serve their purpose as a place short term confinement for convicts sentenced to transportation, but they also inevitably corrupted the morals of those confined there. Howard chimed in and further stated, regarding the prison hulks, that the: “...association of so many criminals is *utterly destructive* to morals.”³¹⁹

Colquhoun also argued for other reformatory aspects in his envisaged penitentiary. Most noteworthy was perhaps his proposal that prisons were to be converted into educational institutions built on the principle of Sunday schools. The object was to, via education and training, convert the convicts from criminals into useful members of society employed in a trade where they could make their livelihood. Clergy- and medicinal men were also to be omnipresent to ensure both the spiritual and bodily well-being of the convicts. Additionally, like the early prison hulks, Colquhoun’s envisioned penitentiary was to be contracted to an overseer who settled economic matters with the government. If a prisoner committed a felony after having been discharged from the penitentiary, the prison contractor would be liable to pay a sum of

³¹⁶ Johnston, “Corrupting and Saving” 110.

³¹⁷ Jeff James, “‘Raising Sand, Soil and Gravel’ Pardon Refusers On-Board Prison Hulks (1776–1815).” *Family & Community History*, 20 no. 1, (2017): 11, 19.

³¹⁸ Causer & Schofield, *Panopticon Versus New South Wales*, 251.

³¹⁹ Howard, *The State of Prisons*, 4th ed., 466.

money which would increase for every new felony committed by a former prisoner. This was a measure deemed integral in making the contractor personally responsible for the reformatory efficacy of the penitentiary.³²⁰

Although the realization of the penitentiary would, as discussed earlier, be significantly delayed, some of the ideas proposed by Colquhoun would eventually instead be implemented on board the prison hulks. Chaplains, for example, had been appointed to prison hulks from the earliest phases, but their attendance had been sporadic and primarily an object of local philanthropy.³²¹ Further, there was no order stating that chaplains had to be present in the Hulks Act of 1776.³²² An example of the irregularity of clerical visits can be discerned from the fact that some convicts were buried along the marshy Woolwich shores, and that the funeral services were sometimes held by an officer, and not a chaplain.³²³ When Graham became inspector in 1802, a chaplain was formally ordered to each prison hulk station. A few years later schoolmasters were also appointed, and after 1812, every individual prison hulk had to accommodate a chaplain.³²⁴ However, these measures were rudimentary and most likely more intended to improve discipline and prevent further corruption of the convicts than to educate or reform the convicts, at least in practice. Accordingly, Graham was moving away from the repression and denial of indulgences, as advocated by Campbell, towards a more regimented form of discipline. This was most likely dependent on Graham being a representative of the Home Office and the government rather than a private enterprise.

A good example of Graham's attitude towards discipline can be observed in a letter dated 1806 where he responded to the Home Office regarding a complaint made by a convict to Lord Ellenborough. The convict was Thomas Jones on board the *Retribution* prison hulk in Woolwich who was a former "Gentleman's servant", and as such, he considered handling a shovel and driving a wheelbarrow among other convicts degrading and too laborious for him. Graham stated that this refusal to work was met with less severity by the officers of the prison hulk than what was common from the officers of naval and military officers on shore. Jones had also complained of an officer on board the prison hulk, a man called Gibson who had an irritable temper and had previously been suspended for his excessive use of violence. However, Gibson had been reinstated, but he was still notorious amongst the convicts and Graham recommended he be transferred to other duties. Other than this, Graham made no concessions

³²⁰ HOCP, Select Committee on Finance, 347-350, 362-363.

³²¹ Regarding Chaplains, 15 April 1778, Bunbury Committee.

³²² Branch Johnson, *The English Prison Hulks*, 8.

³²³ Regarding Chaplains, 15 April 1778, Bunbury Committee.

³²⁴ Branch Johnson, *The English Prison Hulks*, 40, 125.

on the count of Jones's complaints. Nevertheless, Jones had also complained about the food, but upon his inspection of the *Retribution* prison hulk, Graham had tried the food and found no grounds for complaints. Graham further stated that he visited Woolwich two, to three times each month and Portsmouth once every four months. During all his visits during the last four years few, if any, complaints had been made, and the conditions on board all prison hulks had been deemed orderly. Further, since the "alteration in the Establishment", referring to the government take-over of the prison hulks, the death rates had decreased dramatically, and the chaplains reported favourably of both Portsmouth and Woolwich prison hulk stations.³²⁵

Lord Ellenborough responded that he could not help to think that the complaint might have been overlooked, so he asked Graham to ascertain that Jones had not suffered any cruel treatment. Graham responded, this time from Portsmouth where he currently resided on one of his quarterly inspections. He commenced by stating that the prison hulks in Portsmouth were in perfect health and that according to the chaplains, the convicts were quiet and orderly. The very first thing Graham always did when he inspected the prison hulks was to enquire the officers in the dockyards about the treatment of the convicts. This time in Portsmouth, the officers informed Graham that the only thing to complain of was that the convicts were treated too leniently. Jones was however still refusing to abide by the rules adhered to by the other convicts. Despite this, Graham ensured Lord Ellenborough that Jones had not been beaten but that he had been put in irons.³²⁶ It is difficult to ascertain, beyond reasonable doubt, whether Jones had suffered cruel treatment. Nevertheless, what can be established is that Graham, as opposed to Campbell, sought to present himself as man favouring corrective measures rather than punitive ones. This constitutes a shift in attitudes towards discipline, one which Graham would perpetuate over the following years.

Already three years later, in 1809, Graham thus sent out a compendium of twenty-four instructions to be observed by all prison hulk captains. Whereas Campbell had informally instructed his captains, based on his experiences in Woolwich, Graham formally detailed uniform instructions and had them sent out to all captains on board the prison hulks. Most emphasis, or attention to detail, was put on matters addressed in the 1800 petition from the convicts on board the *Lion*, Goldson's subsequent report, Neild's two reports, and to some degree also Jones's complaints. Accordingly, the convicts' diet was to be thoroughly inspected and weighed in front of the convicts before they were served. The hospital was also to be inspected daily by the captain and the chaplain, further, the bedding and hospital utensils were

³²⁵ Letter from Aaron Graham, 13 June 1806, TNA HO 42/87/135, f 491-498.

³²⁶ Letter from Aaron Graham, 18 July 1806, TNA HO 42/87/149, f 582-589.

to be: "...taken the greatest care of." The behaviour of the guards and officers was also to be carefully monitored by the captain, and if they did not fulfil their duties, he would be personally answerable. Under no circumstances were convicts to be beaten into submission while working on shore. Instead, the officer was to use: "...gentle and persuasive means to induce them to alter their conduct..." If the convict did not comply, the officers were to punish him only once on board the prison hulk in front of all the convicts to set an example. Further, the officers were also to be attentive to the behaviour and conduct of the convicts. Quarterly, they were to make a list of convicts who had served half their sentence on board and had a "disposition to reform" which would then be relayed to the captain, and then to Graham who would consider if they were eligible for mercy.³²⁷ James Norrell, for example, was sentenced to seven years of transportation in 1817 for poaching and threatening a keeper with his rifle. He had not acted alone, but his companions, who, unlike Norrell, were notorious for poaching, received only a few months in prison. Norrell, it was decided, was to be made an example of according to the court and he was sent to the prison hulks in Portsmouth. However, John Sargent, the Chairman of the Quarter Session of the Western Division of Sussex, urged for a full pardon for Norrell on account of his young age. Charles Steadman, captain of the *Leviathan* prison hulk in Portsmouth attested to Norrell's good conduct on board and that he should be given "humane consideration". Norrell was later put on board the *Captivity* prison hulk in Portsmouth for a short period and then fully pardoned in 1818.³²⁸

Graham's new regulations also stated that chaplains were to read prayers to convicts and preach a sermon every Sunday throughout the year and on Christmas Day and Good Sunday in the chapel of the prison hulks. The captains were to ensure that all the convicts were clean and well-dressed for each divine service. Further, in case of death, the chaplain was to perform a funeral service for the convict with one officer and at least six other convicts.³²⁹ Perhaps the most interesting aspect of Graham's compendium was the great importance and responsibilities put on the role of the officers. Not only were they to be gentle and encourage the convicts to change their behaviour, but also to identify which of them were most likely to be reformed. Nevertheless, this might not be so surprising, the prison guards and officers were, and still are, the most important persons in the operation of any given prison. They were the ones who had immediate and complete control over the convicts as well as having the most interaction with them. Perhaps more than architecture, guards and officers structured the lives of the convicts,

³²⁷ Instructions to Captain Thomas, 1809, TNA HO 42/99/13, f 127-150.

³²⁸ Report of John Sargent, 17 Feb 1818, TNA HO 47/57/2, f 5-11.

³²⁹ Instructions to Captain Thomas, f 127-150.

and much of the disciplinary regime of the eighteenth- and nineteenth centuries can be boiled down to their dealings.³³⁰ However, on board the prison hulks, chaplains were successively taking over the matters of reforming the convicts, especially during the long tenure of Graham's successor.

John Henry Capper became the first supervisor of the prison hulks in England in 1814, his predecessor had, as mentioned earlier, retained the title inspector. Capper would keep this post for all of 33 years until 1847, making him the longest-serving administrator of the prison hulks. According to historians Charles Campbell and William Branch Johnson, Capper's time as superintendent was characterized by neglect, nepotism, and obfuscation, further, rather tendentiously, they both contend that he had no imagination and no real intelligence. But Capper did carry out reforms, the most pervasive was the retrofitting of the prison hulks in 1815, however, the plans had been given to him by the Holford Committee.³³¹ Between 1816 and 1847 biannual reports were also submitted to the Home Office by Capper, however, these reports were rather characterless and always reassuring in nature, revealing little as to the actual life on board the prison hulks.³³² These reports consisted of statistical returns, Capper's memorandum, and the reports from the chaplains. If one were to only rely on the chaplain's reports as eyewitness accounts of what transpired on board the prison hulks it would seem as though most, if not all, convicts sent to the prison hulks were being reformed and morally improved. This was already somewhat apparent to the Holford Committee in 1815. Regarding the chaplain who then sporadically oversaw the prison hulks in Portsmouth, and Langstone Harbours, the committee stated that: "...the opinions of this gentleman were given in conformity to his wishes instead of being founded on any knowledge which he possessed of the general conduct or disposition of the convicts..." The committee did concede that the sermons at divine service may have been impressive and that the chaplain's statement that half of his congregation was moved to tears might be true. However, how long, the committee asked, might this good impression last with the convicts, especially since the prison hulks were still in such bad condition? It was also a sport to men, the committee further argued, who were hardened criminals, to ridicule any sign of repentance or remorse shown by their fellow

³³⁰ O'Brien, *The Promise of Punishment*, 204-205.

³³¹ Campbell, *The Intolerable Hulks*, 111-113. Branch Johnson, *The English Prison Hulks*, 92-95.

³³² Campbell, *The Intolerable Hulks*, 198.

inmates.³³³ This is one of the earliest signs of defiant attitudes towards the chaplains, an attitude that would be excessively amplified over the following years.

The following extract from chaplain William Tate in Portsmouth, dated the last day of 1818, is emblematic of his outlook on the convicts: “When the moral quality of the men sent for confinement to the hulks is considered, and the general behaviour of the Convicts on board the *Leviathan* and *Laurel* is contrasted with it, they scarcely appear to be the same individuals.”³³⁴ While the accounts related to the reformation of convicts were generally enthusiastic, this tendency did fluctuate over time. In 1821, for example, Tate appears to have become more doubtful of the possibility of reform, or at least the sincerity of the convicts. When commenting on the attendance at divine service, Tate had this to say: “If indeed we may judge, either from outward appearances or from their own professions, reform in their principles is very general; but how many are mere dissemblers, can be known only to the great Searcher of Hearts.”³³⁵ But already the next year Tate stated that there was a much greater appearance of reform in the convicts.³³⁶ Consequently, at the outset, it is somewhat difficult to make sense of the chaplain's reports due to the oscillation between eager enthusiasm and modest appraisals of the convict's prospect of reformation. But a key to making sense of the reports is to look semantically at when Tate began to differentiate between convicts; instead of considering them a collective body he eventually began considering them individuals. From 1823 onwards, chaplain Tate mentioned that all convicts cannot be reformed, but a lot of them, he said, were going in the right direction.³³⁷ This was the first real sign of admittance of defeat on the part of the chaplains in Portsmouth, and Langstone Harbours, and as the decade progressed Capper found himself the target of severe criticism. A letter dated 1826 from convict John Adams on board the *York* prison hulk in Gosport Harbour, for example, provides an account of a convict's perception of Capper's management. Adams claimed that Capper had taken his tools and the money he had made from handiworks and detained all his letters, the latter part, he asserted, stemmed from Capper's fear of making the conditions on board the prison hulks public. Rather sensationally, Adams evoked his right as an Englishman to have his voice heard, he further postulated that churches were being built, bible societies formed, and slave emancipation

³³³ UK Parliament, Hansard, Holford Committee, 22 Jun 1815, Confinement of Offenders in the Hulks, <https://hansard.parliament.uk/Commons/1815-06-22/debates/fdb8f2fe-d332-42e7-97bc-c76b1dfa2af6/ConfinementOfOffendersInTheHulks>.

³³⁴ Chaplain's Report, HOCP, vol. 17, Two Reports of John Henry Capper, Esq. Superintendent of Ships and Vessels Employed for the Confinement of Offenders under Sentence of Transportation, 1819, 6.

³³⁵ Chaplain's Report, 1821, HOCP, vol. 18, Two Reports of John Henry Capper, 1821, 6.

³³⁶ Chaplain's Report, 1822, HOCP, vol. 13, Two Reports of John Henry Capper, 1822, 5.

³³⁷ Chaplain's Report, 1823, HOCP, vol. 15, Two Reports of John Henry Capper, 1823, 6.

meetings were being held in England yet: “Convict hulks are totally forgotten places teaming with every crime that can degenerate a man...” In another later letter, Adams also recounted his time spent on a prison hulk in Bermuda where the officers were “...acting like Drunken Savages, the *Antelope* was literally speaking a floating hell.” The captain of the *York*, Alex Lamb, moderated Adam’s accusations and instead stated that his language was violent and that he considered him a: “...most mischievous and dangerous character.”³³⁸

In 1830 chaplain Tate in Portsmouth consequently capitulated altogether and claimed that universal reformation could not reasonably be expected.³³⁹ Two years later some convicts were also considered “incorrigibly depraved” and one year later, in 1833, he stated that he highly doubted any form of inward reformation in the convicts.³⁴⁰ Around the early 1830s, the concept of reformation thus appears to have been thoroughly phased out and instead, the chaplains saw their duties as maintaining discipline among the convicts, and the concept of penitence was now instead used to describe some of the few remorseful convicts. The chaplains had thus retreated to their initial role which they had during the time of Graham. However, in 1842, Tate mentioned that there was “...great reason to hope that there are a considerable number whose reformation extends to their inward principles as well as to their outward conduct.”³⁴¹ Two years later he stated that “Not a few” convicts had seen the errors of their ways and were determined to change their ways.³⁴² However, the unenthusiastic sentiments of the convict’s prospects of reform far outweighed these few glimmers of receding hope. The intention to reform convicts should thus foremost be considered a secondary objective. The introduction of chaplains and the construction of chapels on board the prison hulks instead indicate an increased commitment to combat the corruption brought on by the indiscriminate mixture of convicts.

“A Jolly Good Life”

The declining confidence in the possibility of reforming convicts on board the prison hulks was also reflected in the 1832 report of the Select Committee on Secondary Punishments. The committee, however, went one step further and stated that it was almost impossible to not worsen convicts’ morals in any of the presently available prisons. The main reason for this, as

³³⁸ Letter from Henry Adams, Jan 1826, TNA HO 17/49/125 f 714-728.

³³⁹ Chaplain’s Report, 1830, HOCP, vol. 12, Report Convicts. Two Reports of John Henry Capper, Esq. Superintendent of Ships and Vessels Employed for the Confinement of Offenders under Sentence of Transportation; Relating to the Convict Establishments at Devonport, Portsmouth, Tipnor, Sheerness, Chatham, Woolwich, Deptford; and at Bermuda, 1830-1831, 2.

³⁴⁰ Chaplain’s Report, 1832, HOCP, vol. 33, Report Convicts. Two Reports of John Henry Capper, 1831-1832. 9-10. Chaplain’s Report, 1833, HOCP, vol. 28, Report Convicts. Two Reports of John Henry Capper, 1833, 2.

³⁴¹ Chaplain’s Report, 1842, HOCP, vol. 33, Report Convicts. Two Reports of John Henry Capper, 1842, 11.

³⁴² Chaplain’s Report, 1844, HOCP, vol. 39, Report Convicts. Two Reports of John Henry Capper, 1844, 3.

the committee saw it, was the intermixing of hardened criminals with those guilty of lesser crimes in often large prison rooms. A uniform classification system had been implemented a few years earlier, but this was often not adhered to in practice. Many of the troubles associated with prisons could thus be remedied by introducing the Auburn system, sometimes referred to as the silent associate system, the committee argued. This system, used at Auburn and Sing Sing prisons in New York was based on silent collective work during daytime and solitary confinement in cells at nighttime. While locked in their cells, the prisoners were also to be given only religious and moral books to read to facilitate their reform.³⁴³ The greatest advantage of the system the committee argued, was its strict routines and the fact that criminals were said to dread this punishment.³⁴⁴

There were also reports that the sentence of transportation was no longer punishment enough, some had even committed crimes in the hopes of being sent to Botany Bay. Similar to the 1798 committee, transportation was considered a less-than-optimal form of punishment, not because of the lack of cultivation, but because it presented opportunities for a better life than in England. Regarding the prison hulks, the 1832 committee found it necessary to express their disapprobation of the entire system. Compared to the principals of the penitentiary, the prison hulks were not just deficient, they were the complete opposite, the antithesis of the well-regulated and rational penitentiary. Echoing the sentiments of the Holford Committee of 1812, the 1832 committee maintained that at night below deck, the convicts played musical instruments, danced, fought, and gambled, and the older convicts were in the habit of robbing the newcomers. Hard liquor had occasionally been smuggled on board, improper books and newspapers were read, convicts were allowed visits from friends, and they could even communicate freely with old criminal associates while on shore. The committee did acknowledge that religious instruction could do little to improve the convicts thus giving the chaplains some respite. However, it was further argued that too little attention was paid to promoting religious feelings amongst the convicts since the chaplains were only present a short time during Sunday morning, and they had then no individual communication with the convicts whatsoever. The committee thus showed little faith in the matter of the reformation and moral improvement of convicts through the work of the chaplains. Instead, contrary to what the convict Adam Jones had testified in 1826 and labelled “floating hells”, the prison hulks were considered by the committee as not punishment enough. Criminals and convicts alike no longer

³⁴³ Ignatieff, *A Just Measure of Pain*, 194.

³⁴⁴ Introduction to the report, 1831, HOCP, vol. 7, Report from Select Committee on Secondary Punishments; Together with the Minutes of Evidence, an Appendix, and Index, 1831-1832, 5-7.

dreaded the prison hulks, one had even considered his time on board one as a “pretty jolly life”. They were well-fed, well-clothed and took part in “riotous indulgences” by night, free labourers even outright envied the convicts according to the master shipwright at Woolwich.³⁴⁵ The system of hard labour at the arsenals and dockyards and an accompanying place of confinement was however not to be abandoned. But the prison hulks, the committee argued, could, for all their faults, not persist, instead, it was necessary to construct permanent places of confinement on shore based on the same system of hard labour. It would be a costly affair to replace the prison hulks, and the committee admitted that it was an ambitious project, nevertheless, it was deemed an important one, and early trials was to be carried out as soon as possible.³⁴⁶ This somewhat confirms that the prison hulks were indeed locked in a path-dependent process. Better alternatives were now fully recognized, nevertheless, as the committee conceded, the costs to reverse the prison hulk system had grown exorbitant.

The necessity of penal transportation was in the minds of the committee, still undisputed. Its main purpose was to dispose of criminals whose crimes did not warrant the death penalty, but whose morals were so depraved that their reformation was hardly to be expected. But for some classes in society, it was, as mentioned earlier, no longer seen as a punishment. These were generally young, single men who had a desire for change and saw promises of fortunes in distant Australia. Labour was in high demand by the settlers, who according to the committee, treated the convicts too leniently to ensure that work was performed well. This life of comparative ease was further said to be inconsistent with the moral improvement of the convicts.³⁴⁷ Some convicts, however, preferred transportation to the prison hulks earlier than the 1830s but for other reasons. Robert Hazard, for example, a young man sentenced to seven years of transportation for grand larceny by the Old Bailey in February 1804, petitioned in May of 1805 to have his sentence put in effect. He had stolen a pocketbook and evidence supplied against him strongly suggested that he had not acted alone. His petition was accompanied by a cover letter written by a member of Parliament called John Atkyns Wright. What is interesting is that Atkyns Wright expressed that the object of all punishment was reformation, and keeping Hazard on the prison hulks in Portsmouth, where he was currently awaiting transportation, inhibited this. Further, Hazard’s friends had testified that he was not “naturally depraved” and had been “seduced into improper habits.”. Under appropriate auspices, it was argued that Hazard could return to society as an honest and valuable member

³⁴⁵ Introduction to the Report, Select Committee on Secondary Punishments, 12-16.

³⁴⁶ Introduction to the Report, Select Committee on Secondary Punishments, 16.

³⁴⁷ Introduction to the Report, Select Committee on Secondary Punishments, 16-18.

of society, the best course of action was therefore to transport him. However, the Recorder of London, John Silvester, was not convinced. At the petition hearing, Silvester claimed that it was obvious that Hazard had connections with a gang of thieves and that no reformation was to be expected. Additionally, Hazard had been in custody once before in 1798 and it was already then hoped that he could be reformed, nevertheless, he was imprisoned again in 1803 which, according to Silvester, pointed to his gang affiliations. Considering this, and the second instance of theft for which he was sentenced to transportation, Silvester could not find anything that would warrant a recommendation for mercy and earlier transportation.³⁴⁸ It would be another year and a half from the time Hazard's petition till his sentence was put into effect, in 1806 he was transported to Australia onboard the convict ship *Fortune*.³⁴⁹

To verify the claims of the debauched life on board the prison hulks, the committee interviewed convicts, guards, officers and even personnel at the dockyards and arsenals. The testimony of a convict named Mannister Wortz, who had spent seven months on board the *Leviathan* prison hulk in Portsmouth Harbour, confirmed many of the committee's findings about the "riotous indulgences" that had taken place below deck. Wortz was confined in Millbank Penitentiary when the interview took place, he claimed that he had wished to be sent there from the *Leviathan* on account of the bad company on board that prison hulk. Every evening below deck there was singing accompanied by musical instruments, the guards did not interrupt, on the contrary, sometimes they even stood by and listened and sometimes they even joined in. When asked whether the convicts suffered or felt the degradation of punishment, the answer was that he believed that some of them, especially the older convicts and the "greatest rogues", did not suffer and that they probably did not mind being confined in the prison hulk at all. Several times Wortz also hinted at a hierarchy below the decks, the older convicts and convicts who had committed more severe crimes even enjoyed certain perks. This hierarchy was even adhered to by the guards who would purposely neglect to inspect these convicts on the way back from work in the dockyards, this had led to hard liquor being brought on board. It could also be small concessions such as having a tub of water to wash yourself with or even the privilege of sending a letter with the help of the guards. A common practice was, according to Wortz, also to cut down the hammocks of new convicts and steal all their belongings.³⁵⁰

John Ward, the convict onboard the *York* prison hulk in Portsmouth Harbour in the 1840s who kept a diary, verified much of Wortz's testimony. When he first arrived on board

³⁴⁸ Report of John Silvester, June 19, 1805, TNA HO 47/34/21, f 171-177.

³⁴⁹ Convicts Transported, 1787-1809, TNA HO 11/1, f 373.

³⁵⁰ Interview with Mannister Wortz, Select Committee on Secondary Punishments, 83-85.

the prison hulk, the captain had asked Ward if he had any money which he said he did not, the captain replied that all new convicts were to be searched and if he found out they were lying, they would be severely punished. Ward thus gave up his money to the captain who said he would keep it until he was sent off to Norfolk Island or sooner if he behaved well. When the new convicts were brought to the blacksmith to have their heavy irons removed, they passed through the prison hulk and convicts called at them from every direction, almost giving the impression of running the gauntlet. The convicts battered Ward with questions and asked him if he had any money or tobacco and one convict even said: "Give me any thing you have [...] I will take care of it for you." However, a man who appeared to Ward to be in authority cautioned him and said: "Don't give that fellow any thing or you will never see it again." Finally, as Ward was brought with the new convicts into the washroom, he described the other convicts as gathering around them and stealing everything the captain had let him bring onboard. Ward described his experience as a virtual system of: "...plundering one from another, even to a dinner of potatoes!"³⁵¹ Although the earlier discussed testimony of Wortz was not without bias and the committee's questions can be considered leading, the fact that Ward's description is comparable points to this most likely being a common practice.

Convicts with friends near, or in Portsmouth, also had special privileges, according to Wortz, they could smuggle in money, and friends could even be brought onboard the prison hulk for a small fee to the captain. Most frequently brought on board were women passing themselves off as family or relatives to the convicts, however, they were not allowed below deck. "Improper books" were also frequently smuggled on board the hulks and a text of a "notoriously indecent song" had been in the possession of one of the convicts. Wortz was also certain that most convicts would become "accomplished rogues" rather than achieving any sort of reformation from spending time onboard a prison hulk. Regarding the chaplains, Wortz commented that many convicts tended to avoid the evening sermons by hiding in the water closets, and that the chaplains never talked to a convict privately. The guards and officers, many of whom were old convicts, never attended divine service and very few convicts in general ever attended. On the question of whether there was anything done to improve the opinions and morals of the convicts, Wortz simply answered: "Not in the slightest degree."³⁵² This confirms the fact that chaplains were indeed more disciplinarians than saviours of souls despite what the chaplains themselves reported to the Home Office. Furthermore, convicts who tried to better

³⁵¹ John Ward & George Cunningham, & John Fell, & C Moore, & Bryan Gandevia, *Diary of John Ward, 1841-1844*. <https://nla.gov.au/nla.obj-232276604/view>, 76-78, 80.

³⁵² Interview with Mannister Wortz, Select Committee on Secondary Punishments, 12-14, 87-88.

themselves and avoid drinking late at night were laughed at and ridiculed according to Wertz. The chaplain also rarely visited the prison hulk, Wertz had never seen him except on the sabbath when he held sermons for about an hour and a quarter.³⁵³ Another convict, William Brett, was also interviewed before the 1832 committee, he had spent only a few weeks on board the *York* and a few days on board the prison hulks in Woolwich. On the question of whether attention was paid during divine service and whether any sort of attempts at reforming the convicts was ever practised, the answer was simply, no.³⁵⁴ It thus appears as if even the convicts acknowledged that the efforts of the chaplains to reform convicts were a fruitless endeavour.

The 1835 Committee on Gaols and Houses of Correction in England and Wales echoed many of these sentiments. English quaker and prison inspector William Crawford, who had travelled from the United States, where he had visited several penitentiaries and jails, was asked whether he had visited the prison hulks in England and if so, what his impression of them was. His answer was simply that they were “very bad”, and convicts released from them had turned out to be “...the very worst of Characters.” English abolitionist Samuel Hoare, likewise, testified that the prison hulks indeed appeared to promote crime.³⁵⁵ An unnamed convict who had been confined only three days on board a prison hulk was also interviewed by the 1835 committee. He had by his request and with the help of friends been sent to another prison. He maintained that his character would have worsened if he had remained on board, that some convicts were “very bad”, and that some of them laughed at any form of religious instruction.³⁵⁶

Another unnamed convict onboard the *Leviathan* prison hulk in Portsmouth Harbour stated that: “... every thing dread there; the longer a Man remains there the worse he becomes; would be a ruined Man for ever, and never able to do a hard Day’s Work.”³⁵⁷ Capper was also interviewed by the 1835 committee, he did his best to smooth things over by pointing to the fact that more convicts were now being transported to Australia again. Convicts now dreaded the punishment of transportation again because the governors of the Australian settlements had been restricted in granting pardons and the convicts knew that there was nothing to be accomplished by being sent there anymore. When asked about the chaplains’ religious duties, Capper stated that there was a clergyman on each prison hulk who performed divine service every Sunday and read prayers twice a week in the hospital. Further, prayers were read three

³⁵³ Interview with Mannister Wertz, Select Committee on Secondary Punishments, 88.

³⁵⁴ Interview with William Brett, Select Committee on Secondary Punishments, 92.

³⁵⁵ Interview with Samuel Hoare, 1835, HOCP, vol. 11, First Report from the Select Committee of the House of Lords Appointed to Inquire into the Present State of the Several Gaols and Houses of Correction in England and Wales; with the Minutes of Evidence and an Appendix, 1835, 3, 12, 14, 26, 27, 495.

³⁵⁶ Interview with Unnamed Convict, First Report from the Select Committee, Appendix no.2, 16.

³⁵⁷ Interview with Unnamed Convict, First Report from the Select Committee, Appendix no.3, 49.

evenings a week by one of the guards or a trusted convict in each of the prison rooms or the chapel.³⁵⁸ The testimonies of the convicts on board the prison hulks were as discussed, quite different. Further, despite Capper's reassuring statements, by the 1820s and early 1830s, it does appear that the prison hulks had indeed become, as the convict Adam Jones had put it in 1826, forgotten. The chaplains were growing inattentive to their duties as was reflected not only by accounts of convicts such as Wortz and Brett but also by the chaplains' apparent admission of defeat to the universal reformation of convicts.

Schools for the convicts had been introduced early on board the prison hulks, the teacher was then generally a convict or a guard, it was only later a separate schoolmaster was appointed.³⁵⁹ The first mention in the chaplains' biannual reports of a school is dated 1815, the chaplain in Portsmouth Harbour then stated that: "The reading school, on the upper deck of the Captivity, has been continued to the great benefit of the scholars, several of whom can now read extremely well."³⁶⁰ This statement hints at the fact that schools had been active for some time, but like the reports on the moral improvement of the convicts, these reports also tended to exaggerate the progress made. Capper also frequently reported on the progress of the schools, in 1816 for example, he claimed that extraordinary attention had been paid by the convicts to their schoolmaster.³⁶¹ A year later he stated that a school had now been established on board every prison hulk in England and that they had proved to be of infinite benefit to the prisoners.³⁶² In reality, however, education seems to have been irregular and different on board each prison hulk. A convict in Woolwich testified before the 1832 committee that there was no school at all on board his prison hulk, other than that, no remarks of the schools by convicts were made before the committees.³⁶³ In 1829 however, the chaplain on board the *Leviathan* in Portsmouth Harbour reported that a library with "above a hundred volumes" was available to the well-behaved convicts.³⁶⁴ Capper was asked by the 1835 committee if clergymen instructed the classes, but the answer was that the evening schools were led by a guard or a convict. The chaplain only attended on occasions to admonish convicts who had conducted themselves improperly, thus reinforcing their role as agents of discipline rather than reformation or even education. The convicts or guards who taught in evening schools were appointed by the chaplain and the focus was firmly set on reading to the convicts and teaching them how to read,

³⁵⁸ Interview with Capper, First Report from the Select Committee, 279-283.

³⁵⁹ Branch Johnson, *The English Prison Hulks*, 128.

³⁶⁰ Chaplain's Report, 1816, HOCP, vol. 18, Two Reports of John Henry Capper, 1816, 6.

³⁶¹ Capper's Report, 1817, HOCP, vol. 16, Two Reports of John Henry Capper, 1817, 1.

³⁶² Capper's Report, 1818, HOCP, vol. 15, Two Reports of John Henry Capper, 1818, 1.

³⁶³ Interview with Unknown Convict, Select Committee on Secondary Punishments, 1831- 1832, 95.

³⁶⁴ Chaplain's Report, 1829, HOCP, vol. 18, Report Convicts. Two Reports of John Henry Capper, 1829, .9.

writing was not encouraged.³⁶⁵ Like the moral improvement of the convicts, the 1830s also saw a decline in the praise of the school system on board the prison hulks. In 1836, for example, the schools were not mentioned at all. However, in 1840 a chaplain on board a prison hulk in Portsmouth Harbour commented that the school was in an efficient state and that the schoolmasters were assisted by eight teachers, most likely convicts.³⁶⁶ Nevertheless, in his last report, Capper's initial enthusiasm had significantly deteriorated, the schools were no longer the infinite benefits they had been in 1817. He conceded that only some convicts profited from the limited time and means available in the school and that the chaplains and schoolmasters had done their best to instruct the convicts under extremely poor conditions.³⁶⁷ It is difficult to ascertain whether the schools were ever efficient and beneficial for convicts, or if they grew worse over time. But Colquhoun's ambitious proposition in 1798 to turn the new penitentiaries into schools was hardly ever implemented on board any of the prison hulks. It does however suffice here to say that at best, the schools on board the prison hulks engaged a small number of convicts, and at worst it was non-existent. Despite the rise of mass education in the nineteenth century, historian Patricia O'Brien maintains that schools in prisons were often neglected as a preventative and rehabilitative element. Many prison reformers saw the century's rising literacy as having no positive effects on crime, some even going so far as to say that it could produce better-prepared criminals. She proposes that schools in prison should be considered a part of the overall discipline and its objectives being repression and control rather than education.³⁶⁸ This was likely the case also on board the prison hulks. The schools had been implemented under Graham in the early nineteenth century when his disciplinary order, as explored earlier in this chapter, steered away from the more violently repressive regiment of Campbell. Under Capper, the schools appear to have been one of the more positive elements of the prison hulks which he was eager to include in his reports to the Home Office. However, like much else, the hopes would deteriorate by the 1830s and eventually Capper's attitude towards education would become absent-minded in general.

When Capper was replaced in 1848 by Herbert Voules the old guards and officers were replaced, and a new form of discipline was introduced. This was not welcomed by the convicts on board the *York* prison hulk in Gosport Harbour who effected a mutiny. Voules thus reported that only: "...eight or ten thoroughly bad men obtained complete influence over the rest of the

³⁶⁵ Interview with Capper, First Report from the Select Committee, 280-281.

³⁶⁶ Chaplain's Report, 1840, HOCP, vol. 38, Two Reports of John Henry Capper, 1840, 6.

³⁶⁷ Capper's Report, 1847, HOCP, vol. 48, Two Reports of John Henry Capper, 1847, 1.

³⁶⁸ O'Brien, *The Promise of Punishment*, 192-194, 204.

prisoners, and established such a system of terrorism on board that many prisoners who had been previously well conducted joined them...” After managing to quell the mutiny, Voules fitted up several cells on board the *York* for the ringleaders, nevertheless, he conceded that the prison hulks did not afford means for complete separation and the ringleaders could thus still: “...in some degree, exercise a baneful influence.”³⁶⁹ This attests to the strength of the prison subcultures on board the prison hulks and how their separate order reigned below the decks, the architecture of the prison also actively strengthened it.

The introduction of regularly attending chaplains, the construction of chapels, and the establishment of schools all stemmed from the same purpose, namely that of disciplining the convicts. The root of the increased need for discipline was the dangers posed by the indiscriminate mixture of convicts below the decks. However, the convicts resisted this discipline by establishing their own defiant order with hierarchies and other subcultural patterns. There was thus a dialectic between the efforts of the official order and the unofficial order of the prison hulks which culminated in a stalemate. A separate order had thus been established, one which avoided any friction or conflict and maintained a situation where the actors preferred stability and the status quo over change. This in turn led to a passive acquiescence which would constantly reproduce the prison hulks as places of confinement.

Chaplains in the Fortress Prisons

During the seventeenth- and eighteenth centuries, few, if any steps were taken towards reforming or morally improving the prisoners confined within the fortresses. The role of the clergy was predominantly to prepare prisoners under the death sentence for their eventual execution, or force prisoners to confess crimes they were suspected of having committed. These duties were performed by the local parish priest, specially summoned clergymen, or, where available, a prison chaplain. Besides this, the role of clergymen within the older prisons, such as fortresses, was somewhat unclear. The Swedish Church Law of 1686 stipulated that the priests best suited for the task of educating and comforting were to be sent to the prisons to aid the sick and woeful prisoners, or those sentenced to the death penalty. Although great emphasis was also put on the prisoners to profess some Christian knowledge, it is doubtful if this was first and foremost in the name of reformation. In 1823, the Prison Committee chaired by Löwenhielm proposed that special prison chaplains were to be stationed at all the fortress prisons and houses of corrections.³⁷⁰ The most important part of the chaplain’s duties was to

³⁶⁹ Herbert Voule’s Report, 1848, HOCP, vol. 29, Report of the Manager of Convict Hulk Establishment. 1848, 2.

³⁷⁰ Nilsson, *En Vålbyggd Maskin*, 305–306.

conduct divine service, which was performed every other Sunday in the fortress church where a fourth of the prisoners were to be assembled at a time.³⁷¹ The fortress church was generally not a freestanding building. In Karlsten fortress, the church was situated within a repurposed vault, formerly used as a storage room.³⁷² In Nya Älvsborg fortress the church was located in the main tower and had been in use since 1658, at that time in service for the soldiers stationed there.³⁷³ Because of the large number of soldiers, some of the fortresses constituted their own parishes. Karlsten and Nya Älvsborg fortresses were thus parishes in their own right and the number of soldiers sometimes even outnumbered the number of prisoners. In Karlsten fortress, for example, there were 126 prisoners and 133 soldiers and officers in 1835.³⁷⁴

Regarding the reformation of the prisoners in the fortresses, the early nineteenth century was very much an extension of the two preceding centuries. Religion was present in the fortress prisons but with few, or no aspirations towards reforming the prisoners, although tentative steps were taken to educate the prisoners. However, before arriving at a fortress prison, the prisoners had to perform certain rituals related to the church and religion. When sentenced to a fortress prison, such as Nya Älvsborg, Karlsten, or Karlskrona, almost all prisoners were subjected to public corporal punishment in the form of public lashings of a varying number, usually not exceeding forty. In 1815, a soldier of Uppland's regiment stationed in Karlsten fortress was however punished with 100 lashes split up evenly over two days, he was then confined within the fortress prison after being spared from his death sentence. The soldier, whose name was Gillström, had on multiple occasions been punished for drunkenness and insolence, but it was an assault on an officer and the following court martial which led to the death sentence.³⁷⁵ Criminals sentenced to fortress prisons also had to submit to the "kyrkoplikt", which translates to church duty. Despite the name, church duty was not an obligation to attend church, but a form of public humiliation in which the criminal had to confess and repent his crime in a pillory in the church during divine service in front of all the parishioners. It was not just a punishment for the criminal, but it also functioned as a deterrent.³⁷⁶ After some debates, church duty was abolished for certain crimes such as violation of the sixth commandment in the 1740s while

³⁷¹ Krantz, *Under Järnkronan*, 155–157.

³⁷² Karlsten Fortress Chapel, Records of Marstrand's Church, Marstrands Kyrkoarkiv, Visitation and Inventory Lists, Visitation och Inventariehandlingar, N:1, 1788–1877, 1830.

³⁷³ Feiff, *Fångar och Försvare*, 39.

³⁷⁴ Lists of Soldiers and Prisoners, 1835, Records from Karlstens Fortress Parish, Karlstens Slottsförsamlings Kyrkoarkiv, A: 1, 1835–1860, b 32.

³⁷⁵ Krantz, *Under Järnkronan*, 109. Gillström, 1815, KFFA, Executed Rulings, Verkställda Utslag, E II: 4, 1811–1840-tal.

³⁷⁶ Ann-Sofie Ohlander, *Kärlek, Död och Frihet: Historiska Uppsatser om Människovärde och Livsvillkor i Sverige*. (Stockholm: Norstedt, 1985), 30, 36.

crimes such as theft still retained it. During the first years of the nineteenth century, church duty was once again discussed and in the parliamentary year of 1823, it was agreed that it should be abolished, however, without a better option serving as deterrence it persisted.³⁷⁷ If a criminal did not confess and publicly repent, he was generally punished with additional lashings and then confined in a prison where he was given only bread and water for a few days, or sometimes even weeks before he was brought back for another round of church duty. Thunstedt for example, a criminal sentenced for theft in 1840, was punished with forty lashes but refused to confess and repent publicly twice although he had confessed in court. He was thus put in prison for fourteen days on bread and water.³⁷⁸ Another criminal, Spjut, was sentenced to nine lashes and life in Nya Älvsborg fortress prison, however, he also refused church duty and managed to escape in 1834. After his escape, Spjut roamed the countryside and burglarised farmsteads until he was eventually caught. He was then sentenced to forty lashes, church duty and life in Nya Älvsborg's fortress prison.³⁷⁹ With few exceptions, most of the criminals submitted to the church duty. The legislation that enabled the church duty, the pillory, and various other forms of public humiliations was finally abolished in 1855 and replaced with fines.³⁸⁰

Another aspect of the fortress chaplains' duties was to engage in private conversations with the prisoners and make them confess the error of their ways and return them to the path of decency.³⁸¹ The journal of the chaplain in Nya Älvsborg fortress prison gives a few accounts of individual conversations with prisoners. One prisoner had requested to see the chaplain to enquire about the possibility of his salvation despite his former wicked ways. Other prisoners had conversations with the chaplains regarding life after death, and others were remorseful for crimes committed and queried about the possibility of absolution. Lastly, some prisoners just wanted to converse about philosophical matters such as the nature of vice and virtue.³⁸² The chaplain's journal thus indicates that they were most likely more inclined toward private conversation with prisoners than the chaplains on board the prison hulks, nevertheless, the chaplains in the fortresses had considerably fewer individuals under their care. Results from hearings on catechesis, Christianity, and reading and writing were also noted down in the chaplains' journals. Education had become an increasingly important element in the fortress

³⁷⁷ Elsa Trolle Önnerfors, "Bruket av Kyrkoplikt och Pliktvall från 1600-tal till 1800-tal" in *Lunds Domkyrka: Idéer och Världsbilder*, David Dunér ed. (Riga: Livonia Print, 2023), 374–375.

³⁷⁸ Thunstedt, 1834, NÄFFA, Documents Arranged by Subject, Ämnesordnade Handlingar: Utslag m.m. (akter) rörande fångarna, FI:3, 1818–1866.

³⁷⁹ Spjut, 1840, NÄFFA, Documents Arranged by Subject, .

³⁸⁰ Inger, *Svensk Rättshistoria*, 298–299.

³⁸¹ Nilsson, *En Vålbyggd Maskin*, 307.

³⁸² Chaplain's Report, 1847, Records of Nya Älvsborg's Church, Additional Documents and Manuscripts, Nya Älvsborgs Kyrkoarkiv, Övriga Handlingar och Handskrifter, P:1, 1847–1866, 40, 56–58, 60.

prisons after a Commandant's Order in 1820 which stated that prisoners in fortresses were to receive education, and classes were to be held on Wednesday and Saturday afternoons.³⁸³ In the same year, Bishop Fredrik af Wingård thus made the first provisions to start education for the prisoners at Karlsten fortress prison. Many prisoners were illiterate, and the textbook used for educational purposes was generally the New Testament. Books were mostly donated from religious societies, Karlsten fortress prison, for example, received a total of 579 texts from the Evangelical Society in 1821 which were also to be used for the prisoners' education.³⁸⁴ Twenty-five prisoners were further assigned special education which meant that they were to be given texts following their more advanced aptitude and frames of mind. For the remaining prisoners, fewer texts were to be given per their disposition and knowledge level but also depending on the crime they had committed. The chaplain must then, to follow the regulations, have a somewhat intimate knowledge of the prisoners and their character. Because of these classifications, the chaplain was also to, preferably every Wednesday and Saturday, perform an inquest into the prisoners' knowledge level and disposition.³⁸⁵ How many of the prisoners learned how to read and write is difficult to ascertain but they were most likely very few in the 1820s.³⁸⁶

Efforts to educate and individualize the prisoners were intensified in the 1830s and 1840s.³⁸⁷ A report on the education of the prisoners to the Board of Prisons in 1834 stated that the explicit object of education was to improve and return the prisoners to society.³⁸⁸ All prisoners were thus further divided into three different classes based on prisoners' behaviour in the fortress prison, following new regulations by the Board of Prisons in 1835. The first class was the reliable ones, these prisoners had not only stayed out of trouble while in the fortress prison but also shown fear of God, been attentive workers, and shown remorse for their past wrongdoings. The next class was the less reliable prisoners, much like the former class they were well-behaved but had committed some minor infraction or shown reluctance towards labour. Lastly, the unreliable prisoners showed no signs of improvement and continued their criminal way of life in the fortresses through acts such as drunkenness, insolence, and sloth.

³⁸³ Commandant's Order, 1820, KFFA, Executed Rulings, Verkställda Utslag, E2: 3, 1788–1850-tal.

³⁸⁴ By 1838, all the books available were still religious, it is highly doubtful that any other sort of literature was ever provided for the prisoners. Records of Marstrand's Church, Visitation and Inventory Lists, 1838.

³⁸⁵ Special education, 1821, KFFA, Executed Rulings, E2: 3.

³⁸⁶ In 1823 the chaplain at Karlsten fortress prison nevertheless reported that there had been recent progress in the teaching of the Beatitudes to the prisoners. Letter from the Chaplain, 1823, GBL, The Commandant's Letters, Kommendantens Brev, D III F:5 1822–1858.

³⁸⁷ Roddy Nilsson "The Practise of Pastoral Power: The Swedish Prison Chaplains in the 19th Century", *Crime, Histoire & Sociétés/Crime, History & Societies* 17, no. 1 (2013). 57.

³⁸⁸ Report on Education, 1834, KFFA, Executed Rulings E2: 3.

Prisoners could of course be moved between these classes, lesser breaches against the rules would lead to one step down, and more severe breaches would mean that a reliable prisoner could be considered an unreliable one. If an unreliable prisoner committed a severe infraction, he would be moved down to something only referred to as “the last class”. Before being moved down a class, however, the prisoner was to be heard and explain his actions, and four times a year the chaplain was to remind the prisoners of this system. Lastly, if a prisoner could not read, or neglected religious instruction, the chaplain was to report this to the Board of Prisons which would pursue the matter further.³⁸⁹

Chaplains’ duties were bureaucratically cumbersome, and their salaries were low. Control over the prisoner's ability to read and their knowledge of Christianity was central and every prisoner who deviated from the norm meant comprehensive administrative activity. The chaplains were further to report to the consistory as well as the Board of Prisons which created a dualism which resulted in administrative issues and confusion. Moreover, when the chaplains reported some prisoners’ poor reading skills or lack of Christian knowledge, the Board of Prisons would not only seek to intensify their efforts, but it was also a signal that the chaplain might be negligent. However, this does not seem to have led the chaplains to embellish their reports significantly like the chaplains on board the prison hulks. The reason for this was most likely the bad reputation the older prisons such as the fortresses had gained as the nineteenth century progressed. Historian Roddy Nilsson gives multiple examples of older prisons being referred to by chaplains as “sewers” or “depots of putrefaction” for the “dregs of society”. Behind this conception was the idea of the moral corruption of prisoners in large prison rooms where hardened criminals mixed with lesser ones.³⁹⁰

In their yearly reports to the Board of Prisons, from 1836 onwards, the chaplains were also to report on the overall moral condition of the fortress prison. The prisoners’ knowledge and education, catechesis hearings, prisoner's attendance at holy communion and divine service, and individual prisoner’s moral improvement were all to be reported on. In 1845, the Board of Prisons further added even more regulations, the chaplains were now also to include the age of the prisoner, where he was born, and any information about the prisoner from his home parish.³⁹¹ The obligations of the chaplain thus successively swelled over time, but with seemingly more intensity after the formation of the Board of Prisons. The moral condition in Nya Älvsborg’s fortress prison was by 1840, despite the negative conceptions of the older

³⁸⁹ Regulations, 1835, KFFA, Executed Rulings, E2: 3.

³⁹⁰ Nilsson, *En Vålbyggd Maskin*, 308, 315–317.

³⁹¹ Regulations, KFFA, Executed Rulings, E2: 3, 1845. Nilsson, *En Vålbyggd Maskin*, 310.

prisons, described as better than what could have been expected. This was ascribed to the more humane treatment the prisoners received from the guards and officers as of late. One incident had occurred, a manslaughter, but other than that, no major excesses were reported. Regarding their education, the chaplain reported that the prisoners' reading skills were "pretty good". One prisoner, who could not yet read, was said to be zealously working with another prisoner in a vault in preparation for the next holy communion, an occasion held four times each year. The chaplain had also managed to confirm two prisoners, one of them a 47-year-old who had been confined in the fortress for an exceedingly long time. Further, at divine service, the prisoners were said to be happy to go, and as a rule, they behaved devoutly and acted calmly. However, when it came to the moral improvement of the prisoners, a topic which the chaplain stated had just recently become of interest to experts, the prospects were said to be poor. He referred to King Oscar I's writing on punishments and prisons, the so-called "Yellow Book" printed in 1840 which stated that many improvements were needed if the fortresses were to become places of moral improvement.³⁹² Nevertheless, Oscar I did envision a future for the fortress prisons, he mentioned Karlsten and Kungsholmen outside Karlskrona as the most suitable fortresses as they were located on islands in archipelagos. The strict silence of the Philadelphia system, which he advocated was however not to be imposed there.³⁹³ It thus seems as though Oscar I did not have any plans to reform the fortress prisons in any considerable manner and his book was more concerned with the implementation of the cellular prison system.³⁹⁴ The fortresses thus seem to have been envisioned as prisons for those deemed incorrigible, and it was most likely this role they filled by the 1840s.

The chaplain at Karlsten's fortress prison also reported in the same year that the moral condition of the fortress had improved, but that there was still a need for more books for the prisoners, a complaint made in earlier yearly reports. It also pained the chaplain that all the religious instructions had not amounted to any substantial reform in the prisoners whatsoever. He further stated that he had sacrificed a tenth of his salary during the autumn and winter to teach prisoners how to read six hours every week, this was most likely a hard blow given his already low salary. He had also experimented with the Lancaster method, where more knowledgeable prisoners were to teach the less knowledgeable, similar to what had been done on board the prison hulks. But this had yielded little results in Karlsten fortress prison, none of

³⁹² Chaplain's Report, 1840, SÖF, Received Reports on Religion, Inkomna Religionsberättelser, 1839–1859, E VI: 1.

³⁹³ Oscar I, *Om Straff och Straffanstalter*, (Stockholm, P. A. Norstedt & söner, 1840), 105.

³⁹⁴ Nilsson, *En Vålbyggd Maskin*, 187–188.

the prisoners currently in the fortress could read or write fluently. This method had however been implemented already in 1822 and some of the prisoners sentenced for vagrancy in Karlsten fortress prison were even punished for not tutoring fellow prisoners. Further, a prisoner named Björk was noted by the chaplain for having refused to take part in any education while in the fortress prisons throughout the 1830s and 1840s. He was completely illiterate but when transferred to Nya Älvsborg he changed his mind and thus showed great interest in learning how to read. He was examined a few months later, but the chaplain showed little hope for Björk's prospects of ever learning how to read. He was motivated, but he was also sick, in his forties, and had a stutter. A few more months passed and Björk was now also described as sluggish and lethargic. The last mention of Björk was that he was being taught how to read and write by a fellow prisoner. Whether Björk ever learned how to read and write is doubtful, but his time at Nya Älvsborg points to the many efforts made by the chaplain in accommodating his wishes to learn.³⁹⁵

In Karlsten fortress, the prisoners' knowledge of Christendom was nevertheless at an acceptable level. There had been six different place majors at the fortress the last year, all with individual visions of discipline and when the treatment had been lenient, the prisoners had not complained, implying complaints when it had been strict. The many place majors in such a short time had had detrimental effects on the discipline and moral improvement of the prisoners. The chaplain argued that the different place majors had not bothered to learn the names of their officers and guards and simply referred to them by their given numbers. However, divine service had been well attended, and the prisoners were said to have opened their hearts to the words of the Lord.³⁹⁶ Next year Karlsten had a new chaplain, who likewise saw little hope of moral reform in the prisoners. The fortress itself, he complained, aggravated the evil within the prisoners and the extremely rare cases of reform was a victory more: "...noble and rewarding than any that could be won on a battlefield." He further complained that he had too little time to teach the many prisoners and that the classes ought to be separated into different groups, depending on their level of comprehension. This suggests that the system of classes introduced by the Board of Prison might not have been adhered to in practice. In 1841, the chaplain at Nya Älvsborg similarly reported that the high number of prisoners confined in the fortress impeded the outlook for moral reform. More prisoners who behaved well, he argued, should be pardoned, this would set a good example for the others. Despite this, the moral condition seems to have

³⁹⁵ Björk, 1822, KFFA, Executed Rulings, EII: 3. Nya Älvsborg's Church, Additional Documents and Manuscripts, P:1, 1847–1866, 80, 83, 86, 93, 95, 148–149.

³⁹⁶ Chaplain's Report, SÖF, Received Reports on Religion E VI: 1, 1840.

been easier to maintain and improve in Nya Älvsborg than in Karlsten fortress prison. The chaplain in the former reported, for example, that no serious infraction had taken place which showed that reform was possible.³⁹⁷ One year later he reported that all the prisoners could read somewhat well but their knowledge of Christendom was still poor.³⁹⁸

In Karlsten fortress prison, in 1842, the chaplain once again stated that progress was slow regarding education. The chaplain had even asked the prisoners, who appeared attentive and calm during class, why they performed so poorly, the answer was that they were not given enough time to study. This was however dismissed by the chaplain, but he had no way of forcing the prisoners to learn. Instead, he resorted to threatening them that the Board of Prisons would punish their impudence and a tarnished record while in prison, impeded their chances of ever being released. Divine service was also poorly attended not only due to prisoners' disinclination but also because the only day they had time to mend and repair their clothes was Sundays. What the chaplain thought about this excuse was not stated in the report, but given his previous dismissal, it is highly plausible that he had his misgivings. The small number of attendees was undoubtedly also somewhat deliberate on the part of the fortress prison administration; many prisoners had escaped during divine service due to poor supervision. The chaplain thus concluded by again stating that he had little hope for the prisoners but humbly conceded that a chaplain's work is never without fruit, although the prospects were dire.³⁹⁹

The next year the situation was very much the same, prisoners were still stating that they did not have enough time to study which was again dismissed by the chaplain as a mere excuse. Few prisoners attended divine service and there was room for more prisoners the chaplain argued this time. The normal attendance was around twenty, as opposed to holy communion, when sixty to seventy prisoners attended without any problems concerning supervision. This year, the drunkenness of the prisoners was also brought up as detrimental to both their moral improvement and their ability to learn. But most attention was put on the fact that there were still too few prisoners in attendance at divine service.⁴⁰⁰ The Board of Prisons had sent multiple letters to the chaplain in Karlsten fortress prison inquiring into this.⁴⁰¹ The yearly report of 1844 thus started with the chaplain stating that the prospect of reforming or morally improving the prisoners was now almost as good as non-existent. Further, he repeated

³⁹⁷ Chaplain's Report, 1841, SÖF, Received Reports on Religion E VI: 1.

³⁹⁸ Chaplain's Report, 1842, SÖF, Received Reports on Religion E VI: 1.

³⁹⁹ Chaplain's Report, 1842, SÖF, Received Reports on Religion E VI: 1.

⁴⁰⁰ Between 50-80 prisoners were indeed in regular attendance throughout the 1840s and 1850s at Nya Älvsborg. Nya Älvsborg's Church, Additional Documents and Manuscripts, P:1, 5-9, 37, 40, 56-58, 60, 77, 80.

⁴⁰¹ Chaplain's report, 1843, SÖF, Received Reports on Religion E VI: 1.

this year that the number of prisoners attending divine service was very low.⁴⁰² In Nya Älvsborg fortress prison the same year, the number of prisoners had rapidly increased, and the chaplain complained that few prisoners could ever return to society as reformed individuals; the main reason for this was that many hardened criminals mixed with lesser criminals. However, the prisoners were quiet, and like earlier years, treated humanely and justly and their reading skills were for the most part good he argued. Unlike at Karlsten fortress prison, divine service was well attended, seventy-five prisoners, or as many as the room would hold, were in regular attendance.⁴⁰³ In 1845, the chaplain in Nya Älvsborg stated that he had hope for the moral improvement of several prisoners, but this was impeded by the fortress prison itself. He argued that a culture had taken hold amongst the prisoners where repentance over passed crimes was met with ridicule.⁴⁰⁴

The chaplain in Varberg penal prison, Hampus Frank August Lönegren, wrote in his memoirs that a similar culture had been widespread there in there in the 1860s. He maintained that many prisoners were dissemblers who feigned attention at divine service, further, in the dormitories the lamps burned all night, and the prisoners drank hard liquor and told stories of past crimes. The widespread notion among the prisoners was that religion was nothing but a collection of “priest stories” which not even the chaplains adhered to. An old prisoner had even told the chaplain when he first arrived at Varberg penal prison: “So, the chaplain is also a reader who has come to convert us? Then I’ll have to say that the chaplain has miscalculated, for neither me nor the other comrades will believe what the priests have to say.”⁴⁰⁵ These attitudes were without a doubt also pervasive in Karlsten fortress prison. In 1845 the chaplain in Nya Älvsborg fortress prison reiterated these sentiments and argued that, while the prisoners behaved exemplary during daytime, it was hardly known to anyone besides the prisoners what happened in the vaults at night. He now feared that “...few if any are improved in fortress prisons...” The honest feelings a prisoner might bring to the fortress were bound to gradually fade away he solemnly concluded.⁴⁰⁶ Besides education, divine service, individual conversations with prisoners, and chronicling the life of the prisoners, the chaplains had other duties. One of these, which has been mentioned earlier, was to make prisoners in the fortresses confess crimes that the court could not prove with certainty. These prisoners were, according

⁴⁰² Chaplain’s Report, 1844, SÖF, Received Reports on Religion E VI: 1.

⁴⁰³ Chaplain’s Report, 1843, SÖF, Received Reports on Religion E VI: 1.

⁴⁰⁴ Chaplain’s Report, 1845, SÖF, Received Reports on Religion, Inkomna Religionsberättelser, E VI: 2, 1845–1846.

⁴⁰⁵ Lönegren, H.F.A. *Lifvet I ett Svenskt Straffängelse under 1860-talet Jemte Några Tankar om Medlen till Förekommande af Brottsligheten i Samhället*, (Varberg: Nybergs boktryckeri, 1893), 125–127, 148–151.

⁴⁰⁶ Chaplain’s report, 1846, SÖF, Received Reports on Religion, E VI: 2.

to a Royal Decree in the late eighteenth century, to be put in a dark cell and were to have no communication with anyone else except the chaplain. Few prisoners confessed to crimes and the work of the chaplains was thus all too often fruitless.⁴⁰⁷ Petter Söderström for example, was sentenced to life in Nya Älvsborg fortress in 1825 for three counts of theft and embezzlement. In 1829, he sent a long letter to the chaplain where he made a full confession of his criminal career. Söderström claimed that he was wrongfully sentenced for his third theft and stated that while his punishment for the other thefts was justified, it pained him to be sent to a fortress prison for life for someone else's crime. The chaplain reported that he had made several attempts to make Söderström confess this third theft but with no results. In 1836, Söderström was moved to Karlsten fortress prison, he petitioned again to at least be sent to a house of correction, but his request was denied by the Board of Prisons in 1840 and again in 1843.⁴⁰⁸ While in Karlsten fortress prison, Söderström was sentenced in 1840 to solitary confinement for drunkenness, and he was punished with thirty-five lashes and solitary confinement twice in 1846. The last note on Söderström in the prison rolls simply read: "Dead in the hospital". This was in 1847, and he had spent 21 years of his 53-year life in a fortress prison for a crime he staunchly professed innocence of.⁴⁰⁹

Related to this, chaplains had another duty which also has been touched upon earlier, namely, to process and prepare prisoners who had been sentenced to death. Condemned prisoners were to be educated by the chaplain in Christian dogma to compel them to repent, not only their crimes, but also their prior sins to prepare them for the afterlife. The 1809 Church handbook instructed that the chaplain was to be designated a teacher, and the prisoner was to learn what a soul, grace, and redemption were. Furthermore, without this knowledge, it was stipulated, the prisoner could not enjoy the light of the gospel in his soul and thus act as God's power to salvation.⁴¹⁰ However, this task sometimes difficult to perform. The chaplain in Nya Älvsborg fortress prison, for example, found it impossible to process and prepare life prisoner Lindberg for his death in late October 1826. Lindberg had murdered the castle custodian at said fortress prison and had for this been sentenced to death. After his trial in Gothenburg, he was put in the local county jail and could not be brought back to the fortress because of the weather conditions and because of the lack of space in the fortress prison. The reason why the chaplain could not process Lindberg before his execution was that Nya Älvsborg fortress parish then

⁴⁰⁷ Krantz, *Under Järnkronan*, 161–162.

⁴⁰⁸ Petter Söderström, 1847, KFFA, Executed Rulings, Verkställda Utslag, EII: 5, 1811–1840-tal.

⁴⁰⁹ Peter Söderström, KFFA, Prison Rolls and Parish Register, D:3, 59.

⁴¹⁰ Svante Jakobsson, *Dödsfångars Beredelse: en Brydsam Plikt för Fängelsepräster i Gången Tid*, (Stockholm: Almqvist & Wiksell International, 1987), 9, 17–19.

belonged to the nearby island of Hisingen and Lindberg was now in Gothenburg. Exactly what happened with Lindberg's religious preparation for death is difficult to ascertain but in the parish book, he is noted down as executed in February 1827.⁴¹¹ Eighteen-year-old Jonasson was by comparison spared the death sentence for manslaughter in 1822 and instead sent to Karlsten fortress prison. In 1824 he managed to escape but was recaptured and brought back after seven months. Later that year he and fellow prisoners assaulted another prisoner for which he was put in heavy irons.⁴¹² His mother petitioned to have him released in 1827, but her request was denied, however, in 1838 he was released by order of the Board of Prisons, on the condition that he worked at a farm in his home parish.⁴¹³

The attitude of the prisoners towards the chaplains, fellow prisoners, and the overall discipline were presumably for the most part defiant, but at the same time somewhat difficult to establish with certainty. Although the chaplains in the fortress prisons did not embellish their reports like their counterparts on board the prison hulks, the voices of the prisoners themselves are rarely heard in reports and documentation. However, a court case in Karlsten fortress prison in the 1820s, which dragged on for two years, provides some valuable insights into the minds of the prisoners. The court case also sheds further light on some of the duties of the chaplains within the fortress prison. The last part of this chapter, before the summarizing comparison, will therefore be a thorough exposition of this rare glimpse into the intricate lives of the prisoners within their vaults.

A Curious Court Case

On Saturday the 18th of July 1824, prisoner Anders Engelbrekt Mod stood in the kitchen in one of the vaults in Karlsten fortress prison baking a piece of bread. One half was meant for him and the other for fellow inmate Fredrik Falck. But when Falck received his half, it disintegrated and landed on the floor, he picked up the pieces and in anger threw them away. The next day, out in the courtyard after divine service, Falck stood in the doorway of one of the vaults, throwing pieces of bread at Mod who replied: "Keep your bread until you need it." The third time Falck threw bread, Mod had enough and approached Falck who drew a knife. A scuffle commenced and Falck managed to stab Mod four times. Eventually, guards and onlooking prisoners came to the scene and Falck was restrained and later put in solitary confinement. This was Mod's story to the prison court which convened on the 26th of August the same year. He

⁴¹¹ Lindberg, 1826, GBL, Commandants's Letters, D IIIf: 5. Lindberg, Records of Nya Älvsborg's Church, Birth- and Baptism registers, Nya Älvsborgs Kyrkoarkiv, Födelse- och Dopböcker, C:2, 1772–1848, 45.

⁴¹² Jonasson, KFFA, Prison Rolls and Parish Register, Fångrullor och Kyrkoböcker, D: 1, 1816–1834, 85.

⁴¹³ Jonasson, 1838, KFFA, Executed Rulings, EII: 4.

also said that he did not know why Falck had any hatred for him, they did not share the same vault and before the first incident with the bread, they never had any quarrels. Falck confirmed that this was indeed the sequence of events but added that he had feared for his life when Mod approached him which was why he drew his knife.⁴¹⁴ The fortress physician stated that the stab wounds had been deep, but not life-threatening, in fact, when the court convened, Mod stated that his wounds were essentially healed.⁴¹⁵

Falck was also on trial for destroying furniture in the vault where he had been confined after the stabbing. He stated before the court that he had managed to break his handcuffs and then broken off a piece of the bed with which he had destroyed a stove in the vault. He had not been allowed any light or firewood, so he argued that the stove was obviously superfluous, a more plausible reason might be that he tried to escape. The court then noted that Falck wanted to make another statement, but he was silenced because it was deemed irrelevant. Yet he persisted and claimed that he wanted to disclose a murder committed in the fortress in 1820 which had been ordered and then hushed by a group of prisoners. The name of the murdered prisoner was Berglöf. According to Falck, Berglöf had fallen and hit his head while drunk and was then brought into prison vault no.8 where he had been killed by blunt force violence and strangulation. Falck was questioned by the court how he could possibly know all this; he had not been in the said vault. He answered that it had been told to him the following morning. On that morning, when he inquired about the cause of Berglöf's death, he was answered by Officer Wickman that he better keep quiet, or he would be punished with fifty lashes.⁴¹⁶ Berglöf had been a quarrelsome and vicious prisoner and both guards, officers, and fellow inmates were never safe from his violent outbursts. He had also taken part in a large escape in 1814 and even severely injured Officer Wickman the following year with a knife.⁴¹⁷

At this point the trial took a surprising turn, Falck wanted to make a full confession of a murder he said that he had committed but had not been sentenced for in 1813. He claimed that

⁴¹⁴ Mod, who was by no means a peaceful man would die a violent death in Karlsten in 1830. He had been drunk in his vault upon inspection by a lieutenant and together with two other prisoners, one of them was Falck, he attacked the lieutenant. The attack was averted, and the troublemakers were handcuffed in their respective vaults. The next morning, the three prisoners sat in the courtyard attempting to break their irons with heavy stones. The lieutenant came running out and the three prisoners started to throw stones at him. The lieutenant eventually fired upon Mod who bled to death from his wound half an hour later. The resulting court proceeding could however not be attended by the lieutenant himself; he had shot himself and was found lying dead outside the fortress walls. Krantz, *Under Järnkronan*, 184–185.

⁴¹⁵ Court Proceedings, 26 Aug 1826 KFFA, Executed Rulings, Verkställda Utslag, E II: 6, 1815–1850-tal, 2–6.

⁴¹⁶ Court Proceedings, 1826, KFFA, E II: 6, 5–9.

⁴¹⁷ Wickman appears to have been a particularly disliked officer, in 1815 he was also attacked by former soldier Niclas Ekelund who intended to kill him with a knife. Krantz, *Under Järnkronan*, 188, Niclas Ekelund, 1825, GBL, Commandant's Letters, D IIIf: 5.

he and two others had been out on midsummer's night on Djurgården in Stockholm where they saw two young men whom they attacked and killed. From search warrants, Falck found out that they were store clerks. Falck and his two companions had seen the two clerks walking on a field on their way down to the water for a swim when they attacked them. One of Falck's companions, whom he referred to as Lundberg, killed one of the clerks. Falck attacked the other, but the clerk managed to get up again and tried to run away when the other companion, Pettersson, picked up a rock and hit him over the head with it. Falck then completed the murder after which both bodies were looted and thrown in the water. After his gruesome confession, Falck was led out of the courtroom. Before the court, the chairman stated that two other prisoners in Karlsten had, as it happened, already confessed to this murder. A lot of new information had surfaced and what had started as a court case against Falck's attack on Mod evolved into an investigation, not only into the alleged murder of Berglöf in the fortress prison in 1820, but also the murder of two store clerks on Djurgården in 1813. The chairman therefore decided to postpone the entire ordeal until more evidence had been gathered.⁴¹⁸

The court reconvened on the 15th of September in 1824, and the two prisoners, both confined in Karlsten fortress prison, who also had confessed to the murder of the two store clerks were brought to the stand. The first prisoner was Jansson, his story was similar to Falck's story but instead of 1813, he said that it had happened in 1812. He also added that they had been drinking heavily and that the plan had initially been to simply rob the two store clerks. However, a struggle had broken out which led to the killing. On the question of why he had not mentioned Falck in his confession, he answered that he had intentionally omitted him because he did not know if he wanted to be found out or not.⁴¹⁹ The other prisoner who had confessed was then questioned, his name was Jernberg. Like Jansson had stated, Jernberg claimed that he had confessed to the murder to avoid being executed and that he had also intentionally omitted to incriminate Falck for similar reasons. He further added to the story that they had attached stones to the store clerks' necks before throwing them into the water.⁴²⁰ Both Jansson and Jernberg had been sentenced to Karlsten fortress prison for property crimes and only eventually had they arranged for a meeting with prison chaplain Glasell. They had then jointly confessed the double murder to him. Following Falck's confession of his part in the double murder, Glasell had started an inquiry of his own.

⁴¹⁸ Court Proceedings, 1826, KFFA, E II: 6, 9–11.

⁴¹⁹ Court Proceedings, 1826, KFFA, E II: 6, 13–19.

⁴²⁰ Court Proceedings, 1826, KFFA, E II: 6, 20–22.

He contacted Vicar Wästerdahl in Stockholm and instructed him to investigate the double murder and produce a report for the court in Karlsten fortress prison. Wästerdahl then stated in his report that he had visited the croft where Jansson worked the summer in question on Djurgården. He was met by the wife of the employer who hired Jansson, and she stated that she had not heard about the double murder. However, a few days later, Jansson's employer, Rask, showed up at Wästerdahl's church. He stated that Jansson had been arrested as a vagrant before being sent to work for him. On midsummer's day, Jansson had received some money and gone to a tavern and came back a few days later. Upon the question of where he had been, Jansson had answered something rude, and he was therefore fired. Wästerdahl had further ascertained that Jansson had been arrested north of Stockholm while burglarising a house to steal alcohol later that year. Regarding Jernberg, Wästerdahl stated that he had found out that his father was a decent and healthy man, and that his brother was a schoolmaster and an honest person. The father had had many problems with Jernberg who had caused him much trouble and cost him much money which was why he had abandoned his son and considered him lost. Wästerdahl had also found, from his talk with Rask, that a corpse had surfaced around midsummer in 1812 or 1813 with a rope and stone around his neck, but that he had no information regarding the alleged second murder victim.⁴²¹ Despite Wästerdahl's investigation, the report reads more like an account of Jansson and Jernberg's characters, and little new information was brought to the table.

After this, the court moved on to the death of the prisoner Berglöf. However, it was first stated that Jernberg had also confessed to theft and the killing of a prison transporter, a confession he had later subtracted in 1823.⁴²² He had furthermore confessed to killing Berglöf earlier but then subtracted that confession as well; he alleged that he did this because he was afraid that his part in this murder might lead to his execution. But now, despite his fears, he stated that he had to tell the truth because his conscience would not allow him to lie anymore. Jernberg thus stated that Berglöf had fallen and was badly injured and unconscious after which he was carried into vault no.8 where they were confined with several other prisoners. Berglöf was put in a bed, but when the doors to the vault closed, prisoners Wästerholm and Orre pushed Berglöf down and he was further injured. His unconscious body was then picked up and put in a bed where he was struck with firewood until he almost died. Jernberg commented that he had taken pity on Berglöf and suggested that they instead strangle him which was met with

⁴²¹ Court Proceedings, 1826, KFFA, E II: 6, 22–27.

⁴²² Jernberg was punished with forty lashes for his false statements. Jernberg, 1823, KFFA, Executed Rulings, E II: 5.

agreement from other prisoners in the vault. The strangulation was then completed by Jernberg with a rope, after this, a guard near the vault was called upon. Officers Svensson and Wickman came to the vault to carry Berglöf's lifeless body out, Svensson suspected that Berglöf had been murdered, but Wickman quickly refuted this suspicion according to Jernberg. He further maintained, like Falck had, that Wickman threatened anyone who inquired into it. The reason for the prisoners' violence against Berglöf was, according to Jernberg, that they despised his evil ways and wanted revenge.⁴²³

After Jernberg was led out of the court and Falck brought back in, the court took another surprising turn. Falck, who had asked to be heard again, stated that his confession of killing the two store clerks had been false, he had heard the story from Jansson and had only brought it to the court's attention to put attention on Berglöf's murder. He gave the court a full list of names of prisoners involved in this murder before being led out of the courtroom. Jansson was then brought back in, like Jernberg, he stated that his consciousness weighed on him and that he ought to tell the truth. Falck had indeed been present at the double murder which he had just denied. Some back and forth then ensued where the three prisoners were questioned individually before the court. They were asked about details regarding the double murder, Falck, for example, mentioned that he had made up the names Pettersson and Lundberg in his earlier confession to not incriminate Jansson and Jernberg, whom he said he knew committed the murders. After this, the court resumed its investigation into Berglöf's death and several prisoners who had been present in vault no.8 were questioned, but they all denied any involvement. One of the prisoners even went as far as stating that Jernberg, Jansson, and Falck were co-conspirers who sought to incite other prisoners' misfortune. Two distinct parties had emerged in vault no.8, the ones that agreed with Jernberg and Jansson and an opposing group.

This antagonism had its roots in feuds which had erupted when one group informed guards and officers of the other group's escape plans. The group who had their escape plans exposed would then retaliate thus creating a vicious cycle of reprisals.⁴²⁴ Eventually, the court dismissed all the prisoners and suspended the court; it must have been difficult to keep track of all the details at this point. The chairman concluded that when consulting the prison rolls it became clear that all who had testified and confessed this day were of especially bad repute and sentenced for heinous crimes and could not be trusted. The court then reconvened on the 25th of October in 1824. Regarding Falck's attack on Mod, the court found Falck guilty of assault and crimes against the Sabbath. But the double murder and the murder of Berglöf had not yet

⁴²³ Court Proceedings, 1826, KFFA, E II: 6, 1826, 27–31.

⁴²⁴ Krantz, *Under Järnkronan*, 190.

been solved, it was therefore decided that the case was to be tried at Danderyd's criminal court in Stockholm.⁴²⁵

The astonishing resolution of the entire affair thus came on the 6th of April in 1826. Falck was sentenced to twenty-four lashes for the assault on Mod and crimes against the Sabbath. But he was not sentenced for the double murder as it was found that the confession had been completely made up and Jansson and Jernberg had confessed that Falck had not taken part in the alleged murders. He was sentenced to another twenty lashes for false confession, the lashings were then mitigated to a total of forty lashes. Regarding the murder of Berglöf, the court found that he had not been murdered at all, guards, and officers on duty as well as the fortress physician had maintained that the fall on the courtyard had caused the death. Even the physician responsible for the autopsy had found that Berglöf had died from a concussion and that there had been no blue ring around his neck resulting from strangulation, as stated by some of the prisoners in the court in Karlsten fortress prison. The rumours that Berglöf had been murdered had been actively suppressed by officers and guards, not as a cover-up, but because in their eyes, it simply was not true. Jernberg and Falck's accusations of the prisoners in vault no.8 were therefore found completely baseless. Jernberg, like Falck, was thus sentenced to receive forty lashes. Jansson, who had only falsely confessed to the double murder was sentenced to twenty lashes. After the court adjourned all three were sent back to Karlsten fortress prison as there was not enough evidence to convict anyone of the double murder.⁴²⁶ Jernberg stated later that he was content with the sentence but added that the case had not been fully cleared up and that the truth: "...lies buried in darkness and will hardly ever gain clarity."⁴²⁷

What this court case tells us is not, as it looked from the outset, an assault on a fellow prisoner, that prisoners had banded together to murder another prisoner or a case of honest confessions of a double murder. It has most likely more to do with the disputes amongst different groups of prisoners within the vaults. As the court stated, these prisoners were also of the lowest class in the fortress prison, they did not have much to lose and perhaps wanted to stir up some commotion to break the monotony. Falck had also stated that his confession of the double murder had been an escape attempt. The prison transport to Stockholm, he figured, presented ample opportunities to break free. However, on the prison transport to, and from Stockholm, the three prisoners were clad in heavy irons and no such opportunity presented

⁴²⁵ Court Proceedings, 1826, KFFA, E II: 6, 32–40.

⁴²⁶ Jansson, 6 April 1826, GBL, Commandant's Letters, D IIIf: 5. Krantz, *Under Järnkronan*, 165.

⁴²⁷ Krantz, *Under Järnkronan*, 190.

itself.⁴²⁸ Falck had escaped once before in 1820, but was eventually brought back to Karlsten fortress prison, for this he was punished with fifty lashes, and he was also put in heavy irons for insubordination and drunkenness in 1822. Jernberg had, as mentioned earlier, falsely confessed to the murder of a prisoner transporter in 1823 for which he was sent to Västerbotten, in the far north of Sweden. He was confined in jail there for almost two years before being sent back to Karlsten fortress prison where he was punished with forty lashes. He was likely also trying to find an opportunity to escape by confessing to the double murder, alternatively, he just wished to spend some time outside of the fortress walls. Jansson appears to have been a more well-behaved prisoner, he petitioned for the royal mercy in 1821, but was denied, and he was eventually transported to the fortress prison in Varberg in 1826 for reasons not stated.⁴²⁹ I would also argue that this is a case of attempted deception of the chaplains with false confessions, by feigning remorse for the double murder, the prisoners sought to plan an escape, or in other ways abscond the day-to-day life within the fortress walls. As stated in the yearly reports to the Board of Prisons, attention to divine service appears to have left much to desire in Karlsten fortress prison and it is plausible that the prisoners took advantage of the naiveness of the chaplains when hardened criminals finally confessed to crimes.

A strong prison subculture was thus present in Karlsten fortress prison and presumably in Nya Älvsborg as well. The prisoners, like the convicts on board the prison hulks, had their own order parallel that of the official order of the fortress prison. Despite the efforts of the chaplains and the Board of Prisons to reform the prisoners, this was bound to fail because of an already established subculture. Nevertheless, the reformation of the fortress prisoners was likely never sincerely expected. Many of the prisoners confined within the fortresses were after all there because they were considered incorrigible. Similar to the prison hulks, religious instruction and education thus primarily functioned as disciplinary tools, albeit unsuccessful tools. Further, to impose harsher disciplinary measures would undoubtedly result in conflict and unrest so instead, again similar to the prison hulks, stability and status quo were upheld which resulted in the reproduction of the fortress prisons.

The Dual Orders of the Prisons

This chapter compared the discipline, efforts and perceived prospects of reforming prisoners, the defiance of the prisoners, and how this affected the path-dependent process. Put forthrightly, the reform of prisoners does not appear to have been very successful in either prison, it is also

⁴²⁸ Krantz, *Under Järnkronan*, 164–165.

⁴²⁹ Falck, Jernberg, and Jansson, KFFA, Prison Rolls and Parish Register, D:1, 40, 43, 57.

highly doubtful if this was ever genuinely expected. Architectural matters, such as the large prison rooms confining great numbers of prisoners, were continually brought up as a key factor for, not only preventing reform, but also for further corrupting prisoners. The intermixing of hardened criminals with lesser ones and old prisoners with young prisoners was thus a constant complaint of both prisons from the late eighteenth century onwards. This was most likely a somewhat valid supposition, and this intermixing, I would argue, led to the emergence of similar prison subcultures that sought to establish their own order and defy the order of the prisons in which they were confined. However, the vast majority of prisoners in either prison presumably went through their confinement without stirring things up, but they must have been aware of and adhered to the hierarchies and the order parallel to that of the prison itself. Despite not actively taking part in subcultural behaviour, most prisoners thus consciously upheld them passively.

Vocabulary, patterns of behaviour, and forms of interaction were all drivers of these prison subcultures.⁴³⁰ Most illustrative of this is perhaps the diary of John Ward where many of these aspects are prevalent. Regarding vocabulary, when Ward went to sleep during his first night on board the *York* prison hulk, he was greeted by other convicts as a new “chum” meaning fellow convict. Newcomers were generally also bombarded with questions from the other convicts, and it was not only questions of the outside world, but they also sought to gauge and evaluate the new addition to their prison hulk. Accordingly, if a newcomer appeared to be a “greenhorn”, that is, a less experienced criminal, he would soon be parted from any belongings he might have had left after he had been thoroughly searched by the guards and officers.⁴³¹ Further, a “Boarder” was a convict who for one reason or another never left the prison hulk and “copping” meant stealing.⁴³² Some of these words might be closely related to, or identical to working-class idioms of the time and Ward had worked as a “gentlemen’ servant” which might account for his initial puzzlement with the language of his fellow convicts. In the fortress prisons, a distinct prison vocabulary has been more difficult to distinguish. “Krumming” is one of the few words that has been recorded, it describes a way of punishing fellow prisoners by tying up the prisoner in question, hanging him from the ceiling, and then kicking him. This punishment carried with it such dread that many prisoners even considered committing insubordination against the order of the fortress prison to be transferred to another vault. There were also reports in Karlsten fortress prisons of prisoners disloyal to the order of their vault

⁴³⁰ O’Brien, *The Promise of Punishment*, 79.

⁴³¹ Ward, *Diary of John Ward, 1841-1844*, 82.

⁴³² Ward, *Diary of John Ward, 1841-1844*, 86

who had preferred suicide over being judged and punished by their comrades.⁴³³ Additionally, given the sometimes fierce animosity between guards and officers and prisoners and the large number of prisoners in each vault, it is highly likely that a similar vocabulary as the one on board the prison hulks was used in the fortress prisons.⁴³⁴

Further, Löneberg, the chaplain in Varberg penal prison in the 1860s, maintained that a separate order reigned within the dormitories at night where profanity was directed towards the order of the prison and society at large. Prisoners who repented of their crimes and acknowledged that they were treated humanely did not speak out and instead felt forced to join in and thus uttered a few reluctant curse words. If they did not join in the profanity chorus, they would be suspected of being a “Bråkbindare”, a term which Löneberg stated was a prison term for a snitch or blabbermouth.⁴³⁵ In all likelihood, these prisoners would be severely punished by other prisoners. Historia Patricia O’Brien maintains that prison vocabulary differed from the language of the criminal and the labouring poor in the nineteenth century. She also maintains that prison vocabulary was a way of resisting the institution in which they were confined and could also establish a common consciousness among the prisoners.⁴³⁶ The large number of prisoners confined within each vault and below the decks of the prison hulks undoubtedly facilitated the spread of a unique vocabulary and also strengthened the unity among the prisoners. Additionally, the vocabulary could also put pressure on prisoners to adhere to the order of the prisoners and not the prison.

There were also patterns of behaviour which defined and bolstered the subcultures in both prisons. Poor attendance at divine service in Karlsten fortress prison and prisoners making up excuses not to attend, was likely one of the few concrete ways to resist the disciplinary regime. This was further reinforced by social pressures such as the ridicule prisoners faced within their vaults when they showed signs of repentance as noted by the chaplain in Nya Älvsborg fortress prison and chaplain Löneberg in Varberg penal prison. On board the prison hulks, the convicts similarly avoided divine service by for example hiding in the water closets. First-hand accounts from convicts like Ward and Wortz also attest to convicts ridiculing those who showed repentance and tried to better themselves. This pressure undoubtedly served to

⁴³³ Krantz, *Under Järnkronan*, 193.

⁴³⁴ There are many reports of attacks on the guards and officers in both Nya Älvsborg and Karlsten fortress prisons. In 1818 for example, the vagrant and former soldier Haggren attacked an officer with a knife in Karlsten fortress. Borg, a prisoner in Nya Älvsborg stabbed an officer in the back with a hidden knife in 1824. Prisoner Lång attempted to murder an officer in 1834 in the same fortress prison. Haggren, 1818, GBL, Commandant’s Letters, D IIIf: 5. Lång, 1824 & 1834, GBL, Commandant’s Letters, D IIIf: 5.

⁴³⁵ Lönegren, *Livet i ett Straffängelse*, 150.

⁴³⁶ O’Brien, *The Promise of Punishment*, 80.

strengthen a defiant identity which sought to resist the disciplinary regime in both prisons. Regarding forms of interaction, it is clear that unofficial hierarchies reigned in both prisons. Ward, for example, described a colourful way of welcoming new convicts in the prison rooms below deck at night. The newcomer was to watch the “plug” which was a plugged hole in the side of the hulk and was opened for washing the decks. If the plug was not tight, the decks risked being filled with water during high tide and the convicts would have to put the pumps into action to drain out water all night. The newcomer was instructed to beat the plug with a short stick and with his face to the bars of the prison room facing the middle walkway yell out as loud as he could “All’s well!” if the plug was sealed. When the whole deck burst out in laughter the newcomer knew he had been duped.⁴³⁷

Ward also described how the food passed through different hands before being sent to the convicts in a hierarchy of taxation which was set into action by an “old’un” who decided how much food was to be given to each convict.⁴³⁸ Likely, prisoners Falck, Jernberg, Jansson, Mod, and Berglöf had similar roles in Karlsten fortress prison. They were of the lowest category of prisoners, the unreliable ones, who committed numerous infractions against the intended order and discipline of the prison. Undoubtedly, they ranked high within a similar hierarchy as the one described by Ward. Chaplain Tate in Portsmouth Harbour also introduced a system of categorizing the convicts, it was a sliding scale where the first class was the well-behaved ones, and the fifth class was for convicts deemed incorrigible.⁴³⁹ These categories probably also functioned as a signal towards the other convicts since, as both Wortz and Ward stated, the most defiant convicts enjoyed a higher standing within the hierarchy. Similarly, in Varberg penal prison, chaplain Löneberg described how an old prisoner told stories to the younger ones who listened attentively while he boasted about having spent most of his life in prison. This old prisoner had been to all prisons and taken part in all the debauchery that had taken place in times past which Löneberg maintained was still being practised, in all likelihood indicating an analogy to the fortress prisons.⁴⁴⁰ The continuous apprehension that the prison hulks and fortress prisons were not only considered inadequate places of confinement, but also corrupting their prisoners further attests to the prevalence of strong prison subcultures. The reason for the corruption was in the end primarily the influence of the other prisoners. Below deck, or within

⁴³⁷ Ward, *Diary of John Ward, 1841–1844*, 83

⁴³⁸ Ward, *Diary of John Ward, 1841–1844*, 86

⁴³⁹ Chaplain’s Report, 1826, HOCP, vol. 19, Report Convicts. Two Reports of John Henry Capper, 1826–1827, 2.

⁴⁴⁰ Lönegren, *Livet i ett straffängelse*, 150.

the vaults, numerous prisoners congregated freely at night which unquestionably strengthened these subcultures.

The indiscriminate mixture of prisoners in large prison rooms cannot alone account for the emergence of defiant subcultures and hierarchies. The early administration of both prisons needs to be considered as establishing fertile ground for these phenomena. Religious instruction and education were not a regular occurrence in either prison before the nineteenth century. The prison hulks in Portsmouth saw semi-regular attendance of chaplains after having been established for almost twenty years. Likewise, it was not until the 1820s that the chaplains in the fortresses were given increased care of the religious, moral, and educational care of the prisoners. Before this, as well as after, guards and officers were the main upholders of discipline in both the fortress prisons and on board the prison hulks. An order had consequently already been established where prisoners, guards, officers, and other prison officials had communally adapted to the prisons. Informal habits, relationships, and conditions were all in place well before the introduction of regularly attending chaplains and the disciplinary regime of education and religious instruction. This practice was also continued after the chaplains received greater duties in both prisons. Convicts were appointed guards and teachers on board the prison hulks and the prisoners in the fortresses were also to educate other prisoners. This played a major role in enforcing order from within the prisons themselves. In some prisons during the eighteenth century such as Newgate Prison in London this separate order was not only accepted but actively encouraged.⁴⁴¹

The chaplains in both prisons were thus not only working for the reform and discipline of prisoners but also against an already solidified system which involved not only the prisoners; guards and officers on board the prison hulks were very much a part of this system. They provided illegal favours for the convicts and upheld their parallel hierarchies. Despite many reports of attacks on guards and officers in the fortress prisons, there were also instances when they helped prisoners in various ways. Guards aided the escape of three prisoners from Karlsten fortress prison in 1817, for example, they had all simply neglected their work and instead gone down to the town of Marstrand and started drinking.⁴⁴² Further, in 1823, a guard escaped Karlsten's fortress garrison with two prisoners.⁴⁴³ Three years later, a guard also sold horse tallow to prisoners which he had procured by cutting off the tails of horses in Marstrand.⁴⁴⁴

⁴⁴¹ Brown, *English Society and the Prison*, 78

⁴⁴² Krantz, *Under Järnkronan*, 196–197.

⁴⁴³ Escaped Guard, 1823, GBL, Commandant's Letters, D IIIf: 5.

⁴⁴⁴ Marstrand Church Records, Additional Records, 1826, Marstrands Kyrkoarkiv, Övriga Längder, G:II 1, 1815–1882.

Timing was thus an important aspect of understanding why the reformation of prisoners ultimately failed. Attempts to impose a regimented discipline through religious instruction and education in these old prisons were therefore bound to fail. With this in mind, it becomes clear that the tasks of the chaplains were far from unproblematic. Furthermore, it has been speculated that the “weakest” clergymen in the Anglican Church were assigned to the prison hulks, or that the chaplains were simply self-delusional.⁴⁴⁵ A perhaps more plausible explanation is that the chaplains on board the prison hulks, although said to be in regular attendance, were absent for most of the time, as stated by the convicts to the 1832 committee. Had their visits been more frequent, then it would probably have been more difficult to maintain a positive attitude of the convicts and their reports would thus have been more critical. Additionally, Capper’s continuous obfuscation and neglect of his duties meant that the expectations put on the chaplains were most likely low. The chaplains in the fortress prisons on the other hand did not have the same opportunities to embellish and exaggerate their reports. Some of them even argued, similar to the discourse on the prison hulks, that the fortress prisons were “schools of godlessness”.⁴⁴⁶ They were in permanent attendance, they held individual conversations with the prisoners and hearings on education and religion. Additionally, their duties increased during the 1830s and the Board of Prisons had high expectations on their roles as disciplinarians.

One of the main reasons for imposing reformatory practices and discipline in prisons during the early nineteenth century was to circumvent prison subcultures.⁴⁴⁷ The notion that moral reformation of prisoners was the primary duty of all prisons in England was widely accepted by the late 1820s, and the work of the chaplain, as a saviour of lost souls, was integral to this reformatory theory. The following decade thus saw a sharp increase in interventionist efforts from the government and the silent system of discipline was gradually being introduced. It was hoped that by keeping prisoners isolated from each other in cells at night they would have time to reflect on their crimes in solitude and then be reformed.⁴⁴⁸ Experiences from the defiant subcultures and large prison rooms on board the prison hulks were most likely significant in this development. Considerable moves towards implementation of the silent system were then taken by William Crawford and Whitworth Russel, inspectors appointed under the Prison Act of 1835. They were convinced that the Auburn silent system would ensure rehabilitation and moral and spiritual improvement of prisoners which would prevent further

⁴⁴⁵ Campbell, *The Intolerable Hulks*, 115–116. Branch Johnson, *The English Hulks*, 132.

⁴⁴⁶ Nilsson, *En Vålbyggd Maskin*, 316.

⁴⁴⁷ Brown, *English Society and the Prison*, 77.

⁴⁴⁸ Forsythe, *The Reform of Prisoners*, 18, 20, 25, 28.

offences upon release. The 1839 Prison Act thus effectively sanctioned the silent system and after 1840 this system became the most important aspect of all English prisons.⁴⁴⁹

The first prisoners confined separately in Sweden were the so-called “confession prisoners”. These prisoners were accused of having committed a severe crime but because of a lack of evidence, they were kept in a cell until more evidence could be gathered or the prisoner confessed. In practice, this would generally be a life sentence since many prisoners would die in their cells. This sentence was most frequently used in the 1820s and 1830s, however, at the same time the Board of Prisons found that many confession prisoners were not kept in cells at all but in the fortress prisons. By the parliamentary year of 1840-1841, the confinement of confessional prisoners in cells would nevertheless be referred to as a preferable example and it was argued that solitary confinement did not cause injuries to the prisoners. In the same parliamentary year, the decision was thus made to construct cellular prisons all over Sweden. The inspiration came from the Philadelphia separate system, the idea was that prisoners in solitary confinement would repent and be morally improved from their solitude.⁴⁵⁰ In the 1830s and the 1840s, the disciplinary regimes of the silent and the separate systems moved to the fore as the solution to moral corruption.⁴⁵¹ Both England and Sweden were thus moving in the same direction and the prison hulks and fortress prisons were increasingly being considered the antitheses to this development because of the mixing of hardened criminals with lesser ones in large prison rooms. Despite these developments, much remained the same on board the prison hulks and fortress prisons concerning discipline and the waning, if not non-existent, hope of reforming prisoners.

A central conclusion of this chapter is consequently that the reform of prisoners was never achievable in practice in either prison. This was due to, I would argue, not only the indiscriminate mixture of prisoners but also the strong forces working against the discipline of either prison in the form of defiant prison subcultures. The pressures applied from outside of both prisons by committees, the Board of Prisons, and prison reformers thus never managed to have any considerable impact on the prisons. The separate order of these prisons was already too strong to be affected. Relative stability and the status quo between the order of the prison and the order of the prison subcultures were preferred over change which would most likely result in unrest and disturbances. This advocacy for stability functioned as a feedback effect in

⁴⁴⁹ William James Forsythe, “The Beginnings of the Separate System of Imprisonment 1835–1840.” *Social Policy & Administration* 13, no. 2 (1979): 105-110. <https://doi.org/10.1111/j.1467-9515.1979.tb00648>.

⁴⁵⁰ Nilsson, *En Vålbyggd Maskin*, 167–170.

⁴⁵¹ Johnston “Corrupting and Saving”, 111.

that it inhibited any real change and instead served to reproduce both prisons. The reproduction of both prisons thus fits into what Mahoney calls power explanations. These explanations stress that actors make decisions by contrasting costs and benefits. Mahoney however argues that power explanations generally describe how institutions are reproduced because they benefit an elite group.⁴⁵² Nevertheless, I would like to expand on this and propose that institutions can indeed be reproduced by a balance of power such as the ones that prevailed both on board the prison hulks and fortress prisons. The costs of change for the order of the prison and the order of the subcultures were too high which led to a power balance which inhibited change and thus continually reproduced both prisons.

⁴⁵² Mahoney, "Path Dependence", 521–523.

Chapter Five: Labour

Introduction

This last thematic chapter will explore one of perhaps the most salient aspects of both the prison hulks and fortress prisons, namely labour, in a broad sense. This means that themes such as idleness, vagrancy, and vagabondage have also been included to some extent. Without at least some understanding of perceptions of labour in eighteenth- and nineteenth-century society at large, much of the inner workings of both prisons become exceedingly difficult to comprehend. This slightly extended definition of labour has also been selected to better accommodate the theory of path dependency. To only consider the labour performed in each prison would simply amount to painting half the picture; there were several other institutions and departments which relied on the labour of prisoners and thus have to be considered. The overarching guiding question for this chapter has thus been to explore how labour affected the path-dependent process of the prison hulks and the fortress prisons. Unlike the previous chapter, the sources that have been chosen are therefore more consistently of an official character. Committee reports, communication between departments, regulations, and instructions thus make up the bulk of the source material. Where available, reports of individual prisoners have been referred to as a means of illustration, but a top-down perspective has been at the centre of attention.

Labour in relation to the prison hulks and the fortress prisons tended to be irregular, shifting over time, and fraught with difficulties. Overcrowding, inadequate supervision, and idleness were continuously inhibiting efficient and beneficial exploitation of labour both for the individual and the state. Both prisons were also based on elements of older forms of imprisonment as well as modern nineteenth-century prisons, thus existing in the intersection between the old and the new. This has been most significant in the case of the fortress prisons; this chapter will thus also include an exploration of the so-called “försvarslösa”. The concept of “försvarslös” was a legal construct that entailed an individual who was not able to provide for him- or herself. If the individual lacked a work certificate, fortune, inheritance, or other employment, he or she could be sent to a fortress prison, a public workplace, or suffer other coercive measures. This sentence had medieval roots and was enforced until 1885.⁴⁵³ The concept is difficult to translate which is why I have settled on the more well-known and adjacent concept of vagrancy when describing prisoners sentenced as “försvarslösa”. Vagrant prisoners were generally not sentenced for committing a crime but because of legislation restricting

⁴⁵³ Theresa Johnsson, *Vårt Fredliga Samhälle: Lösdriveri och Försvarslöshet i Sverige under 1830-talet*. PhD diss., Acta Universitatis Upsaliensis, 2016. 13–14. Roddy Nilsson, *Kontroll, Makt och Omsorg: Sociala Problem och Socialpolitik i Sverige 1780–1940*, (Lund: Studentlitteratur, 2003) 125–128.

unemployment and idleness, paired with overcrowding in other coercive institutions, they sometimes ended up in the fortress prisons. In other cases, prisoners who had served their time remained in the fortress prisons as vagrants since they could not obtain employment outside the prison walls. The actions taken to remedy this skewed system and keep the fortress prisons reserved for hardened criminals have therefore also been considered. This entails that a certain focus must also be given to public workplaces and other forms of forced labour in nineteenth-century Sweden. This chapter will argue that the introduction of public workplaces had the unintended effect of disseminating the fortress prisons by positioning these institutions in a system of interdependency. Similar tendencies are discernible within the prison hulk system. Convicts in Portsmouth were employed in a wide array of public works projects, mainly fortification and dockyard labour. Convict labour in Portsmouth was also heavily relied upon during the drawn-out wars with France in the late eighteenth- and early nineteenth centuries. Furthermore, convicts were also frequently offered pardons in return for military service. Labour was thus abundant, but also intertwined over several departments and institutions in Portsmouth during this period and this chapter will consequently argue that this constituted one of the most potent feedback effects in the history of the prison hulks.

Despite these interdependencies and the reliance on prison labour, many challenges resulting from overcrowding eventually ensued in both prisons. Large numbers of prisoners also required large numbers of officers and guards to supervise the labour and without the resources for this, many prisoners had to be kept idle in their prison rooms for security reasons. Consequently, inefficiencies in effectively exploiting prison labour became increasingly apparent and this is where the prison hulks and fortress prison's paths diverge. Efforts to separate the vagrant prisoners from the hardened ones to alleviate the fortress prisons resulted in the introduction of the Pioneer Corps, a semi-military workforce mainly reserved for discharged soldiers and vagrants. Although envisioned as a separate institution, it came to operate exceedingly similarly to the fortress prisons and thus further disseminated the logic of this prison across the penal repertoire. This second dissemination served as an important positive feedback effect and ensured the survival of the entire system. The labour in relation to the prison hulks was instead being increasingly considered inefficient after having been exceptionally beneficial during times of war. Work was less prevalent than before, and many convicts sent to the prison hulks were old and infirm. The end of Capper's tenure and the introduction of better alternatives to exploit prison labour on dry land would eventually lead to the demise of the prison hulks. The main conclusion of this chapter is thus that the greatest similarity between the prison hulks and fortress prisons concerning labour was their role within

greater systems of interdependency and that this served to further lock them in as viable places of confinement.

The challenge of idleness

After the treaty of Roskilde in 1658, Denmark lost its possessions on the Scandinavian peninsula to Sweden. This immediately initiated a comprehensive expansion of Swedish defensive installations; most notably fortresses in the southern counties of Bohuslän and Scania. Karlsten fortress, for example, was partly built with the help of convicted criminals who were initially housed in wooden barracks around the unfinished fortress. From the early eighteenth century onwards, the prisoners were confined within the vaults of the fortress itself.⁴⁵⁴ The term “fortress prisoner” eventually became synonymous with “labour prisoner” and from this, the term “Marstrand labour”, i.e., the labour of constructing the Karlsten fortress on the island of Marstrand, became notorious. Because of its harsh and menial nature, it also gained the meaning of the most tedious labour imaginable. The fortress prisoner, as a criminal performing the most backbreaking labour available, was thus firmly embedded in the Swedish popular imagination in the eighteenth- and nineteenth centuries. The construction of the Karlsten fortress was accomplished by cutting stone blocks and dragging them, from either the seaside or from the town of Marstrand, up the tall hill on which the fortress would eventually stand, an almost Sisyphean labour. However, this laborious task was not only what gave Marstrand labour its dreadful reputation, it was also the fact that this labour was performed while wearing heavy irons. All prisoners were chained from head to toe with an iron yoke over their shoulders or an iron ball tethered to their ankles. The point of the heavy irons was not only to prevent the prisoners from escaping. It was also a psychological and physical punishment; it was a retributive punishment, and the labour was to reflect and enhance that.⁴⁵⁵ But Marstrand labour was also highly irregular for many reasons, one of them was for example that prisoners sometimes did not have adequate clothing and had to be confined and kept idle in their barracks.⁴⁵⁶

The Board of War reported in 1730 that the fortification works at Karlsten fortress were all but finished and that no more than 14 prisoners were still needed in the fortress. These prisoners were to work in the artillery forge and with other unspecified labour. The Board of War therefore reported that criminals sentenced to fortress prisons were instead chiefly to be sent to Kalmar fortress prison where labour was more readily available at the time; only the

⁴⁵⁴ Feiff, *Fästningsfångar*, 56–57.

⁴⁵⁵ Krantz, *Under Järnkronan*, 19–22. Eriksson, *Kriminalvård*, 210.

⁴⁵⁶ Wieselgren, *Sveriges Fängelser och Fångvård*, 152.

most hardened criminals should be sent to Karlsten fortress. Consequently, not much work was performed by the prisoners in Karlsten fortress throughout the 1730s. Most of the little work performed was limited to repairs and maintenance, the fortress gates were for example reported to have been repaired by prisoners in 1732. The commandant at Nya Älvsborg likewise had difficulties in providing the prisoners with labour. In 1764, he even petitioned the Chancellor of Justice to start herring fishing in the waters near the fortress which he argued could employ 15-20 prisoners.⁴⁵⁷ For most of the eighteenth and nineteenth centuries, prisoners were instead employed in restocking the supplies of the fortress as well as custodial work. They carried provisions from the docks to their fortress, they emptied latrines, cleaned the vaults, and repaired worn-out clothing. However, most of the time, the prisoners were confined within their vaults where they sat idle or were engaged in various small, and often insignificant, handiworks. Furthermore, the inhospitable vaults, the dampness and the darkness were generally unsuitable for any productive work.⁴⁵⁸ One of the great obstacles was also the harsh Swedish climate which made labour outdoors virtually impossible for most parts of the year. Further, the prisoners in the fortresses were generally in such bad shape from sitting out their sentences idle in the cold and damp fortress vaults that no substantial work effort could be expected of them. The harsh conditions that prevailed in the fortress prisons, and indeed also in the imagination of the public, were consequently not necessarily because of the backbreaking labour the prisoners performed, but rather the absence of regular work and the unforgiving confinement.⁴⁵⁹ Nevertheless, there were great variations between the different fortress prisons, and the work available shifted somewhat over time.

Although labour performed at the fortress prisons themselves tended to be irregular, employment outside the fortress walls after the sentence had been served was a requirement for discharge. From the mid-eighteenth century onwards, the question regarding the idle and vagrant prisoners confined in the fortresses gained increased attention from the authorities. The category of prisoners referred to as “försvarslösa”, or vagrants, would eventually become the most important criminal justice issue of the first half of the nineteenth century, and the panacea was generally believed to be forced labour. This corresponds well to Foucault who argues that labour was the basis of confinement in the classical age. Work within houses of confinement, or correction had both moral and ethical meanings. Prisoners who could and would work were not released just because of the use it served society, but because: “... he had again subscribed

⁴⁵⁷ Wieselgren, *Sveriges Fängelser och Fångvård*, 215–216.

⁴⁵⁸ Krantz, *Under Järnkronan*, 136–138.

⁴⁵⁹ Nilsson, *En Vålbyggd Maskin*, 121–126, 294.

to the ethical pact of human existence.⁴⁶⁰ Legislation regarding vagrancy in eighteenth-century Sweden thus ought to be considered as a means to instil a work ethic in the lower strata of society as well as discouraging idleness.

During years of relative peace, the need to forcibly conscript soldiers to the armed forces from predominantly the idle and vagrant severely diminished. Since the legislation remained in place, this resulted in an increased number of prisoners sentenced as vagrants to the fortress prisons where they frequently mixed with hardened criminals. Additionally, some lesser criminals who were confined for shorter periods, and who were unable to find employment after their sentence, remained in the fortress prisons indefinitely. The mounting concerns regarding the corruption of lesser criminals or vagrants by hardened criminals in the fortress prisons, and to some extent also local county jails, led to new regulations by Royal Decree in 1804.⁴⁶¹ The new regulations introduced public workplaces which were to be reserved chiefly for vagrants, lesser criminals, and discharged soldiers. Further, the Royal Decree argued that there were elements in society who through sloth, frivolity, and general misconduct renounced ever becoming useful members of society. They were thus burdening society with their begging and violence, so to improve these elements and shape them into useful members of society, they had to be forced to work. The incentive for the introduction of public workplaces was in this sense threefold. It was firstly a means to prevent the corruption of those who were not yet accomplished criminals or those who were sentenced as vagrants and had not necessarily committed any crime. Secondly, it was based on the notion that labour could morally improve the lower classes. Thirdly, it was a measure to alleviate the incipient overcrowding in some of the fortress prisons. Vagrants, discharged soldiers and lesser criminals were thus to be sent to Karlskrona fortress and Sveaborg fortress in Finland where they were to be put to hard labour.⁴⁶²

The 1804 regulations would however tie the fortress prisons closer to the forced labour of the vagrant rather than, as was envisioned, separating them. Criminals sentenced to a fortress prison for theft, who were not able to provide work for themselves after their release, were to be sent to a public workplace. Further, the commandants at all fortress prisons were to report every prisoner, whose work sentence was about to expire, to the Crown for consideration to see if they were legible for a public workplace. Gradually, a mutual link of interdependency was thus forming between the fortress prisons and public workplaces. This was consequently

⁴⁶⁰ Foucault, *Madness and Civilization*, 55.

⁴⁶¹ Wieselgren, *Sveriges Fångelser och Fångvård*, 319.

⁴⁶² *Kongl. maj:ts nådiga Förordning Om Allmänna Arbetsställen för Swea- och Götha-Riken, samt Stor-Förstendömet Finland; Gifwen Carlsruhe Slott den 27 februrarii 1804*, Stockholm, tryckt i Kongl. tryckeriet, 1804.

entrenched only a year later as the inadequacies of the regulations became apparent when the Karlskrona fortress became overcrowded. Accordingly, it was instructed, through another Royal Decree in 1805, that when the public workplaces were filled, the fortress prisons were to be used as a place of confinement until room could be made in Karlskrona or Sveaborg fortresses.⁴⁶³ The public workplaces and the fortress prisons were thus tied even closer together, although the explicit objective had been to separate them, or at the very least, separate the hardened prisoners from the idle and vagrant ones. Although inadvertent, this was the first dissemination of the fortress prison. This new system would however not go uncriticized for long, perhaps one of the most vocal opponents was the Ombudsman of Justice who early on recognized that the difference between a public workplace and a fortress prison was merely their designation.

By the parliamentary year of 1809, a new office was formed, the “Justitieombudsman” or the Parliamentary Ombudsman of Justice. The purpose of this office was primarily to, in a broad sense, monitor the legal matters of government organizations. According to the new form of Government imposed by the parliament of 1809, the power was to be distributed equally between the king and the parliament. The king thus appointed the Chancellor of Justice, an office which dated back to 1719, and by 1809, parliament thus received authority to appoint the Ombudsman of Justice. The difference between these two offices was that the Ombudsman of Justice was to have the interest of the citizens more directly as his priority, free from governing powers. Further, the Ombudsman of Justice was also to work for a uniform application of the law, supervise the courts, and point out inconsistencies in legislative matters. Some of the operations of the Ombudsman of Justice, therefore, had the character of inspections. From the annual reports of the Ombudsman of Justice, it is also clearly discernible that the office received records from jails, prisons, and fortresses. From these records, the Ombudsman of Justice was to monitor the number of imprisoned individuals and the reasons behind their sentences.⁴⁶⁴ In 1811, which was the first year of the prison inspections, the Ombudsman of Justice visited the Karlsten fortress prison. The prisoners’ rooms, he reported, were located within the thick walls of the fortress, however, the prisoners were said not to complain about their dwellings. Further, the food and bread seemed to the Ombudsman of Justice, sufficient. In one of the vaults, he found a former officer who had fled from his wartime service, he had escaped the death penalty by Royal Pardon and was now imprisoned in a separate room within the fortress walls. In another locked vault there was a shoemaker sentenced to confession for participating in forgery.

⁴⁶³ Wieselgren, *Sveriges Fängelser och Fångvård*, 321–322

⁴⁶⁴ Nilsson, *En Vålbyggd Maskin*, 196–198. Inger, *Svensk Rättshistoria*, 106.

In the other rooms there were twelve to fourteen prisoners confined together in a few different vaults.⁴⁶⁵

The early observations from Karlsten fortress prisons were, as illustrated, descriptive. They provided merely a pragmatic eyewitness account, void of major concerns regarding the condition of the fortress in general or the labour performed by the prisoners. The possibility of storing grains in this fortress, however, was deemed inferior due to the damp conditions in the fortress walls, the concern for the dampness was not extended to the prisoner's rooms. The cause of the dampness in this fortress was brought on by its location which was described as isolated from the mainland far out in the archipelago. The location of the fortress itself was thus not suitable for large-scale manufacturing, stone-cutting, or other forms of regular labour. The commandant's room was also situated within a vault in the fortress, not unlike that of the prisoners. It was said to be free of beams, meaning most likely that the Commandant's vault was similar to the prisoner's only the commandant's vault lacked the provisions which would make it a prison room. Further, this room was described as virtually uninhabitable, except in emergencies such as a war, the dampness was simply too unhealthy.⁴⁶⁶ What is interesting is of course that the dampness of this fortress was defined as unhealthy for the commandant, but not for the prisoners.

When visiting the Nya Älvsborg's fortress prison in the same year, the Ombudsman of Justice simply stated that the prisoners' rooms aggravated the prisoners' punishment, other than that, there were no complaints from either him or the prisoners.⁴⁶⁷ There were no pleas for improvement in either of these two fortresses, facts were stated descriptively when it came to anything regarding the prisoners, or their rooms, and nothing was mentioned about their labour. On this first journey, the Ombudsman of Justice visited a total of nineteen prisons which resulted in a lengthy report to the Crown. His recommendations concerned the building of a few new prisons, but mostly he criticised the poor sanitary, dietary, and architectural conditions of the old local and county jails.⁴⁶⁸ It was first in 1813 that the Ombudsman of Justice acknowledged that many of the prisoners confined in the fortresses and county jails were indeed sentenced as idle and vagrant; they were not criminals who had committed a crime he concluded. Many of them had even been confined there for an exceptionally long time, some of them up to six years. Consequently, he started by stating that the regulations of 1804 had

⁴⁶⁵ Karlsten Fortress Prison, 1811, Ombudsman of Justice, Travelling Diaries, Justitieombudsmannen, 1810–2000, Resediarier, Huvudserien, 1811–1849.

⁴⁶⁶ Karlsten Fortress Prison, Travelling Diaries. 1811.

⁴⁶⁷ Nya Älvsborg Fortress Prison, Travelling Diaries. 1811.

⁴⁶⁸ Nilsson, *En Vålbyggd Maskin*, 126–127.

introduced the public workplaces, which were now primarily used for the improvement of the idle, vagrant, and others, such as farmhands who had lost their jobs, discharged soldiers, and travelling minorities. However, he conceded that the 1805 regulations had, in practice, abolished the difference between public workplaces and fortress prisons. Criminals, soldiers, and persons who had committed no real crime oscillated between these institutions, and the public workplaces were not much better than the fortresses concerning the health of those confined there. By continuing this practice, the government failed their objective to prevent crime he argued. The person who ended up in a fortress prison would, with assurance, establish criminal connections and commit refractions in the fortresses to achieve just a tiny bit of enjoyment in his dreadful surroundings. If he was caught, this would of course mean that the sentence would be extended and that his record would be irrevocably tarnished. Further, when released from the fortress prison, he would have many difficulties finding a job since employers tended to abstain from hiring former fortress prisoners; they were thus not only morally corrupted but also stigmatized. To remedy this, the Ombudsman of Justice proposed that persons sentenced to public workplaces, fortress prisons, and county jails, who had committed no crime, should be released as soon as they could prove that they could provide for themselves or had found employment. This would generally mean being taken into employment by a relative, as an apprentice, as a farmhand, or as some other form of low-skilled labourer in civil society. The idle and the unemployed who showed no disposition to work should however be kept in the fortress prisons until room could be made at the public workplaces. After all, the Crown had approved the use of the public workplace in Karlskrona which was at the time running at only half capacity, the Ombudsman of Justice argued. To prevent the indiscriminate mixing in the fortress prisons, more institutions like the public workplace in Karlskrona should be erected, he further argued. Sweden also had a population deficit, according to the Ombudsman of Justice, there were dwellings and work available under much better circumstances than the fortress prisons which would benefit the nation more than menial and often non-existent work at a fortress prison. Preferably, these new public workplaces were to be erected wherever the Navy was stationed.⁴⁶⁹

There was thus a similarity here between the recommendations of the Ombudsman of Justice and the prison hulks which were mainly anchored in naval ports. Civilian criminals had been sentenced to the so-called anchor-foundry in Karlskrona naval dockyard, but after 1736,

⁴⁶⁹ Ombudsman of Justice Report, *Justitieombudsmännens Ämbetsberättelse: Avgiven till Riksdagen*. (Stockholm: Kongl Tryckeriet 1814), 7–10.

only the Court of Admiralty had the authority to sentence criminals there.⁴⁷⁰ It is possible that the Ombudsman of Justice argued for a similar system with naval dockyard labour for civilian prisoners, but as will become clear later on, a different path was eventually chosen.

Two years later in 1816, little had changed, and the Ombudsman of Justice once again lamented the system imposed in 1805. This year he visited Varberg fortress prison where there was nowhere near enough work to employ all the prisoners. Additionally, there was no system in place to transfer able-bodied prisoners to the public workplace in Karlskrona which meant that many prisoners remained hopelessly idle in the unhealthy vaults.⁴⁷¹ He also visited the public works and fortress prison in Karlskrona which at the time consisted of nine rooms where a total of 173 prisoners were confined. A great number of the prisoners there were vagrants and most of the prisoners had to be kept idle and confined, sometimes for over a year, while waiting for a position in the public works company. The rooms were further described as dark and impossible to keep clean because of the overcrowding, the clothes of the prisoners were, for these reasons, soon ruined. Further, soldiers from the nearby garrison sentenced to a few days imprisonment for transgressions were also confined in congregation with hardened criminals. The Ombudsman of Justice therefore proposed an enlargement of the public works at Karlskrona naval dockyard and a remodelling of the rooms for the prisoners.⁴⁷² He thus argued for a militarization of public workplaces, a process which would become much more pronounced in the future.

A large influx of idle and vagrant prisoners was also being felt in the other fortress prisons in 1816. The commandant in Karlsten fortress prison had claimed a new vault solely for the confinement of these prisoners as a response. But the fortress prison was still growing steadily overcrowded, and despite his efforts, the commandant urged the governor in Gothenburg that no more prisoners should be sent to his care. There was also a lack of guards and officers, and the safety of the fortress prison could thus not be upheld. Additionally, because of this, prisoners could not be given any work as it demanded strict surveillance.⁴⁷³ Lists of vagrant prisoners and reports on their profiles, detailing why they were being confined, were kept in the fortress prisons according to the regulations of the Royal Decree in 1805. The lists from Karlsten fortress prison were frequently sent to the governor in Gothenburg in the hopes

⁴⁷⁰ Wieselgren, *Sveriges Fängelser och Fångvård*, 182.

⁴⁷¹ Ombudsman of Justice Report, *Justitieombudsmännens Ämbetsberättelse: Avgiven till Riksdagen*. (Stockholm: Kongl tryckeriet, 1817) 45–46.

⁴⁷² Ombudsman of Justice Report, *Justitieombudsmännens Ämbetsberättelse*, 1817, 45–47.

⁴⁷³ Letter to the Governor, 13 March 1816, GBL, Commandant's Letters, *Kommandantens Brev*, D III F: 4, 1815–1821.

that his office could find employment for some of the prisoners who had already served their initial sentence. The outlooks for this were, however, for the most part, bleak in the early nineteenth century. Prisoner Johan Rodin, for example, was sentenced for theft to three years of hard labour. His sentence had expired in 1814, but he remained in Karlsten fortress prison, at least until 1816, due to lack of employment and was thus branded a vagrant. Matthias Kihlström was also still confined in Karlsten fortress prison the same year for the same reasons, his date of release had been 1815 on the condition that he found employment. Many of the former soldiers kept in the fortress prisons were dishonourably discharged because of escapes or attempted escapes from their military service. Lars Frisk had been dishonourably discharged from the military and sentenced to Nya Älvsborg fortress prison from where he was eventually released. But because he could not find employment, he was arrested and sent to Karlsten fortress prison indefinitely. Petter Ståhlberg was sentenced to Karlsten fortress prison for theft and escaping military service in 1814, similarly, Johan Björk had also escaped from his military service and was therefore sentenced to the same fortress.⁴⁷⁴

The problem with prisoners remaining in the fortress prisons well after their original sentence was well known to the commandants. The commandant in Karlsten fortress prison continuously sent letters and lists of vagrants to the governor in Gothenburg asking for help with finding employment for some of them. Further, he had asked all the vagrant prisoners in the fortress whether they had any employment where they could be useful and if so, where this would be. However, most of the prisoners could not give any useful answers or argue that they had suitable employment waiting for them somewhere.⁴⁷⁵ From Nya Älvsborg fortress prison, the commandant likewise wrote to the governor in Gothenburg that many of the prisoners confined there had already served their sentence and remained only on the count of that they could not find employment. Some of the prisoners, however, stated that relatives could provide them with employment but there were many bureaucratic obstacles in the way of their discharge. Because of this, many prisoners also remained in this fortress prison and became “...useless people to society.” in the words of the commandant.⁴⁷⁶ Johan Christian Malmros, for example, petitioned to be released from Nya Älvsborg fortress prison in 1816 and provided a relatively rare account from a vagrant prisoner’s point of view. His sentence had expired one year earlier but he remained in the fortress prison on the count that he had no employment. He

⁴⁷⁴ List of Vagrants, 15 March 1816, GBL, Commandant’s Letters, D III F: 4.

⁴⁷⁵ Letter to the Governor, 25 April 1817, GBL, Commandant’s Letters, D III F: 4.

⁴⁷⁶ Letter to the Governor, 14 July 1816, GBL, Commandant’s Letters, Kommendantens Brev, D III F: 14, 1812–1819.

was worried that he might spend the rest of his life in agony in the fortress prison unless the governor of Gothenburg could help him. Malmros was also crippled from birth and no farmer could therefore ever find his work satisfactorily, he had no relatives or friends still alive who could help him, he solemnly stated. He was born in Gothenburg and had worked as a cobbler and knew that profession well. He admitted that he had been unruly in his youth, but the years in the fortress prison had taken its toll upon him and if he was set free, he promised to live his life honestly and with decency. Out of all his friends and family only his estranged sister was still alive, she lived in Helsingör in the south of Sweden. If he was released, she would surely take care of him he argued, and he would then try to find work as a cobbler there.⁴⁷⁷ The records do not detail what happened to Malmros, but his statements were likely deemed insufficient, and there were also ongoing investigations regarding false claims of employment in the fortress prison.⁴⁷⁸ Nevertheless, his petition is most likely illustrative of how vagrant prisoners viewed their sentence. They were wasting away in an unhospitable fortress prison despite having served their sentence with no other chance of release than securing employment on the outside. Two years later, in 1818, the commandant at Nya Älvsborg stated that too many vagrant prisoners were now confined in the fortress prison and that there was no longer any room for: "...the real criminals of society...". He therefore urged the governor in Gothenburg once again to find employment for vagrants. In the short term, however, not much appears to have been done to alleviate these problems.⁴⁷⁹

Some vagrant prisoners adapted poorly to the fortress prisons. To remain within the walls of the fortress after the sentence had been served or simply be confined in an unhealthy vault without having committed a crime must have affected not a few prisoners remarkably negatively. Vagrant prisoner Peter Haggren in Karlsten fortress prison, for example, stabbed the castle custodian in frustration with a knife in the face when he was denied hard liquor. He was subsequently removed to Varberg fortress prison, most likely sentenced there to serve a life sentence.⁴⁸⁰ Another vagrant prisoner, Christian Lithén, also attacked a guard with a knife. In 1821 he stabbed officer Wickman in his face with a rusty tallow knife. Wickman, as discussed earlier, had been stabbed once before, that time by Berglöf in 1814, and he was, once again, most likely a particularly disliked guard. Lithén was a former drummer in an artillery regiment but was discharged as a result of being wounded in his hand after which he had also

⁴⁷⁷ Johan Christian Malmros, 9 Sep 1816, GBL, The Commandant's Letters, D III F:14, .

⁴⁷⁸ Investigations into False Claims, 27 Oct 1817, GBL, The Commandant's Letters, D III F: 14.

⁴⁷⁹ Report on Overcrowding, 24 March 1818, GBL, The Commandant's Letters, D III F:14.

⁴⁸⁰ Petter Haggren, 12 Jun 1818, GBL, The Commandant's Letters, D III F: 4.

been sentenced for theft to four lashes and sent to Nya Älvsborg fortress prison as a vagrant. However, in that fortress prison, he was involved in the murder of another prisoner.⁴⁸¹ He was thus sentenced to death through decapitation but was reprieved and sentenced to: "... forty-eight lashes, one Sunday church duty and a lifetime of work at this fortress..." In Karlsten fortress prison Wickman, two other guards, and Lithén testified to the castle court regarding the stabbing. Lithén stated that his actions were a result of an increase in food prices and that he suspected that this was a result of the guards' greed. However, this was refuted by the court and even later admitted by Lithén as a subterfuge, he had simply become enraged with Wickman and therefore grabbed a knife and stabbed him. Wickman urged the court to send Lithén to another fortress prison, this was however not enforced. Instead, Lithén was sentenced to forty lashes, church duty, and to pay damages for perjury.⁴⁸²

The situation at Karlsten fortress prison was becoming more untenable towards the 1820s, the many vagrants were overcrowding the vaults and the work available was irregular and limited as a result. In September and October 1819, the commandant sent no less than three letters which all stated that Karlsten fortress prison was overcrowded, and again, he urged the governor in Gothenburg to not send more vagrants to his care.⁴⁸³ One year later, the commandant at Nya Älvsborg fortress prison similarly again reported that there were too many vagrants in his fortress. The situation appears to have been desperate as he even requested that lesser criminals be fully pardoned and others who had served their sentences be sent to their home parishes or relatives regardless of whether there was work available there or not.⁴⁸⁴ By 1821 actions, although minor, were finally being taken to relieve Karlsten fortress prison of some of its vagrant prisoners. The commandant had arranged with the governor in Gothenburg to send twenty of these prisoners by the sea to the city.⁴⁸⁵ Only on rare occasions did the general public provide work for vagrant fortress prisoners. Vagrant prisoner Johannes Holm, a prisoner in Karlsten fortress prison, sentenced to ten years of hard labour in 1813 for forgery found employment in 1823 as a farmhand. His employer attested that Holm would be under his responsibility and that he would see to it that he did not end up as a vagrant or had access to any hard liquor, he would also pay his salary.⁴⁸⁶ Other prisoners were however not as successful as Holm. In 1825 farmer Hans Andersson requested that vagrant prisoner Jan Pehrsson in

⁴⁸¹ Christian Lithén, KFFA, Prison Rolls and Parish Register, D: 1, 21.

⁴⁸² Christian Lithén, 16 Nov 1821, GBL, The Commandant's Letters, D III F: 4.

⁴⁸³ Three Letters to the Governor, 6, 17 Sep & 23 Oct 1819, GBL, The Commandant's Letters, D III F: 4, 1.

⁴⁸⁴ Reports of Vagrants, 8 Jan 1820, GBL, The Commandant's Letters, Kommendantens Brev D III F: 15, 1820–1869.

⁴⁸⁵ Twenty Vagrants to Gothenburg, 29 May 1821, GBL, , The Commandant's Letters, D III F: 4.

⁴⁸⁶ Johannes Holm, 16 Mar 1823, GBL, The Commandant's Letters, D III F: 5.

Karlsten fortress prison would work for him as a farmhand under similar arrangements as Holm. Despite his good behaviour and certificate from the chaplain, Pehrsson was denied employment. The reason was that a meeting was held in Andersson's parish, the parishioners had read Pehrsson's criminal record, and as a criminal sentenced to Karlsten fortress prison for theft three times he was: "...suspected for all times of being a dangerous person..."⁴⁸⁷

Although it was still difficult for vagrants to receive a discharge and find employment, the idleness within the fortress prisons themselves was also still comprehensive. The Board of War reported to the Ombudsman of Justice in 1817 that idleness was a result of overcrowding, there was simply not enough work for every prisoner. Further, in no fortress prison had there ever been organized mechanical- or factory-like work available for the prisoners to perform; the confined space of the fortresses did not allow for it, according to the Board of War. The number of fortress prisoners should therefore always be kept relatively low, that is, only the worst offenders should be sentenced to fortress labour. For this reason, the Board of War planned a new public workplace, this time in Vadstena, which would hopefully alleviate the fortress prisons.⁴⁸⁸ The Prison Committee chaired by Löwenhielm, then president of the Board of War, thus ordered an inspection of the prisons in the Kingdom in 1820. Regarding the fortress prisons and public workplaces, the committee arrived at a similar conclusion as that of the Ombudsman of Justice a few years earlier; there was virtually no difference between both institutions, except that some fortress prisoners were clad in irons and others not. The Prison Committee's report also proposed that houses of correction should be erected near major cities where work was or could be readily made available. Their report instead ended up as a proposition to parliament for a house of correction in Stockholm.⁴⁸⁹

By the early 1820s, the public workplace proposed by the Board of War in Vadstena was finished, and alongside Karlskrona, they both employed 400 prisoners each. At the former location, the prisoners were occupied with stonecutting, ropemaking, and building the Wanäs, later Karlsborg fortress. At the latter, the prisoners were modernizing the Kungsholm fortress, although half of the total number of prisoners were still idle and waiting to join the workforce.⁴⁹⁰ In 1826, and 1827, the Ombudsman of Justice visited the fortress prisons of Nya Älvsborg and Karlsten but found little to nothing to report on. However, in the larger picture, he found it unproductive that there were still no less than 1900, mostly able-bodied men behind bars under

⁴⁸⁷ Jan Pehrsson, 27 Jul 1825, GBL, The Commandant's Letters, D III F: 5 1822–1858.

⁴⁸⁸ *Justitieombudsmännens Ämbetsberättelse: Avgiven till Riksdagen*. (Stockholm: Kongl tryckeriet, 1818), 2–3.

⁴⁸⁹ Nilsson, *En Vålbyggd Maskin*, 137–142.

⁴⁹⁰ *Justitieombudsmännens Ämbetsberättelse: Avgiven till Riksdagen*. (Stockholm: Kongl tryckeriet, 1824), 57.

sentences such as idleness, vagabondage, deviance, and lechery all over Sweden when there was a deficit of workers and high labour prices. The recent years had yielded good harvests, and the lower classes had no problems providing a good living for themselves and others, according to the Ombudsman of Justice. Considering this, the number of able-bodied men behind bars was highly irrational, he continued. However, property crimes and intemperance had increased in some counties which by extension had led to many acts of violence. This proved, according to the Ombudsman of Justice, that there was no inherent fault in the organism of society, it was the sloth, idleness, and delinquency of individuals who were the problem. The Ombudsman of Justice thus proposed to grab the evil by the root which was to be done through education and improved laws.⁴⁹¹ What was to come was instead the introduction of the so-called military Pioneer Corps stationed permanently at the fortress of Wanäs. Once again it would prove that attempts to further separate the idle and vagrant from the real, or hardened criminals, at the fortress prisons seemed to draw them even closer. This step, as I will argue, was the second dissemination of the fortress prisons.

The Corps

The picture concerning labour in the fortress prisons would thus not be complete without discussing the Pioneer Corps and its subsequent offshoots. The Pioneer Corps was organised along military regulations, and like the fortress prisons, sorted under The Board of War, they came to be stationed at the building of the new fortress, Wanäs, and also later in Karlskrona. Wanäs fortress was to receive the best 200 men from Vadstena and Karlskrona public workplaces.⁴⁹² Firstly, the expressed official purpose of the Pioneer Corps was to foster industriousness and moral improvement in those who had made poor use of their freedom so they could eventually return to society as useful citizens.⁴⁹³ Secondly, it was a means to confine and employ discharged soldiers who had not yet finished their contractual time in the armed forces or for other reasons could no longer serve their full time. These soldiers were usually discharged because of unreliability, disorderly conduct, or sometimes also lighter injuries. Thirdly, the Pioneer Corps was to confine and employ persons who had been sentenced to lose their freedom because of vagrancy, idleness, or petty crimes. For the safety of society at large, they were to be imprisoned and put to hard labour, but at the same time, to prevent corruption through congregation with the hardened criminals confined in the fortress prisons. The

⁴⁹¹ *Justitieombudsmännens ämbetsberättelse: Avgiven till Riksdagen.* (Stockholm: Kongl Tryckeriet, 1828), 109–114.

⁴⁹² General Instructions, 14 Dec 1826, PA, Documents Received, Inkomna Handlingar, E: 1, 1827.

⁴⁹³ Nilsson, *En Vålbyggd Maskin*, 124.

motivation for the Pioneer Corps was thus strikingly similar to the 1804 Royal Decree that introduced public workplaces. An important difference, however, was that the Pioneer Corps meant a considerable militarization of forced labour.⁴⁹⁴ The expansion of public workplaces in the naval dockyards, that the Ombudsman of Justice had proposed, would therefore not be realized, instead, the Pioneer Corps came to closely resemble the fortress prisons. The introduction of the Pioneer Corps thus instead constituted another attempt to adjust an already existing system of forced labour connected to the fortress prisons and public workplaces. This would in turn not necessarily alleviate the fortress prisons but instead disseminate the logic of the fortress prisons and thus functioned as a potent feedback effect for the system as a whole.

The clothes issued to the Pioneer Corps were supplied by the Board of War and were, with few exceptions, the same as those of the fortress prisoners. Additionally, their daily routine was practically the same as the one intended for the prisoners in the fortresses, that is, twelve hours of strictly supervised work every day except Sundays. For their labour, they earned a small sum of money kept in an account which was to be given to them on their release.⁴⁹⁵ The regulations also had a thoroughgoing paternal character. Above all, it was stated in the regulations for the Pioneer Corps at Wanäs, that the officers were to instil an uninhibited fear of God and reverence for the holy commandments and the undisputed Christian truths. They were also to undergo soldierly drills to become a skilful military unit and to get used to "...prompt obedience which is the essence of all such service." Further, they were only allowed to be idle on designated resting times, there were to be no furloughs unless decided so by the commander. The commander was also to: "...seek to prepare employment to the Pioneer who after finished service time will be discharged from the Corps...". Low-skilled labour or enlistment in the armed forces were the usual options. Every new pioneer was also to swear a "Warriors Oath" and failure to do so meant a transfer to a public works company according to the regulations at Wanäs. Other transgressions, such as escapes, theft, or violence would be punished along military lines, i.e., court-martial, which could lead to a sentence in a fortress prison, a public works company, running of the gauntlet, or even execution by firing squad.⁴⁹⁶ The Pioneer Corps were thus not only remarkably similar to the fortress prisons but also, like the public workplaces of 1805, interdependently connected to the fortress prisons. Without the military regulations, the Pioneer Corps would most likely be almost interchangeable with the fortress prisons.

⁴⁹⁴ Löwenhielm, *Tankar om Corrections-Systemet*, 25–31

⁴⁹⁵ Feiff, *Fästningsfångar*, 47.

⁴⁹⁶ Bengt Sparre's Instructions, 26 Oct 1826, PA, Documents Received, E: 1, 1827.

The first inspector of the Pioneer Corps was Fortifications Officer Bengt Erland Franc Sparre. By late 1827 he gave his first report of the Pioneer Corps; it was a modest and somewhat optimistic report. Although the men assigned to Wanäs from Vadstena and Karlskrona looked and behaved despondently, positive changes had been observed in their countenances since their arrival, which boded well, according to Sparre. Some of them were illiterate and Sparre emphasized education and religion and their roles in improving the men and preventing them from committing transgression in the Pioneer Corps and when they were eventually discharged. Sparre thus had a similar outlook on education as a means to reform the prisoners as the Ombudsman of Justice, albeit giving prominence to religious instruction. Nevertheless, escapes were not uncommon, and escaped pioneers were usually sent to houses of correction rather than to a public works company or fortress prisons despite the regulations, according to Sparre. Most of the escapees the first year were young, discharged soldiers and Sparre attributed this to childish recklessness and not a genuine wish to escape their sentence altogether and roam the countryside and commit crimes. It is possible that this paternal view of the transgressors was the reason why Sparre preferred the house of correction rather than the public works companies and fortress prisons. The overall impression from Sparre's inspection was thus a cautiously positive one or at least still a hopeful one.⁴⁹⁷ Just one month later however he sent a letter to be read to all the pioneers at Wanäs in which he scolded them for their many recent escapes. He had reported favourably of the new institution and asked whether the pioneers wanted to make him into a liar in front of the King. With his characteristically paternal tone, Sparre further asked rhetorically:

“Can you not for yourself realize that an institution has been made to help those who through wrongdoings and delinquency are well on the way to becoming criminals and culprits, wholly and completely will it fail its beautiful and human-loving purpose if you behave without credibility? Can you not once realize that if this continues one must take off your uniform and treat you like prisoners?”⁴⁹⁸

One of the pioneers who had escaped earlier that year was Fredric Ekwall who managed to run away from the hospital in Wanäs in June of 1827. He was caught, court-martialled, and sentenced to thirty-two lashes but petitioned to have his punishment reduced to a sentence in a prison cell on bread and water. His petition was denied, and he had to endure the lashings as

⁴⁹⁷ Bengt Sparre's Report, 16 Oct 1827, PA, Documents Received, E: 1.

⁴⁹⁸ Bengt Sparre's Letter, 23 Nov 1827, PA, Documents Received, E: 1.

well as church duty despite most likely being ill or injured already.⁴⁹⁹ P.F Sandström, another pioneer, also escaped from the hospital in Wanäs in June of the same year. From the hospital, he stole a hat and a shirt, and he also burglarized a home with two other pioneers who had escaped at the same time. For these thefts and the escape, Sandström was court-martialled and faced three laps in the gauntlet and seventy lashes, all according to the Articles of War of 1779. His punishment was nevertheless mitigated, and he was sentenced to thirty-five lashes and church duty.⁵⁰⁰ Eric Johansson, a pioneer who previously had been sentenced for theft, burglary, and stabbing, and then arrested as a “suspicious person” without any documents of identification, escaped with pioneer Petter Tufwäson the same summer. Tufwäson had received stolen goods from Johansson and later also embezzled articles of clothing from the Pioneer Corps. Johansson was sentenced to forty lashes and church duty while Tufwäson received twenty-nine lashes and was then to be sent to the fortress prison in Malmö, both of them were also to compensate for the stolen and embezzled goods.⁵⁰¹ The consequences for escapes were thus analogous to the ones that the fortress prisoners faced upon transgressions despite the military court martials in the Pioneer Corps. It is therefore somewhat ironic that Sparre threatened to remove the uniforms of the pioneers and treat them like prisoners when their uniforms did not considerably differ from those of the fortress prisoners, and they were also punished similarly. Other pioneers were however discharged, like in the fortress prisons, on the account that they had managed to find employment for themselves. Per Åkerblom had a good record as an industrious person and was therefore discharged to Åkerö north of Stockholm. But his employer and other villagers found that he had: “...again begun the same disorderly and lewd way of life as before...”. Åkerblom’s mother had recently died and he stood to receive some inheritance, but it was deemed to be a meagre sum of money, the villagers therefore urged to have him sent away as soon as possible.⁵⁰²

Despite the initial, and perhaps commendable intentions, the Pioneer Corps would eventually evolve into a failure. Moral improvement through strict military discipline, scarce food allowance, and a mixture of men from the bottom of society was a volatile combination; theft, escapes, alcohol consumption, and violence were widespread throughout its existence. A total of twenty executions by firing squad were sentenced, out of which three were enforced. The ropes of the flagpoles at Wanäs were also stolen over twenty times and sold in the nearby

⁴⁹⁹ Fredric Ekwall, 27 Jun 1827, PA, Documents Received, E: 1.

⁵⁰⁰ P.F Sandström, 10 Jul 1827, PA, Documents Received, E: 1.

⁵⁰¹ Petter Tufwäson, 23 Oct 1827, PA, Documents Received, E: 1.

⁵⁰² Per Åkerblom, 2 Oct 1828, PA, Documents Received, E: 3.

villages by pioneers.⁵⁰³ One of the earliest examples of this took place in the summer of 1827 when pioneers Widgren and Borgström sold linen and wool yarn to unsuspecting villagers in a nearby parish. The pioneers had successfully hidden their true identities, and the buyers of the yarn were all prosecuted for receiving stolen goods but never sentenced.⁵⁰⁴ By Royal Decree in 1842 the Pioneer Corps was disbanded and the Crown Work Corps, was introduced. This was a result of a culmination of prison and hard labour debates during the 1830s and thus not only a result of the poor performance of the Pioneer Corps. The construction of new fortresses and maintenance of the old ones had also not been satisfactorily performed by prisoners sentenced to life or long sentences. Prisoners in the fortresses were by this time the most dangerous ones in Sweden as many of the vagrants had been assigned to the public workplaces or the Pioneer Corps following the Board of Prisons regulations in 1825. Supervision of the fortress prisoners was also both expensive and impractical as it required a large number of guards and some of the prisoners had to work in heavy irons. Military personnel and free labourers had therefore instead been used by different authorities as an additional workforce to the fortresses. But the labour had grown exceedingly unpopular by those who had to perform it as well as the authorities who had to finance it. When introduced in 1842, the Crown Work Corps was thus to be a temporary institution, and it was sorted under the Board of Prisons rather than the Board of War. However, this did not mean a demilitarization of forced labour, on the contrary, there was still a strict military discipline and most of the companies were stationed on military-related work projects almost all over Sweden.⁵⁰⁵ There were four classes within the Crown Work Corps which depended on the duration of the sentence. The lowest was the so-called fortress class where the more hardened criminals were strictly monitored and usually, but not always, stationed at the fortresses. The other classes were employed in constructing roads, canals, the new cellular prisons, and other fortification works.⁵⁰⁶

The same Royal Decree of 1842 that had introduced the Crown Work Corps also designated Nya Älvsborg fortress prison as the place of confinement for old and infirm prisoners as there was little work available on the small island on which the fortress was situated.⁵⁰⁷ By the mid-1840s, through the Vagrant Act, coupled with reorganizations of the Crown Work Corps, forced labour went from being indefinite to a maximum four-year sentence, and many of those who had been sentenced to especially long sentences were

⁵⁰³ Feiff, *Fästningsfångar*, 48–50, 61.

⁵⁰⁴ Widgren and Borgström, 16 Jun 1827, PA, Documents Received, E: 1, 1827.

⁵⁰⁵ Nilsson, *En Vålbyggd Maskin*, 200–202.

⁵⁰⁶ Annual Report to the Board of Prisons, 1848, B III a:1, 84.

⁵⁰⁷ Feiff, *Fästningsfångar*, 72–73. Feiff, *Fångar och Försvare*, 33–34.

released.⁵⁰⁸ The Board of Prisons also gained an increased influence over labour in the fortress prisons by the 1840s. In their instructions to the commandant at Karlsten fortress prison in 1845 it was stipulated, for example, that the prisoners who were not labouring during the day also had to be released from their vaults for fresh air.⁵⁰⁹ The debilitated state of the prisoners confined in their inhospitable vaults had finally been recognized. The Board of Prison's letters to the commandants in the fortress prisons were however rarely concerned with the labour of the prisoners. In 1846, it was mentioned that prisoners occupied with repairing and manufacturing prison clothes for the Board of Prisons were to be rewarded monetarily based on their skills and not dependent on how much they could repair in a day.⁵¹⁰ The Board of Prisons also referred to the Royal Decree of 1842 which stipulated that all prisoners in the Crown Work Corps who were injured in their labours were to receive support. This was then to be extended to the prisoners in the fortress prisons in 1851 which meant that all prisoners were entitled to assistance in the case of injury during work.⁵¹¹ This was likely introduced relatively late because there was no need for such regulations in the fortress prisons before as the labour performed there was negligible.

Forced labour and fortress prisons were thus more closely related to the efforts of the authorities to provide valuable and beneficial work for prisoners sentenced for lesser crimes. The work performed in the fortresses themselves had, however, most likely more a custodial and punitive character as they had had during the eighteenth century. Closely related was also the lingering question of vagrancy. Clas Livijn, Chairman of the Board of Prisons summarized the flaws of the system concerning the fortress prisons and the vagrants in 1844. He argued that it confused the value of sentences; chance could lead to a sentence as a vagrant which could also lead to life in prison. Further, a sentence for theft could mean a year in a fortress prison and if the prisoner then could not find employment for himself, he would be confined there indefinitely, at least before the 1840s.⁵¹² Despite the problems with the vagrancy system being well-known, it persisted until the 1880s. The Vagrant Law of 1885 replaced the Vagrant Act and stationary forced labour institutions were instead formed.⁵¹³ But the fortress prisons had by then been discontinued almost 20 years earlier. The challenges posed by vagrancy were thus not only responsible for overcrowding, which limited the amount of labour that could be

⁵⁰⁸ Nilsson, *En Vålbyggd Maskin*, 203–207.

⁵⁰⁹ Instructions to Commandant, 5 Sep 1845, KFFA, Documents Received, E: 1 3.

⁵¹⁰ Repairing of Clothes, 15 Dec 1846, KFFA, Documents Received, E: 1 3.

⁵¹¹ Injury Assistance, 3 Nov 1851, KFFA, Documents Received, E: 1 3.

⁵¹² Clas Livijn, *Samlade Skrifter*, (Örebro: Adolf Ivar Arwidsson 1850) 153.

⁵¹³ Nilsson, *En Vålbyggd Maskin*, 258–259.

performed, but it had also ultimately disseminated the fortress prisons. Perhaps the single most effective feedback effect of the fortress prisons was the failure to separate vagrants from the fortress prisons. The solutions, whether public workplaces or the Pioneer Corps instead disseminated the fortress prisons further, thus incorporating them in a wider system of forced labour and by extension continually reproducing them.

Dockyard- and Fortification Labour

The Act that enabled the use of prison hulks in England, known interchangeably as the “Hulks Act” or “Hard Labour Act”, had specified that the convicts were to be put to hard labour “...raising sand, soil, and gravel from, and cleansing the River Thames, or any other Service for the benefit of the navigation of the said River.”⁵¹⁴ Duncan Campbell, the first manager of the prison hulks in England, had thus by 1776 received authority to put convicts to work on the shore below Woolwich in London, but not above. He had further obtained leave from the Board of Ordnance to make use of a piece of marshland from which the convicts had begun to land ballast to make an embankment that could be of use for the Woolwich Warren and later also Greenwich Hospital Road. Some of the boys on board the prison hulks, deemed too young for hard labour on shore, were put to work picking oakum or scrubbing the decks of the prison hulks.⁵¹⁵ The convicts in Woolwich worked from seven in the morning to noon and from one to six in the afternoon, but the workday was extended during summertime. In the earliest years, very short remarks were made regarding the convicts’ willingness to work, it was simply stated that at first, they were: “...unwilling to work, but now they are not.” Campbell did however not develop on why the convicts had changed their minds regarding their labour. He further valued the work performed by the convicts was less than that of the common labourer and about the same as that of a man labouring on the highways. He was also convinced that the convicts could perform better, had they not been in chains. However, once the convicts were allowed to work without their chains, they made bad use of it as Campbell puts it. Most likely the convicts saw an opportunity to escape when their chains were taken off. The early mutinies and escapes in Woolwich discussed earlier were presumably also a strong incentive to keep the convicts in irons. Another important aspect, as to the poor quality of the work performed by the convicts, was their general “depression of spirits” which was described by Campbell as “astonishing”. Dread of being confined on board a prison hulk was the main reason for this, he continued. Whether this was accurate or not is hard to discern but it indicates that, already in its earliest

⁵¹⁴ Criminal Law Act of 1776, 16 George III, c. 43, 1776.

⁵¹⁵ Oakum is old, tarred ship ropes, the task for the convicts was to separate the tar from the rope, the tar would then be used for caulking wooden walls. Priestly, *Victorian Prison Lives*, 121.

stages, the prison hulks had a bad reputation. Pardons were thus introduced by Campbell to improve the psychological conditions of the convicts. Since its introduction, Campbell held out that a general improvement in the spirits of the convicts was noticeable, some even performing their work with “cheerfulness”. The Clerk of the Works to the Board of Ordnance chimed in with Campbell’s statements and maintained that the convicts indeed worked cheerfully and that their work could be valued the same as that of the men employed upon the highways.⁵¹⁶

Prison reformer John Howard, on his second visit to the prison hulks in Woolwich in 1777, saw things differently. He noted that the convicts worked fewer hours than stated by Campbell and that their duties varied. Some worked as carpenters or blacksmiths, but most of the convicts were idle and none of them were employed in raising ballast at the time of his visit. Howard further stated that the convicts could be better used under stricter supervision and that the mode of chaining convicts was disadvantageous for their work.⁵¹⁷ The early prison hulks were thus facing similar challenges as the fortress prisons did at roughly the same time. Having recently returned from one of his visiting journeys to houses of corrections on the continent, Howard found the workhouse of Ghent as providing a suitable model for English convict labour. The workhouse being referenced was the famous Maison de Force.⁵¹⁸ During his first visit there in 1776, Howard admired the regularity, order, and the decency in the way the daily routines were managed. What was so commendable to Howard in this institution was the punctuality of the routines and how the convicts were governed with: “... as much apparent ease, as the most sober and well-disposed assembly of civil society.”⁵¹⁹ Further, this “noble institution” strictly prohibited all forms of gambling and alcoholic beverages, but most importantly, there were, in Howard’s words, excellent rules for mending the convicts’ morals and reforming them into a useful member of society. When visiting this workhouse again in 1778, Howard was pleased to note that this well-regulated form of manufacturing was still in practice.⁵²⁰ This time he adds an interesting passage where he summarises his views on convict labour, which is well worth quoting in its entirety:

⁵¹⁶ Campbell’s Testimony, 15 Apr 1778, , The Bunbury Committee.

⁵¹⁷ Howard’s Testimony, 15 Apr 1778, The Bunbury Committee.

⁵¹⁸ Howard’s Testimony, 15 Apr 1778, The Bunbury Committee. This workhouse in Ghent was created by the gentry and farmers of Flanders as an action against increased vagabondage and petty theft of displaced soldiers following the Seven Year’s War. Ignatieff, *A Just Measure of Pain of Pain*, 53.

⁵¹⁹ John Howard, *The State of Prisons in England and Wales with Preliminary Observations, and an Account of some Foreign Prisons and Hospitals*, 2nd ed. (Warrington: William Eyres, 1780) 133.

⁵²⁰ Howard, *The State of Prisons*, 2nd ed. 135.

I have been very particular in my accounts of foreign houses of correction, especially those of the freest states, to counteract a notion prevailing among us, that compelling prisoners to work, especially in public, was inconsistent with the principles of English liberty; at the same time that taking away the lives of such numbers, either by executions, or the diseases of our prisons, seems to make lives impression upon us. Of such force is custom prejudice in silencing the voice of good sense of humanity!

Howard reported to the second convening of the Bunbury Committee, once again regarding convict labour, but this time only in the sense of profitability. He first commented that the polishing of marbles in the house of correction in Bayreuth was very profitable.⁵²¹ However, during his visit there, he found that the convicts labouring had pale countenances from their hard work and that the governor kept all the profits. Howard now instead preferred the workhouse of Milan, where three hundred convicts were employed with manufacturing cloth, they were clad only in light iron chains and the workhouse was well-regulated.⁵²² Most probably with Milan as a model, Howard thus proposed that English convicts could profitably be put to work manufacturing canvas bags and clothes for soldiers.⁵²³ In summary, Howard's views on convict labour were threefold, firstly, it was to be well-regulated and act as a means of morally improving the convicts, secondly, it was also to be profitable. Thirdly, convict labour did not stand in opposition to English liberty, indiscriminate executions, and high death rates from disease in the prisons, on the other hand, opposed the good sense of humanity. Nevertheless, far more pessimistic and less ideological voices were also being raised regarding convict labour. To the Bunbury Committee Mr Benjamin Crook, for example, suggested that the convicts be employed in cordage. The advantage of this would be, amongst others, that it would not injure any private enterprise as the government already manufactured their cordage in the dockyards. It needed no tools nor training; Crook even went so far as to state that "no mental abilities" were required for this task which speaks volumes of his expectations of the clientele of the prison hulks and their outlooks of being rehabilitated through work. Further, the convicts could be safely confined while performing this task and rewards could be given to the convicts for good work: "...so as to make the Convicts go through their Labour Chearfully. [sic!]" Sir Charles Bunbury and Dr Fothergill instead proposed stone fawing as a "healthy" occupation for the convicts, the prison hulks could be transported to different quarries and thus a mobile

⁵²¹ Howard's Testimony, 1 Apr 1779, The Bunbury Committee, 1779.

⁵²² Howard, *The State of Prisons*, 2nd ed. 104-105, 118.

⁵²³ Howard's Testimony, 1 Apr 1779, The Bunbury Committee.

convict workforce could be introduced.⁵²⁴ Whether any convicts ever worked cheerfully is questionable, but any large-scale manufacturing never took place on board the prison hulks. Howard's commendable, albeit slightly naïve notion of reforming convicts through labour appears to have been a secondary object at best in the history of the prison hulks. Crook's ideas of putting the convicts to work in the dockyards and Bunbury and Fothergill's concept of a mobile workforce instead came to be the guiding principles, although modified to each prison hulk station.

The first mention of convict labour from the prison hulks in Portsmouth came on the 19th of July 1786. Campbell instructed Captain Hill of the *La Fortunée* to thoroughly examine the convicts before they were sent ashore. Convicts in Woolwich had been in the habit of damaging their irons to the point that when on shore they could break the irons completely and then make their escape. Campbell thus advised Hill to start by sending a smaller number of convicts ashore for work and then progressively increase their numbers. All boats that had been used in bringing the workforce ashore were then also to be placed out of reach of the convicts. Campbell then cited an escape effected by convicts in Woolwich who had stolen a launch wafter but were eventually caught.⁵²⁵ Later in the same year, Campbell was informed by the Duke of Richmond that there was employment ready for a greater number of stonecutters, masons, sawyers, and bricklayers in Portsmouth. However, there were not enough convicts to fill these roles, so Campbell made sure to procure a list of suitable convicts from Woolwich who would be transported to Portsmouth. But many convicts on board the *La Fortunée* were also being infected with diseases from working in the mud without proper boots which led to many instead being idle on board the prison hulk.⁵²⁶ The Cumberland Fort in Langstone Harbour started its official construction in 1785 and the need for labour was so large that during the first year that free labourers had mixed extensively with a few convicts from Newgate. With the arrival of the *La Fortunée* to Langstone Harbour in October of 1786 this situation was somewhat mitigated. However, when transportation resumed the ratio between free labourers and convicts became difficult to uphold.⁵²⁷

In his first quarterly return to the Treasury in 1787, Campbell thus reported that the convicts from the *La Fortunée*, in Langstone Harbour were at work "...Digging and making Moats, raising Glacis and other Works under the directions of the Engineer appointed to

⁵²⁴ Crook, Bunbury, and Fothergill's Testimonies, 1 Apr 1779. The Bunbury Committee.

⁵²⁵ Letter to Captain Hill, 19 Jul 1786, DCP, Series 1, Vol. 5, 184–186.

⁵²⁶ Letter from the Duke of Richmond, 5 Sep 1786, DCP, Series 1, Vol. 5, 205–206.

⁵²⁷ Philip A. Magrath, "Fort Cumberland 1747-1850: key to an island's defence", *Portsmouth papers*, 60 (1992): 3-30, 13, 21.

superintend the fortifications at Cumberland Fort.” This work had been ordered by the Duke of Richmond and was performed when the convicts were in good health and the weather permitted.⁵²⁸ The convicts in Portsmouth harbour on board the *Lion* prison hulk performed similar work under similar conditions. But instead of Cumberland Fort, these prisoners worked with “...alterations & improvements making on the Weevil lines near Gosport...”⁵²⁹ Convicts at these defensive installations most likely worked in close association with the Royal Military Artificers. In 1789, for example, John Campbell who belonged to the Artificer’s Company in Portsmouth, was convicted for stealing an iron bar from the King’s Store and sentenced to transportation for two years. However, the commanding engineer and the magistrates of Portsmouth wished that he instead be sent to the prison hulks in Langstone Harbour as an example for the other artificers employed on the public works there, most likely the Cumberland Fort.⁵³⁰

Five years later Campbell reported that the convicts were still at work at the Weevil lines, but this time in removing mud and gravel and raising sloping glacises.⁵³¹ By 1798 the convicts on board the *La Fortunée* were still employed with public works on the Cumberland Fort.⁵³² A clear division of labour was thus in practice from the early days of the prison hulks in Portsmouth. The convicts in Langstone Harbour were at work fortifying the nearby Cumberland Fort and the convicts in Portsmouth Harbour were sent ashore in Gosport to work on the defensive positions there. The early reports were brief, but Mayor Goldson’s 1800 report, instigated by the petition sent from the convicts on board the *Lion* prison hulk, offers a greater amount of detail regarding convict labour in, and around, Portsmouth. There were, for example plenty of incidents related to labour. Convicts escaped from the working grounds with the help of others employed at the public works. It was chiefly the military or civil servants who worked within the convict barriers who were accused of being neglectful at times of escape.⁵³³ Some of the convicts interviewed by Goldson gave accounts of bribery being rife on board the prison hulks; convicts could be excused from hard labour by bribing officers with money which had been smuggled on board. The corruption was, however, much more widespread than this. Several convicts reported that the captains on the prison hulks were in the habit of using convict

⁵²⁸ *Mr Duncan Campbell: Return of Convicts on Board the Fortunee Hulk at Langston Harbour, Portsmouth, Item 1279, from Records of Treasury* 23 May 1787. <http://nla.gov.au/nla.obj-744872025>

⁵²⁹ *Mr Duncan Campbell: Return of convicts on board the Fortunee hulk*, 23 May 1787.

⁵³⁰ Letter from the Duke of Richmond, 30 Oct 1789, TNA HO 42/15/106, f 350A-350B.

⁵³¹ *Report of the convicts under sentence of transportation on board the Lion hulk in Portsmouth Harbour Item 2505 from Records of Treasury* 21 Sep, 20 Dec 1792. <http://nla.gov.au/nla.obj-744878423>.

⁵³² *Report of convicts on board the Lion and Hospital hulks in Portsmouth Harbour, Item [unnumbered] from Records of Treasury* 1 Apr 30, Jun 1798. <http://nla.gov.au/nla.obj-744883688>

⁵³³ Report of an Investigation, f 283-284.

labour for their personal gain. Some convicts were thus excused from hard labour on shore in heavy irons and instead put to work as tailors and carpenters. Others, as reported by numerous convicts, were even put to work on some of the captains' private houses.⁵³⁴ Yet other convicts, such as Richard Coates, who had been on board the *Lion* for four years reported that in his leisure time on board the prison hulks he manufactured tea chests and other objects which he sold to "...persons of the town on the ground for his own advantage."⁵³⁵

However, bribing an officer did not always work out as planned. Convict Lawrence Smith, for example, gave money to an officer expecting lesser work in return but was deceived. When he brought up the matter to another officer, he was physically knocked down for accusing the other officer of taking bribes. As punishment, he was ironically put to the hardest labour available on shore.⁵³⁶ Besides convicts and artificers, there were, as mentioned earlier, several civil workers present onshore as well and their relations to the guards and officers were at times strained. Goldson, for example, reported an assault on the superintendent stonemason at Fort Cumberland, George Chessel, by an officer he had testified against for having taken bribes for lenient treatment of some of the convicts.⁵³⁷ One year later Chessel himself was however under suspicion of having aided the escape of a convict.⁵³⁸ There seems thus to have been an ongoing schism between, on the one hand, the convicts, the artificers, and the civil workforce and on the other the guards and officers, i.e., a mutual animosity between the workers and the men supervising the work.

By February 1801, Graham had inspected the *Lion* hulk in Portsmouth Harbour because of Goldson's critical report. As mentioned earlier, this report was meagre and did not address all the issues brought up by the convicts. Of greatest interest to Graham seems to have been the builder in the naval dockyard who had stated that he had concerns that convicts would be chosen indiscriminately without regard to their health and skill to the newly fitted-out *Laurel* prison hulk. Graham thus pragmatically recommended that the strongest and healthiest convicts in Portsmouth, and Langstone Harbours were to be transferred to the *Laurel* and be put to work in the naval dockyard. The convicts in Gosport, who were employed as artificers there, were doing profitable public works as reported by an engineer. To remove these convicts to the naval dockyard, Graham argued, would be to cut that profit in half. In the naval dockyard, the convicts would be put to work "merely as labourers", a seemingly menial task compared to that of the

⁵³⁴ Report of an Investigation, f 289-290, 295- 298, 303, 307, 309.

⁵³⁵ Report of an Investigation, f, 311.

⁵³⁶ Report of an Investigation, f 312.

⁵³⁷ Letter from William Goldson, 4 Jul 1800, TNA HO 42/50/137, f 361-364.

⁵³⁸ Letter from Sir John Carter, 12 Feb 1801, TNA HO 42/61/53, f 164-165.

artificers.⁵³⁹ Graham's vision of labour in Portsmouth was thus driven by economic factors rather than as a means to rehabilitate or morally improve the convicts. However, by late 1801, Sir Charles Saxton, the commissioner at Portsmouth dockyard, reported to Graham on the work performed by the convicts. Saxton reported that contrary to the expectations of Graham and the officers in the naval dockyard, the convicts did even more work than the hired labourers. Graham then took advantage of the opportunity and chimed in and stated that he regretted that so many of the convicts were to be transported.⁵⁴⁰ The convicts working in the naval dockyard were thus steadily becoming a valued resource. Simultaneously, the work performed on Fort Cumberland was also seen as being of great importance. John Eveleigh, colonel of the Royal Engineers in Portsmouth, recommended that some convicts, on account of their good abilities and behaviour, were not to be transported as their labour was needed for the fortifications.⁵⁴¹ The drawn-out wars with France were most likely also considered a reason for not transporting valuable human resources out of the country, even if this was never directly mentioned.

By early 1802 the fortification works in Gosport came to a temporary halt, the *La Fortunée* was being phased out and the *Portland* was being fitted out as a replacement. Graham was growing anxious and thus ordered the *Portland* to be moored on the north side of the Portsmouth naval dockyard to work on the new ground there, most likely raising soil to expand the docks. By Midsummer, Graham expected, the *Portland* could be moored in Gosport instead and thus resume the work of fortifying the defensive lines there. He further argued that this would prevent convicts from being idle, and the time spent by convicts working was: "...much more valuable than it has hitherto been usual to consider it."⁵⁴² Nevertheless, by late March of the same year, complications arose as a Mr Bingham, by "means not very creditable", according to Graham, had obtained a leave of land in Gosport. The *Portland*, which was just about ready to launch, was therefore to be moved to Langstone Harbour where the convicts were to work on the Cumberland Fort instead.⁵⁴³ In private correspondence to the Undersecretary of State John King, Graham appears frustrated by the whole ordeal. He stated that Bingham was a "complete swindler", and that to deal with the dockyard officers, a man needs: "...more than a common share of patience..."⁵⁴⁴ Efforts to efficiently employ the convicts were obviously weighing heavy on his mind. One year later in 1803, Graham reported from Portsmouth that

⁵³⁹ Letter from Aaron Graham, 17 Feb 1801, TNA HO 42/61/49, f 156-157.

⁵⁴⁰ Letter from Aaron Graham, 9 Dec 1801, TNA HO 42/62/216, f 581-583.

⁵⁴¹ Letter from John Eveleigh, 13 Dec 1801, TNA HO 42/62/221, f 593-594.

⁵⁴² Aaron Graham on *Portland*, 27 Feb 1802, TNA HO 42/65/37, f 157-158.

⁵⁴³ Letter from Aaron Graham, 28 Mar 1802, TNA HO 42/65/7, f 80-81.

⁵⁴⁴ Letter from Aaron Graham, 30 Mar 1802, TNA HO 42/65/6, f 78-79.

the convicts were labouring very well in the naval dockyard and equipping ships for sea, the captains of the Navy were even quarrelling amongst each other over their labour. Recent transportation of convicts was felt hard in the naval dockyard, and on board the warships that were being equipped, convict labour was by now described as essential.⁵⁴⁵ The captain of the *Captivity* prison hulk in Portsmouth Harbour recommended convicts for Royal Pardons and the captain of *HMS Russell* was prepared to take on board convicts to serve on the ship if they could be pardoned. It was argued that many convicts were well-behaved and had performed their labour more than satisfactorily in equipping and rearming the warship.⁵⁴⁶

Royal Pardons, as a way for convicts to seek enlistment in the different branches of the military, was however not a novelty. Already in 1794, Captain William Otway of the *Flora* in Portsmouth stated that fifteen convicts onboard the *Lion* had petitioned to serve on board his ship. He had not been allowed to interview them, so he sought permission from the Home Office.⁵⁴⁷ One of the convicts was Thomas Fenwick who eventually petitioned the Home Office seeking transfer to the Royal Navy. He had been sentenced to death one year earlier for robbery and after “much personal suffering” in Chelmsford County Gaol, he was eventually sent on board the *Lion* in Portsmouth Harbour. In his petition, he claimed that he was in full possession of youth and vigour at twenty-seven years of age. He had spent several years in the Royal Navy and wanted to return to the service.⁵⁴⁸ Nevertheless, in 1798, after spending four years onboard prison hulks in Portsmouth, he was transported for life to Australia on the convict ship *Barwell*.⁵⁴⁹

The opportunity to enlist in the military and the prospects of convict labour in and around Portsmouth did of course increase throughout the years of the war. In March 1804, Colonel Eveleigh reported that the work on the Gosport lines could finally be continued, Graham thus ordered the *Laurel* to be moored adjacent.⁵⁵⁰ By July however, the prison hulk was lying idle by Gosport Harbour from a want of convict labourers. Graham thus requested that 100 convicts from the *Portland*, in Langstone Harbour, where work was not as plentiful at the time, should be sent on board the *Laurel*. He further requested more convicts from jails all over England to be sent to Portsmouth. Admiral Coffin, the superintendent at Portsmouth naval

⁵⁴⁵ Correspondence to the Home Office, 13 Apr 1802, TNA HO 42/70/52, f 235-236.

⁵⁴⁶ Correspondence to the Home Office, f 240, 242.

⁵⁴⁷ Letter to John King, 6 Oct 1794, TNA HO 42/33/159, f 322-323.

⁵⁴⁸ Petition of Thomas Fenwick, 1794, TNA HO 42/33/89, f186a-186b.

⁵⁴⁹ Convicts Transported, 1787-1809, TNA HO 11/1, f 226.

⁵⁵⁰ Letter from Aaron Graham, 29 Mar 1804, TNA HO 42/78/152, f 615-616.

dockyard, was exceptionally pleased and: "...perfectly astonished to see so many ships of war fitted for sea without the help of seamen."⁵⁵¹

In the same year, Captain Moss of the *Portland* in Langstone harbour praised the reform of the prison hulks recently implemented by Graham. He also stated that he had the pleasure of informing Graham that convicts who had received their conditional pardon had performed well in the army and navy, especially those who had entered the Royal Africa Corps. Captain Short, from the same branch of the army, had strongly expressed his satisfaction with the convicts from the *Portland* prison hulk. In fact, he had preferred them to other soldiers, to whom the convicts were an example of "uniform obedience." Moss further expressed gratitude to Graham for obtaining pardons for two convicts on board his prison hulk whom he had appointed guards until they could find suitable employment. This would show the other convicts: "...that because they had once been under sentence of Transportation their characters are not absolutely irretrievable..." Lastly, Moss believed that proper instruction and care, while confined, could reform "these miserable men" and return them with an advantage to society.⁵⁵² This was one of the few instances where any form of rehabilitation related to convict labour was hoped for.

In 1806, Colonel John Fraser, travelled to Portsmouth where he sought to recruit soldiers from the convicts on board the prison hulks, again for the Royal Africa Corps. However, Graham cautioned the captains on board the prison hulks to not petition the convicts unless the authority was given to them from the Home Office or Home Secretary Lord Spencer. Graham stated that Fraser might be under the impression that the government was desirous to remove convicts from the prison hulks. This was not the case by 1806, the convicts were now direly needed at the naval dockyards in both Portsmouth and Woolwich and scheduled transportation was to reduce their overall number. Graham therefore proposed to wait for the assizes to see how many convicts could be produced, i.e., by seeing how many convicts would be liable for military service. He suggested using the method which had hitherto been used, namely making a list of all the convicts sentenced to life and fourteen years of transportation and who were willing to accept a conditional pardon. The convicts were to be listed according to the disposition of their character and from this, Fraser was to choose according to his liking and Graham took it upon himself to produce this list.⁵⁵³ Lieutenant Colonel Robinson subsequently arrived in Portsmouth by the end of 1806 with the transport ship the *Henry Addington* ready to

⁵⁵¹ Letter from Aaron Graham, 5 Jul 1804, TNA HO 42/79/61, f 224-225.

⁵⁵² Letter from Aaron Graham, 24 May 1804, TNA HO 42/79/40, f 465-467.

⁵⁵³ Aaron Graham on Colonel Frazer, 6 Aug 1806, TNA HO 42/87/157, f 615-618.

receive the convicts eligible for service in the Royal Africa Corps.⁵⁵⁴ However, the odds were generally stacked against convicts who were pardoned and pressed into military service. The mortality rates on the voyage to the front, the inhospitable climate, and of course, the formidable foes the convicts had to face, meant that staying on the prison hulk could in fact be a better choice than a pardon and military service. Historian Jeff James's study of what he calls "hulk refusers" offers some insight into how convicts who declined the pardon reasoned. The majority of these convicts were sentenced to seven years of transportation, and he maintains that their refusal generally ensured their survival. But this came at a high cost; most of the hulk refusers spent considerably more time on board the prison hulks than other convicts. Most hulk refusers gave no reason for their refusal, but James argues that it was most likely for pragmatic reasons, such as, thinking they had better chances of survival on board the prison hulks than in military service.⁵⁵⁵

The immense praise bestowed upon the convicts working in the Portsmouth naval dockyard continued throughout 1806. A superintending master in the dockyard gave: "... a wonderful account of the ease with which they enable him to fit ships of war for sea without the aid of seamen..."⁵⁵⁶ Prison reformer James Neild correspondingly stated in 1807 that the healthy convicts were very usefully employed in the naval dockyards. They even received biscuits, beer, and a small allowance of tobacco for their labour. Even the convalescents and cripples were employed in the war effort, they picked oakum and cut wood which was then sold in parcels to the warships. A similar arrangement was set up on board the *Portland* in Langstone Harbour where the healthy convicts were employed as bricklayers and carpenters at the Cumberland Fort.⁵⁵⁷ Timing was thus crucial for the development of the prison hulk station in Portsmouth. The wars with France instigated a rush of work to the naval dockyard, and the Master of Ordnance, the Duke of Richmond, had initiated comprehensive work on the defences of Portsmouth Harbour in the 1770s. Fort Cumberland was also to be rebuilt to a much larger scale and the Gosport lines also received a lot of attention for its defensive capabilities.⁵⁵⁸ The eighteenth century also saw a constant expansion of the Royal Navy. In 1702 the number of ships in service of all kinds was 272, by 1805 that number had risen to 949, however, the largest

⁵⁵⁴ Aaron Graham Correspondence with Colonel Robinson, TNA HO 42/87/192, f 753-757.

⁵⁵⁵ James, "Raising sand, soil", 15-18, 21.

⁵⁵⁶ Aaron Graham on Healthy Hulks, 16 Jul 1806, TNA HO 42/87/145, f 570-571.

⁵⁵⁷ Neild, *State of the Prisons*, 627, 630.

⁵⁵⁸ Arthur Corney, "The Portsmouth Fortress." *Journal of the Royal Society of Arts* 131, no. 5326 (1983): 578-86. <http://www.jstor.org/stable/41373638>. 583-584.

expansion had taken place since 1770.⁵⁵⁹ Labour was thus ample, this constituted a forceful feedback effect which consolidated the role of the prison hulks in, and around Portsmouth. The feedback effects were thus of a functional nature as outlined by Mahoney.⁵⁶⁰ The prison hulks served, or at the very least were perceived as serving, a valuable function in a wider system, that was, fortification, the expansion of the naval dockyard, the building of warships, and as a potential reserve for the military. The wars of the late eighteenth- and early nineteenth centuries were thus indirectly to help further lock-in the prison hulks as viable places of confinement. But despite the abundance of labour opportunities and praise of the convicts as labourers, artificers, and soldiers in the early nineteenth century, there were challenges on the horizon.

The Demise of the Prison Hulks in Portsmouth

In 1808, a man named Barnabas Rix stole a piece of linen from his master's shop in Canterbury, for this he was sentenced to transportation for seven years. Before his sentence, his character was described as excellent, and in 1810, he petitioned King George III on the 50th anniversary of his reign. Rix claimed his petition was backed by upwards of a thousand convicts on board the prison hulks the *Captivity*, *Laurel*, and *Portland* in Portsmouth, and Langstone Harbours who all sought pardons. The main argument for pardoning was the convicts': "...industry while employed in the public service and their orderly behaviour on board the Hulks..."⁵⁶¹ However, despite his efforts for himself and the convicts who had worked so industriously during times of war and unrest, Rix was denied a pardon, and he was instead transported to Australia in early 1811.⁵⁶²

The Holford Committee of 1812 found that pardons given to well-behaved and industrious convicts were indeed exceptionally rare. Since the naval dockyards in England in general, and Portsmouth in particular, necessitated a constant influx of labour, the committee recommended a new system for discharged convicts. They indicated that convicts who had either served their time, or had been pardoned, were to be employed in the naval dockyard after their sentence. This would require that the captains and chaplains on board the prison hulks issued a certificate for those discharged convicts recommending them for employment. This arrangement was similar to the vagrant prisoners in the fortresses who also needed help securing employment after their sentence. Challenges had most likely arisen from released and unemployed convicts who posed a security risk, or their labour was simply needed in the naval

⁵⁵⁹ Jonathan Coad, 1981. "Historic Architecture of H.M. Naval Base Portsmouth, 1700-1850" *The Mariner's Mirror* 67 (1): 3–59. doi:10.1080/00253359.1981.10655794. 15.

⁵⁶⁰ Mahoney, "Path Dependence", 519-521.

⁵⁶¹ Barnabas Rix's Petition, 2 Jul 1810, TNA HO, 47/45/5, f 55–63.

⁵⁶² Convict Transportation Register, Apr 1811, TNA HO, 11/2/27, Folios 17.

dockyards. Either way, providing work for released prisoners was most likely seen as a step towards curtailing recidivism both on board the prison hulks and in the fortress prisons.

The Holford Committee's report, however, suggested that the labour performed by convicts on board the prison hulks in Portsmouth was not as well-regulated as Colonel Eveleigh and Graham maintained in their correspondence to the Home Office. They had most likely overrated the work performed by the convicts to restore some confidence in the prison hulk system which was most likely tarnished by Campbell's mercenary management. Some convicts worked during the daytime on shore, while some remained on board the prison hulks employed as shoemakers and tailors. There was some rotation to this, but generally, the best-behaved, as judged by the captain, were the ones allowed to stay on board. Given the corruption of guards, officers, and even the captains during Campbell's time as manager, it is likely that this system too was fraught with dishonesty and bribes. The convicts who stayed on board the prison hulks were also allowed to be idle while the others were at shore working. They could also still work for their personal gain by crafting various objects which they could have sent to town or sold by themselves in the dockyard.⁵⁶³

These issues were also debated in the House of Commons in 1815 where George Peter Holford stated that the number of convicts in total on board the prison hulks in England amounted to 1564 in 1811 and that the average number employed was only 831. This would mean that almost half of the convicts on board the prison hulks were idle. Further, not every weekday was a working day, work was frequently prevented by bad weather, and it was not deemed safe enough to send convicts ashore on dark and foggy days. Although most likely not as idle as the fortress prisoners, this does seem to indicate that the labour of the convicts was indeed overrated by Colonel Eveleigh and Graham. The value of the convict labour that had been estimated in 1812 was also deemed too high. It was only the prison hulks in Woolwich that could present an advantageous use of convict labour, and this was, according to Holford, because of the close attention paid by the commanding officer of the Ordnance Department there. Additional guards and a more generous allowance for the convicts were the recipe for making the convicts more productive. Again, similar challenges were facing the prison hulk establishment in Portsmouth as the fortress prisons; lack of supervision made for a poor work effort. Further, for the convicts to work properly, Holford argued, that the convicts should be

⁵⁶³ Introduction to the Report, 1812, HOCP, Holford Committee, 141, 147.

allowed to be split up into as many groups as deemed beneficial.⁵⁶⁴ By John Henry Capper's tenure, many of these issues seem to have remained unresolved. In 1815, he reported that one-third of the convicts on board the *Portland*, in Langstone Harbour, were employed at the Cumberland Fort, the rest were idle. The Naval Department in the port of Sheerness could provide work for some of the convicts so Capper petitioned the Admiralty to have the convicts from Langstone Harbour sent there. The *Portland* was thus sent to Sheerness and delivered to the Navy Board, the convicts were in turn sent to the prison hulks in Gosport and Portsmouth Harbours in 1816. This year also marks the last year for convict labour on Cumberland Fort and thus also prison hulks being moored in Langstone Harbour.⁵⁶⁵ Subsequent reports made by Capper regarding convict labour in Portsmouth were however mostly enthusiastic; there was nearly always full employment, he argued. It was also well known, he continued, that where task work was available, the labour of a convict in the Navy and the Ordnance Departments equalled that of a free labourer. In 1820, the *York* prison hulk was also introduced as a new prison hulk in Gosport harbour.⁵⁶⁶ Although, as mentioned several times before, Capper's reports obfuscated and whitewashed the conditions on board the prison hulks, they did tend to go into some detail regarding labour, albeit most likely also overly optimistic. Difficulties would arise, but generally, Capper, characteristically, gave a reassuring impression. A typical statement, this one from 1823, reads as follows:

The Prisoners on board the Ships Leviathan and York, at Portsmouth, have also conducted themselves orderly, and have been provided with constant employment. The works under the Ordnance Department at that Depot are likely to be extended, and will require a further demand for Convicts labour.⁵⁶⁷

In 1825 the *Hardy* prison hulk was introduced as a new prison hulk; it would be moored north of Portsmouth Harbour in Tipner.⁵⁶⁸ The convicts there were most likely employed at the Board

⁵⁶⁴ This was not a new proposal, in 1809 Graham responded to a letter from the Admiralty suggesting that the convicts in Portsmouth work in smaller groups. The usual number of convicts in one "gang" was fifty and the Admiralty wanted twenty to thirty in each group, Graham argued that he had no objections to smaller groups. However, it was a question of finance, if the Admiralty wanted smaller groups, they would have to pay for the additional guards it required themselves. Holford Committee, 22 Jun 1815. Aaron Graham on Labour, 17 Jun 1809, TNA HO 42/99/50, f 387-391.

⁵⁶⁵ Capper's Report, 1817, HOCP, vol. 18, Two Reports of John Henry Capper, 1815-1816, 4-5, 8-9. Capper's Report, HOCP, vol. 16, Two Reports of John Henry Capper, 1817, 7.

⁵⁶⁶ Capper's Report, 1821, HOCP, vol. 21, Two Reports of John Henry Capper, 1821, 1-2.

⁵⁶⁷ Capper's Report, 1823, HOCP, vol. 15, Two Reports of John Henry Capper, 1823, 5.

⁵⁶⁸ Capper's Report, 1825, HOCP, vol. 23, Two Reports of John Henry Capper, 1825, 5.

of Ordnance's gunpowder magazines which had been established there in the 1790s.⁵⁶⁹ Despite the constant positive reports on convict labour, Capper appears to address a few challenges. In 1829, for example, he stated that steps had been taken to prevent: "...intercourse between the Convicts and free persons." and that: "...the severest labour upon which the nature of the Public Works will admit of employing Convicts, has been allotted to them." Both statements likely point to troubles that had occurred. Interaction between convicts and free labourers was not uncommon, as discussed earlier. But by the 1820s this must have created increasing difficulties for guards and officers as the number of convicts mounted. The second statement most likely referred to complaints, either that the convicts' labour was too lenient, or that free labourers performed work just as hard as the convicts did. Personal manufacturing of objects, which could be sold by the convicts onshore, was banned in the 1820s much to the disappointment of the chaplain and captain on board the prison hulk *Hardy*. They argued that this had kept the convicts quiet and orderly when on board the prison hulk and its prohibition inhibited the convicts' reformation through the formation of "industrious habits"⁵⁷⁰ The reformatory theories of the 1820s had consequently spread to the convicts' labour and mentions of labour as morally improving would increase from this moment onwards, albeit with a low frequency.

Comptroller of the Navy, Sir Byam Martin, also engaged in the question of convict labour in the naval dockyards. He did not share Capper's view that the labour of a convict was worth as much as that of a free labourer. This was because the groups of convicts under one superintendent on shore were too large. A task that required ten free labourers had to be performed by over thirty convicts as there were not enough guards and officers for smaller groups, thus leaving many idle. In 1830 he thus reiterated Holford's, and the Admiralty's, request that the convicts should be split up into smaller groups to maximize the efficiency of their labour. He also considered the allowance given to the convicts too meagre. When convicts were discharged from the prison hulks with little or no money, they generally fell into recidivism rather quickly. Martin recommended that the smallest group consist of ten convicts and the largest of twenty-five.⁵⁷¹ It is however doubtful that the groups of convicts were ever made significantly smaller. In 1847, for example, the Board of Ordnance in Portsmouth requested that civil guards be appointed to guard the convicts to reduce the number of some gangs to ten or twelve convicts.⁵⁷² Martin's concerns, however, point to two similarities to the

⁵⁶⁹ Wayne Cocroft, *Dangerous Energy: The Archaeology of Gunpowder and Military Explosives Manufacture*. (Swindon: English Heritage, 1999), 58–59.

⁵⁷⁰ Capper's Report, 1829, HOCP, vol. 15, Two Reports of John Henry Capper, 1829, 7, 9.

⁵⁷¹ Sir Byam Martin's Report, 14 Sep 1830, TNA ADM 359/50D/182, 1-12.

⁵⁷² Letters Relating to Convicts at Portsmouth, Nov 1847, TNA HO 45/1839.

fortress prisons. Firstly, many had to be kept idle because of a lack of supervision and secondly, employment after release was considered essential to prevent recidivism. The 1832 Select Committee on Secondary Punishments did not share the view that convicts were given meagre allowances, on the contrary, convicts on board the prison hulks had too much money at their disposal. It was with the allowance, and the money some of the convicts made from stealing and selling objects they had manufactured, they acquired all the contraband they brought on board the prison hulks. The committee did not consider the number of convicts in each group but instead focused on the fact that the labour performed by the convicts was not severe enough to deserve: "...the name of punishment or hard labour." Wortz, the convict on board the *Leviathan* in Portsmouth Harbour, testified that the labour could indeed not be considered a punishment. He further attested that the labour performed by a free worker was more severe than the labour performed by convicts on board the prison hulks, mainly because the convicts worked considerably fewer hours. This also somewhat explains why Capper found it necessary to point out that the convicts were given the harshest labour available since they did not work the longest hours. Further, some convicts were even stealing copper from the dockyard and selling it to the free dockyard men.⁵⁷³

In John Ward's diary, the work for the convicts on board the *York* in Gosport Harbour in the 1840s is described in some detail and can thus shed some further light on the conditions of labour from a convict's point of view. After dinner on his first day, Ward was sent up on deck with other newly arrived convicts to pump fresh water for the prison hulk after which they were ordered to scrub the quarter-deck with a mixture of water and sand. This kept them busy all afternoon, but the working day was not over yet. After scrubbing the quarter deck on the *York*, they were sent on board the hospital hulk *Racoon* to scrub its lower decks. While doing this, Ward commented that some of the "Old'uns" enjoyed the "fine sport" of seeing the new convicts labouring on the wet deck with their irons knocking about. After finishing this job, the convicts were mustered and sent down below decks to sleep in their hammocks.⁵⁷⁴ The next morning the convicts were once again mustered, this time at six o'clock after an hour of breakfast and personal hygiene. Ward's name was called, and he was sent to shore with the "Portsmouth Gang", the name alluding to where he would be put to work breaking rocks, later in the diary there are references to the "Haslar Gang" referring to an area in Gosport. For his work he received one penny per day, the money was kept by the ship's captain to be given to him on his day of transportation. However, Ward bitterly stated that this was all an "up", most

⁵⁷³ Mannister Wortz's Testimony, Select Committee on Secondary Punishments 14, 84, 86.

⁵⁷⁴ Ward, *Diary of John Ward, 1841-1844*, 80-81.

likely referring to the word “unpublishable” indicating profanity, as he received no money on his departure.⁵⁷⁵ Ward did more than just break rocks, with the Portsmouth gang he was also sent to the Southsea Castle with a free labouring carpenter to mend the breakwater there which he described as very hard labour. He became acquainted with this carpenter and gained his confidence to buy him articles and bring them to Southsea Castle where Ward would receive them. Ward described Southsea Castle as a “sort of prison” for soldiers who were confined there for misconduct or other offences. Situated close to the sea, the breakwaters frequently needed repair and after one particularly severe storm the entire surrounding lowlands were flooded for days.⁵⁷⁶ Eventually, his arrangement with the carpenter was discovered, and as a result, Ward was frequently stripped down naked and thoroughly searched and put to work in the Portsmouth naval dockyard where more hands were needed.⁵⁷⁷

Although the need for convict labour in Portsmouth seems to have been constant, by the 1830s Capper started to complain of the quality of the convicts sent there.⁵⁷⁸ He claimed that many convicts, who were sent from jails all over England, were not only unfit for transportation, but also for hard labour due to old age and disease, thus burdening the prison hulks. In 1835, Capper further stated that the Portsmouth establishment was in gradual reduction, but he also stated that there was a great influx of new convicts, again, most of them old and sick.⁵⁷⁹ Two years later he also stated that the great influx of convicts was a result of many soldiers disobeying military discipline and: “...numbers of the Black Population from the West Indies, who are now convicted in the Colonies of various Offences, and sent to England to be thence transported beyond the seas.”⁵⁸⁰ By 1840, Capper received orders from Sir John Russell to provide labour in the naval dockyards of England for convicts sentenced to seven years transportation instead of sending them abroad. Almost all convicts, Capper argued, showed a great “readiness” to work, the only thing he could find to complain about was the free labourers in the naval dockyard who occasionally sold the convicts tobacco.⁵⁸¹ Despite a seemingly great influx of convicts, and Russell’s order, the prison hulk system was indeed in decline. The two decades after the wars with France were characterized by a post-war shortage of money and the building activity in the Portsmouth naval dockyard had diminished sharply.⁵⁸² Convict labour

⁵⁷⁵ Ward, *Diary of John Ward, 1841-1844*, 85, 89, 110.

⁵⁷⁶ Ward, *Diary of John Ward, 1841-1844*, 91–92.

⁵⁷⁷ Ward, *Diary of John Ward, 1841-1844*, 93, 105, 110.

⁵⁷⁸ Capper’s Testimony, Select Committee on Secondary Punishments, 9.

⁵⁷⁹ Capper’s Report, 1836, HOCP, vol. 41, Two Reports of John Henry Capper, 1836, 1, 5.

⁵⁸⁰ Capper’s Report, 1837, HOCP, vol. 45, Two Reports of John Henry Capper, 1837, .5.

⁵⁸¹ Capper’s Report, 1840, HOCP, vol. 38, Two Reports of John Henry Capper, 1840, 5.

⁵⁸² Jonathan Coad, “Historic architecture of H.M. Naval Base Portsmouth, 1700-1850” *The Mariner’s Mirror* 67, no. 1, (2013): 27. doi:10.1080/00253359.1981.10655794.

in the prison hulk stations in Chatham and Devonport had also recently been abolished. The *Stirling Castle* prison hulk from the latter station was transported to Portsmouth and replaced the *Leviathan* in 1845. Furthermore, a new system had recently been implemented where convicts were no longer required to be removed from the local jails and prisons and then confined on board the prison hulks before transportation. Most of the convicts who were sent to the prison hulks were now instead received from the Millbank and Pentonville penitentiaries and they were generally unfit for hard labour, transportation and even confinement in a local jail or prison, Capper maintained.⁵⁸³

Surveyor General of Prisons and Inspector General of Military Prisons, Joshua Jebb, thus argued for a revised system in a letter to Home Secretary George Grey in 1846. The convicts on board the prison hulks in Woolwich and Portsmouth were indeed predominantly crippled or unfit for labour. For a revised system of labour to function properly, changes had to be made. Older officers should be allowed to resign on a pension and new crews were to be ordered on board the prison hulks. But Jebb was wary that a dramatic change of system could disturb the order on board the prison hulks. Outwards, the prison hulks appeared orderly, he argued, but the moral instruction and discipline had hitherto been most unsatisfactory. He could thus not recommend any convicts from Millbank or Pentonville to be sent to the prison hulks, especially not the able-bodied ones. He thus suggested that permanent employment was to be found in the naval dockyards of Portsmouth and Woolwich and that any convicts sent there should be confined on board an unoccupied prison hulk or another ship. The mixing of able-bodied convicts with the convicts already on board the prison hulks was something to be avoided at all costs. These efforts would give the Home Office some time to consider provisions for permanent confinement on shore near the naval dockyards. Able-bodied convicts already on the prison hulks with more than two years of their sentence left were to be sent to Bermuda and Gibraltar and work in the dockyards there. The *Warrior* prison hulk in Woolwich should send its convicts to the *Justitia* in the same establishment and the rest to the prison hulks in Portsmouth. When the *Justitia* was empty the new system could be enforced. The new system alluded to did however not deviate much from how the prison hulks had been run before. Jebb requested the means for continued religious instruction and education and better stimulus for industry through increased allowances which would be given to the convict on his discharge. Officially, this had been the regulations, albeit not adequately enforced, the most profound change then was most likely the new crews that would be employed as guards and officers.

⁵⁸³ Capper's Report, 1845, HOCP, vol. 37, Two Reports of John Henry Capper, 1845, 1.

Prison hulks, Jebb argued, could never afford the means necessary to uphold the discipline required for labour, so instead, convicts from Millbank were to be sent primarily to the new convict prison in Portland. For this system to work, a new class system was to be introduced where the first class of convicts were to be sent to Portland. The second and third to Bermuda and Gibraltar, and the last class, the incorrigibles were to be sent to the prison hulks in Portsmouth and Woolwich before being transported.⁵⁸⁴ This is somewhat akin to the Board of Prisons' regulations in 1825, where Nya Älvsborg, Karlsten and Karlskrona fortress prisons became reserved for the most hardened and incorrigible prisoners. Further, the Pioneer Corps was a means to ensure that only the most hardened criminals were sent to the fortresses. The prison hulks in Portsmouth and the fortress prisons thus became places of confinement for the worst offenders to ensure effective labour in Portland convict prison and the public workplaces and Pioneer corps.

Herbert Voules, who succeeded Capper as manager of the prison hulks, enforced this new system. In his 1848 report, he also stated that the practice of employing convicts under hired labourers had been discontinued, and an increased number of convict guards were appointed. With the new arrangements, the convicts were placed under closer supervision when labouring and their interaction with free labourers and friends on shore had been considerably circumvented. The surgeon for the prison hulks in Portsmouth reported that the convicts received on board the *Stirling Castle* were generally fit for hard labour. Convicts on board the *York* were generally in a more debilitated state, but the fitting out of the *Defence* invalid hulk in Portsmouth Harbour was to put the *Defence* on the same level as the *Stirling Castle*.⁵⁸⁵ Under the new system, all convicts were subjected to a period of probation in separate confinement before being sent to labour at the public works and naval dockyard. Convicts deemed incorrigible did not get a second chance and were transported to Norfolk Island. The convicts on board the *Defence* could not be put to hard labour and instead, they were variously employed as shoemakers, tailors, carpenters, tinmen, or crafting articles for use in the convict establishment. A "foreman of works" was introduced under Voules in Portsmouth and Woolwich to superintend and value the labour of the convicts.⁵⁸⁶

Jebb, now as Surveyor-General of Convict Prisons, reported annually on the discipline and management of the prison hulks. His report in 1850, which he carried out with Voules, stated that the amount of work done by convicts in the dockyards had recently seen a marked

⁵⁸⁴ Four Letters on Labour, Sep-Nov 1846, TNA HO, 45/1409.

⁵⁸⁵ Voule's Report, 1848, HOCP, vol. 29, Report of the Manager of Convict Hulk Establishment. 1848, 2, 6-7.

⁵⁸⁶ Voule's Report, 1849, HOCP, vol. 29, Report of the Manager of Convict Hulk Establishment. 1849, 2-3.

increase. The appointment of foremen was commended as being a great advantage in both Portsmouth and Woolwich. They also stated that a new convict prison was being constructed in Portsmouth which would remove the many challenges of the prison hulks, especially in terms of discipline. The location of the convict prison adjoined the naval dockyard where the *Stirling Castle* and the *York* hulks were also moored. Convicts working for the Ordnance Department could thus be marched to their labour without passing through town.⁵⁸⁷ The new convict prison would house 1000 separate sleeping cells on the same plan as the new convict prison in Portland. When the new convict prison in Portsmouth was finished, it was argued, the prison hulks would finally be obsolete. This would further allow for a more stringent and: "...reformatory system of discipline that can by any possibility be enforced under present circumstances."⁵⁸⁸ Portland convict prison appears to have become something of a cherished project for Jebb, and as a convict prison on land, it was far preferable to the prison hulks. The departure of Capper and the opening of the Portland convict prison had thus led to a critical juncture in the operational history of the prison hulks in Portsmouth. Overshadowed by the perceived advantages of convict prisons with separate sleeping cells, the prison hulks had nothing left to offer but difficulties and disadvantages. Furthermore, in a report on the discipline and construction of the Portland convict prison in 1850, a remark on convict labour was expressed well worth quoting in its length:

In the application of convict labour under the old hulk system, it seems to have been understood by the men that it did not signify how much or how little work they performed, they were to drag their chains about the arsenals or dock-yards for a certain number of hours, and that was enough. The result of this was that their ingenuity was exercised in exhibiting how little they could do within a given time.⁵⁸⁹

The culmination of the prison hulks in Portsmouth was thus drawing nearer and by early 1851 the construction of the new convict prison was well underway. But the Portsmouth town council was apprehensive, they sent a letter to Home Secretary Grey voicing their concerns. In their view, a permanent convict prison would deprive the honest labourers of their sustenance, and the families and friends of the convicts would come to live in Portsmouth thus burthening the parish with: "...paupers of the worst description." Lastly, a convict prison would damage the

⁵⁸⁷ Jebb & Voule's Report, 1850, HOCP, vol. 28, Report on Discipline and Management of Convict Prisons, 1850, 9, 10

⁵⁸⁸ Voule's Report, 1850, HOCP, vol. 28, Report on Discipline and Management of Convict Prisons, 1850, 19.

⁵⁸⁹ Voule's Report, 1850, HOCP, vol. 28, Report on Discipline and Management of Convict Prisons, 1850, 30.

town's reputation, which they argued had happened elsewhere. Grey maintained that the convict prison would not be an addition to the prison hulks, but a substitute. There were 1280 convicts on board the prison hulks in 1851, Grey continued, and the convict prison would house only 1000 convicts who were to be kept in separate confinement. Lastly, perhaps most importantly, the convicts would be employed in "Government works". All this would also be less costly for the public.⁵⁹⁰ But before the convict prison was finished, the prison hulks still kept convicts at hard labour. In the same year, 1851, the governors of the two remaining prison hulks in Portsmouth Harbour reported that the convicts performed their work satisfactorily. On the *Stirling Castle*, the convicts even worked "cheerfully", a phrasing reminiscent of the early prison hulks in Woolwich. The governor of *York* further described what set the convict establishment in Portsmouth apart from the others in England. It was how the convicts were distributed under several different branches. Convicts worked under the Admiralty at the naval dockyard or repairing the seawall at Gosport. Some worked for the Royal Clearance and Victualling yard where they were cleaning, scraping, and painting tanks. Other convicts were labouring under the Ordnance Department where they were occupied at the Gunwharf. They were scraping guns, and ammunition, loading and unloading vessels, repairing ramparts, cleaning the ditches of the fortifications, and working at the construction of the new convict prison.⁵⁹¹

On the 1st of April 1852, the convict prison in Portsmouth opened and most of the convicts on board the *York* and *Stirling Castle* were now confined in the new prison. The former prison hulk was broken up after over 30 years of service and the latter remained in service and was repaired and fitted out as an "invalid depôt", the *Briton* hospital hulk was also kept for a few years in the naval dockyard. The good effects of the new system in Portsmouth were already felt, according to Jebb. Every convict had a separate cell and the only time they associated was during their work hours, religious instruction, education, and exercise.⁵⁹² This ends the era of the prison hulks in Portsmouth. Convicts had been labouring in association on shore and been confined on board the demasted, refurbished, and retrofitted ships known as convict ships, convict hulks, labour hulks, prison hulks, and prison ships in Portsmouth for a total of 66 years.

⁵⁹⁰ Town Council's Concern, 8 Feb & 14 Feb 1851, Portsmouth History Centre, S:14, Papers Relating to Gaols, 1818-1884.

⁵⁹¹ Voule's Report, 1851, HOCP, vol. 51, Report on Discipline and Management of Convict Prisons, 1851, 26-27.

⁵⁹² Jebb's Report, 1852, HOCP, vol. 51, Report on Discipline and Management of Convict Prisons, 1852, 75, 81, 86.

The Interdependencies of Prison Labour

This chapter has explored perhaps the most central element of both the prison hulks and the fortress prisons, namely labour in a broad sense. The guiding question for this chapter has been focused on how labour served to lock in both prisons in their path-dependent processes. Accordingly, labour performed inside both prisons and perceptions and legislation in society at large have been considered to paint as comprehensive a picture as possible. From their inception, the outspoken purpose of both prisons was not only to confine offenders but also to put them to hard labour. Both prisons also initially had military projects as focus of the labour performed; the convicts on board the prison hulks expanded the Royal Arsenal in Woolwich while the fortress prisoners on the island of Marstrand helped construct the Karlsten fortress which would later become their prison. This work hardly incorporated any notions of rehabilitation or reformation of the prisoners. On the contrary, and similar to what historian Patricia O'Brien states about the bagnes and galley slavery system in France during the eighteenth century, the emphasis on labour: "...gradually replaced the use of torture and disfiguring punishments in the evolution of a productive system."⁵⁹³ This was more salient in the case of the fortress prisons which, as I have argued, did not necessarily replace the death penalty but retained corporal punishment and hard punitive labour. The early labour in the fortress prison thus had a more pronounced focus on the punitive aspects of labour than the prison hulks.

The main incentive behind labour during the tenures of Campbell and Graham was instead on a cost-benefit basis; convict labour was first and foremost to be of financial gain to the public and the state. From a Marxist perspective, Rusche and Kirschheimer argue that the mercantilism of the eighteenth century can explain this view on prison labour. They contend that modes of punishment shifted toward prison labour, which was brought on by the increasing attention given to the prospects of exploiting the labour of those confined within rudimentary forms of prisons.⁵⁹⁴ Similarly, Melossi and Pavarini maintain that incipient capitalism required rigorous discipline and that institutions such as prisons functioned to reproduce this discipline needed to produce surplus value. This discipline, however, should not be considered analogous to rehabilitation but an inclusive subordination, a concept which entails the teaching of obedience and re-socializing of workers refusing to work.⁵⁹⁵ There was thus an initial deviation concerning the motives behind labour in the fortress prisons and on board the prison hulks and

⁵⁹³ O'Brien, *The Promise of Punishment*, 153.

⁵⁹⁴ Rusche & Kirschheimer, *Punishment and Social Structure*, 24.

⁵⁹⁵ Melossi and Pavarini, *The Prison and the Factory*, 13.

timing might help explain this difference. The fortress prisons were introduced when deterrence was the guiding principle while the prison hulks were introduced when cheap labour was needed for public work and the war effort. However, in a larger context, England and Sweden had similar ambitions regarding prison labour from the nineteenth century onwards. Prison reformer John Howard lamented in his report of the prison hulks in Woolwich that many of the convicts were idle and he firmly believed that labour was a means for moral improvement. However, his vision, inspired by the well-regimented workhouses on the continent, scarcely ever came to fruition in the history of the prison hulks. Quite the opposite, in the 1820s, many prison reformers stressed that poor moral habits brought about by idleness and faulty parental care were a central cause for criminal activity. Furthermore, the corrupting effect of imprisonment in unreformed prisons augmented this; the convicts on board the prison hulks were being corrupted by other convicts and also increasingly being kept idle. In the 1830s, prison reformers who advocated the separate system of confinement would argue that solitary confinement for a period of time when first imprisoned would make the prisoner beg for work. The monotony of solitary confinement would induce a desire to learn a trade, thus he would associate work with pleasure.⁵⁹⁶ Architecturally, this was of course impossible on board the prison hulks which would nevertheless persist despite the efforts of prison reformers. This further indicates that the disciplinary elements of labour were never more than a secondary objective at best on board the prison hulks, instead, the labour was mainly driven by a cost-benefit rationale.

During the period 1750-1850, the number of dispossessed individuals in Swedish rural areas quadrupled while the peasantry increased only slightly. Acts, which regulated the working conditions for the dispossessed groups, were thus tightened according to the prevailing patriarchal ideology. Furthermore, dispossessed individuals were increasingly perceived as disposed to criminality and these anxieties would culminate in vagrancy acts which were to regulate the pre-industrial labour market by ensuring the ready availability of a workforce and to control the lowest classes of society.⁵⁹⁷ The late eighteenth century thus saw a shift in the discourse where the “improvement” of criminals lost its implication of preventing individuals from committing crimes through deterrence. Instead, it came to signify confinement which would provoke reflection, and regret through occupation with useful labour. According to Swedish prison reformers, prison labour should therefore be performed in workshops and no conversations were to take place between prisoners, this would soothe the minds of prisoners

⁵⁹⁶ Forsythe, *The reform of prisoners*, 23, 27.

⁵⁹⁷ Nilsson, *Kontroll, makt och omsorg*, 110–113, 125–128.

and make them new and useful individuals.⁵⁹⁸ However, as with Howard's vision for the prison hulks, the notion of improving prisoners through their labours was hardly ever realized in the fortress prisons either. The aspects that inhibited this in both prisons were the corrupting influence the prisoners had on each other, the lack of labour and supervision, and the debilitated state of many of the prisoners.

Consequently, idleness was the greatest evil both on board prison hulks and in the fortress prisons. As O'Brien maintains, all vices, transgressions, crimes, and even poverty could be traced back to idleness in the nineteenth century.⁵⁹⁹ This was most marked concerning the Swedish criminal justice system from the late eighteenth- to nineteenth centuries and the issues related to vagrancy. The problem was threefold, firstly the idleness of the lower classes was prohibited by law but without suitable institutions to accommodate their growing numbers, the fortress prisons had to be relied upon as places of confinement. This led to a second problem, which was the mixture of hardened criminals with vagrants within the fortress prisons which led to the corruption of the latter. From this, a third problem arose, namely overcrowding. The number of prisoners was to be kept relatively low in the fortresses, and the prisoners were to be the most hardened ones in the kingdom. The Board of War could only provide work for a relatively small number of hardened criminals, but as the number of vagrants sharply increased, overcrowding ensued. There were then simply not enough guards and officers to supervise the labour, and the prisoners had to be kept idle within their vaults. While historian Roddy Nilsson argues that it was the debilitated state of the prisoners resulting from their unhealthy vaults and the harsh Swedish climate that led to their idleness, this was thus not the whole picture. Similarly, in Portsmouth, difficulties in efficiently employing the convicts frequently flared up and several calls for convicts to work in smaller groups went unheeded. Labour that could be performed by ten convicts thus had to be performed by gangs of up to thirty convicts because of lack of supervision. Jebb's observation in 1848 that most of the convicts had dragged their chains in the arsenals and dockyards for a certain number of hours each day while performing as little work as possible was thus most likely accurate.

The efficiency of the labour in Karlsten fortress prison and on board the hulks in Portsmouth was also of course circumvented by the irons many of the prisoners were clad in. Additionally, poor weather conditions during large parts of the year in Portsmouth and the archipelago outside Gothenburg presumably also inhibited a great deal of labour. Idleness was also heavily dependent on the architecture of both prisons. Howard's vision for a well-

⁵⁹⁸ Nilsson, *En Vålbyggd Maskin*, 108–110.

⁵⁹⁹ O'Brien, *The Promise of Punishment*, 150.

regimented prison based on continental workhouses could not be implemented in the vaults of the fortress prisons or the cramped space on board the prison hulks. Despite work being more readily available for the convicts in Portsmouth than in the fortress prisons of Karlsten and Nya Älvsborg, the experience of those confined there was therefore most likely not that different. Prisoners spent the majority of their time idle in their prison rooms which left them plenty of time to band together and form the strong prison subcultures discussed in the previous chapter. Attempts were however made to come to terms with these issues and in the fortress prisons this was to be done by alleviating the vaults of the many vagrants confined there and thus reserving them for the most hardened criminals. However, the introduction of public workplaces in 1804 was instead the first step taken to disseminate the logic of the fortress prison. The subsequent Royal Decree of 1805, which in practice eliminated the difference between the public workplaces and the fortress prisons, would then further this development. The reciprocity which then evolved is a good example of an unintended positive feedback effect as defined by Heather Schoenfeld. Her example of how overcrowding of prisons can be translated into the building of more prisons instead of tackling issues as to why so many were sentenced to prison in the first place is particularly illuminating in the case of public workplaces and fortress prisons.⁶⁰⁰

Furthermore, Pierson argues that institutions tend to become further locked in when two or more institutions adopt the same option for the same activity. In this case, the public workplaces and fortress prisons, in practice, strove towards the same goal. The emphasis on the separation of vagrants as a distinct category, virtually as a dichotomy to the hardened criminal in the criminal justice debate, further entrenched this system.⁶⁰¹ Mahoney argues similarly, but from a functionalist perspective, that institutions become locked in because they serve purposes in a larger system.⁶⁰² The Royal Decree of 1805 stipulated that when the public workplaces were overcrowded, the prisoners were to be sent to the fortress prisons instead, thus putting both institutions in a system of mutual dependence. The introduction of the Pioneer Corps in 1826 and the subsequent Crown Work Corps added other institutions to this system, thus, further locking in and disseminating the logic of the fortress prisons. The continuous attempts to differentiate between hardened criminals and vagrants and the introduction of forced labour institutions would thus have the opposite effect than what was originally intended.

Similar tendencies concerning labour can be observed on board the prison hulks in Portsmouth. The convicts, as stated by the governor of the *York*, worked for the Royal Clearance

⁶⁰⁰ Schoenfeld, "Mass Incarceration" 756-760

⁶⁰¹ Pierson, "Increasing Returns" 255.

⁶⁰² Mahoney, "Path dependence" 519.

and Victualling yard, the Admiralty, and the Ordnance department. This meant that the prison hulks intersected several departments that relied on convict labour. The cheap labour provided by the convicts in the dockyards cost the government next to nothing, McKay argues, and this undercut the work of the free labourers which in turn accounted for a part of the prison hulk's longevity.⁶⁰³ While this certainly is true, the many departments benefitting from convict labour in Portsmouth, and the capacity to rotate between them, also functioned as a positive feedback effect within a utilitarian framework as outlined by Mahoney. This framework stresses that actors deliberately tend to reproduce institutions: "...because any potential benefits of transformation are outweighed by the costs." The institution in question might be sub-optimal, but because of organizational interdependencies, it may be deemed rational drawing on the logic of the market.⁶⁰⁴ The reformatory aspects of convict labour in the dockyards were thus, once again, a subordinate objective if it was ever striven for in practice. Further, if, for example, the Admiralty and the naval dockyard had not been present, the prison hulk station in Portsmouth would likely have wound down considerably after the Board of Ordnance had stopped the fortifications of the Cumberland Fort in 1816. Sydow, Schreyögg, and Koch use a similar concept which they call complementary settings of self-reinforcing processes which can end in institutional lock-in. In short, this means that some routines and practices that have become interconnected may reinforce mutually dependent institutions. The exploitation of the synergies is thus deemed too attractive, or the cost of deviating from them might be too high, this in turn leads to an institutional lock-in.⁶⁰⁵ The fact that convicts were transported to Portsmouth in the 1780s from Woolwich and that the *Portland* prison hulk was moved to Sheerness after labour on Cumberland Fort stopped also points to the fact that the prison hulk stations themselves were integrated and to some extent mutually dependent. The integration of the fortress prisons and the prison hulks in Portsmouth within larger systems intended to utilize the labour of the convicts and prisoners thus accounted for further lock-in of both institutions.

Another significant aspect of labour in both institutions were the continuous presence of military elements. Most conspicuously perhaps the fortification and maintenance work that was being carried out in the fortress prisons and on the defensive installations in Cumberland Fort, and Gosport and Portsmouth Harbours. During wartime, most notably during the drawn-out wars with France, convict labour in Portsmouth was militarised. It could be argued perhaps that this constituted an exogenous shock, sociologist Ashley T. Rubin, for example, argues that:

⁶⁰³ McKay "Asylum Barges in Historical Context".

⁶⁰⁴ Mahoney, "Path Dependence" 517.

⁶⁰⁵ Sydow, Schreyögg, & Koch, "Organizational Path Dependence". 699.

“War in particular seems to be a recurring exogenous shock...”⁶⁰⁶ Essentially, exogenous shocks tend to break previous inertia or disrupt a former path and bring about profound penal change. However, in the case of the prison hulks in Portsmouth, the wars with France did not bring about any drastic changes, certainly not in the case of convict labour. This does of course not mean that it did not have systematic consequences. The impact of the wars with France was instead an intensification of already existing convict labour arrangements in Portsmouth, especially the naval dockyard and the recruitment of convicts to several branches of the military. The commendations of military authorities in the dockyards and the Royal Africa Corps coupled with an increased need for convict labour was however most likely one of the strongest positive feedback effects in the history of the prison hulks in Portsmouth.

The Finnish War of 1808-1809, a part of the Napoleonic Wars, could likewise be considered an exogenous shock, nevertheless, it seemed to have little direct impact on the fortress prisons around Gothenburg. Indirectly, however, with the loss of Finland to Tsarist Russia, the possibility of sending prisoners to the public workplace in Sveaborg fortress was lost. It is however uncertain if this fortress was ever relied upon as a destination of Swedish fortress prisoners. The increased authority of the Swedish Parliament and the subsequent introduction of the Ombudsman of Justice was presumably the most tangible result of the war concerning the fortress prisons. His inspections and reports of the poor conditions in prisons in general and the deplorable fact that vagrant prisoners were confined within the fortress prisons would be a powerful voice for the reformation of the criminal justice system. However, this also led to a further entrenchment of the dichotomies of hardened criminals and vagrants within the fortress prisons. The often-one-sided focus on the vagrants, spurred on by the Ombudsman of Justice, did not result in improvements for labour in fortresses and instead locked in the logic of idleness and retribution. Despite initial differences in the perception of prison labour, this chapter has argued that similar developments took place on board the prison hulks and in the fortress prisons. From the early nineteenth century onwards, they consolidated their roles and were further locked in because of interdependencies and because of their roles in wider systems. The fortress prisons were however more inadvertently reproduced through attempts to differentiate the prisoners while the prison hulks were purposely reproduced because of their perceived cost-benefit efficiency.

⁶⁰⁶ Rubin, “The Promises and Pitfalls”. 272.

Conclusions

The historical comparison of the prison hulks and fortress prisons has uncovered many similarities in how they rose in significance, were consolidated, and eventually fell into disuse. Rather than being relics of early modern penal justice, this thesis has instead shown that both prisons not only persisted well into the nineteenth century but developed and were also continuously reproduced by a plethora of positive feedback effects. Nevertheless, this was by no means a clear-cut teleological development, it was a highly contingent, to some degree inadvertent, and unpredictable development. This thesis has thus sought to offer an alternative interpretation and to challenge earlier research of the development of prisons in the nineteenth century, one which instead highlights the continuance of sub-optimal alternatives in the face of modern solutions. The prison hulks and fortress prisons are thus great illustrations of this development and indicate that this was not limited to one particular nation. A broader exploration of the persistence of older forms of confinement such as galley slavery in the Mediterranean and the *bagne* system in France would prove an interesting complement to this thesis's focus on Northern European prisons. I contend that this type of research would uncover even more similarities in the persistence of older forms of confinement well into the nineteenth century.

By using the prison hulks in Portsmouth and the fortress prisons around Gothenburg as case studies, this thesis has also brought both of these prisons together for the first time. Further, the bulk of the research into these prisons has been from a popular historical perspective emphasising sensational aspects such as the squalid conditions of the prisons, the violence, the escapes, and the fates of individual prisoners. Indeed, both prisons were marked by horrible conditions, inefficiency, and fierce criticisms, yet they persisted and were frequently developed and refined across their operational history. The issue as to why they persisted for as long as they did have not before been exhaustively considered in historical research, although some research has touched upon the subject. Regarding the prison hulks, it has been argued that they persisted because of a reliance on penal transportation, a reluctance to invest in purpose-built prisons, and a demand for cheap convict labour in the dockyards.⁶⁰⁷ Why the fortress prisons persisted has not been explored whatsoever, however, the principal notion as to why they fell into disuse was the introduction of cellular prisons.⁶⁰⁸ While these aspects are not inherently false, they tend to be somewhat teleological. There was no guarantee that the prison hulks would

⁶⁰⁷ Campbell, *The Intolerable Hulks*, 212. McKay "Asylum Barges in Historical Context".

⁶⁰⁸ Krantz, *Under Järnkronan*, 222. Feiff, *Fästningsfångar*, 19.

have been abandoned if penal transportation came to a permanent halt earlier than the 1850s. Further, the construction of purpose-built prisons would only gradually lead to the disuse of both the prison hulks and fortress prisons. The history of both prisons was, as I have argued throughout this thesis, much more open-ended and contingent than what has previously been argued.

One of these aspects is the state of contingency brought on by the American Revolution, there were no preliminary arrangements to solve the problems brought on by the halt in transportation. The hastily drawn-up “Hulks-Act” only specified hard labour dredging the river Thames and the introduction of the prison hulks was considered an expedient solution, but it is worth noting that this was one of many options available. Likewise, the fortress prisons were to be reserved for the most hardened criminals in Sweden but as the number of sentences for vagrancy mounted, they came to fill a custodial role which they were not originally intended for. Like the prison hulks, there was no legislation which specified the use of fortress prisons for the confinement of vagrants. On the contrary, the Board of Prisons continuously maintained that there was to only be a small number of hardened criminals confined in the fortresses. This thesis has thus drawn attention to the improvised nature of both prisons and their subsequent increased significance as places of confinement. More specifically, this thesis suggests that this constituted the establishment of a path-dependent process which would influence the further development of both prisons. Additionally, this thesis has shown how these prisons almost immediately were considered antitheses to the envisioned future of prisons in both kingdoms. In Sweden, von Schulzenheim and Tengwall saw the fortress prisons as archaic and cruel punishments, similar sentiments were expressed by Bentham and Colquhoun regarding the prison hulks. Both prisons thus fit neatly into the path-dependent framework with its emphasis on contingency, inefficiency, and inertia.

The earliest feedback effects, which were to further lock-in both prisons, were unintentional, and the timing was important in both cases. Diseases such as “gaol fever” were rampant on board the early prison hulks and Howard’s criticisms would lead to the launching of hospital hulks and additional prison hulks thus entrenching the system. The prison hulks were however still deemed temporary, and it was thought that transportation would soon be resumed. Nevertheless, when transportation was eventually resumed in 1787, the prison hulks were not disused but instead disseminated to Portsmouth. This thesis has argued that when transportation was finally resumed, the prison hulks were already locked in as a place of confinement and to dismantle them at that point was not a viable option. Because of their role in the criminal justice system, as a prerequisite to transportation, they were instead expanded.

This is the point where the path became more narrow and other options were becoming scarcer. In the case of the fortress prisons, the earliest feedback effects constituted the increased pressure on the Board of War to accommodate more prisoners and to report on prisoners' profiles. The increased attention given to the custodial matters of the fortress prisons meant that more vaults had to be claimed and that systems to avoid overcrowding were implemented. The introduction of public workplaces in 1804 and the regulations of 1805, which were to alleviate the fortress prisons, instead had the unintended effect of practically removing the difference between them. Because the public workplaces could not accommodate the large number of vagrants, the fortress prisons were instead used as a place of confinement. Like the prison hulks, this would mean that the fortress prisons received a clearer role within the wider criminal justice system. As there were few options, the path was becoming narrower, and the fortress prisons were becoming increasingly locked in. This thesis has thus argued that the earliest feedback effects, and consequently what made both prisons more difficult to reverse, were the first practical responses to crises. Secondly, whether disease or overcrowding, the responses resulted in an unintended expansion of both prisons. Thirdly, by arranging both prisons in the criminal justice system they were further locked in. Once in a larger system, these prisons would be increasingly difficult to abandon as it would have an impact on the other places of confinement in the same system. Additionally, in a wider context, enforced executions were also decreasing and the number of pardons from the death penalty was increasing, usually, the offender would be sent to the prison hulks or fortress prisons.

This thesis has also shown that increased governmental influence facilitated structural change in both prisons. The underlying incentive was fears of the moral corruption of lesser criminals or vagrants by hardened and accomplished criminals. What started as a petition for better conditions on board the prison hulks in Portsmouth would set off a chain reaction which would first lead to the separation of the decks and then the partitioning of each deck. Structural changes were more difficult to bring about in the fortresses. Nevertheless, the Board of Prisons continually sought to expand the fortress prisons by claiming more vaults and opting for further separation of prisoners through a system of classes. Likewise, a system of classes was being implemented on board the prison hulks early in the nineteenth century, but as with the fortress prisons, this appears to have ultimately been unsuccessful. Testimonies from convicts on board the prison hulks and chaplains' reports of the prisoners in the fortress prisons both argued that moral corruption continued to be widespread, and the system of classes was difficult to enforce in practice. As prison reformers in both kingdoms agreed that purpose-built prisons based on separation were to be implemented the criticisms of the prison hulks and fortress prisons

mounted. The moral corruption and the difficulties in supervising these prisons again made them antitheses to the penitentiary and cellular prisons. Convict prisons and hard labour in England would eventually make the prison hulks obsolete and penal prisons in Sweden would gradually displace the fortress prisons. The practice in both the convict prisons and penal prisons were similar, although the former was based on solitary confinement, the difference to their predecessors was that prisoners now slept in purpose-built prisons. Because of these similarities with their predecessors, this thesis argues that the penal and convict prisons constituted layers to prison hulks and fortress prisons. There were thus no sudden ruptures that led to the disuse of either prison. It was the end of Capper's tenure and the introduction of convict prisons under Herbert Voules and Joshua Jebb that led to the demise of the prison hulks. There were no longer any redeemable qualities of the prison hulks; there were no more positive feedback effects that could have reproduced them. Similarly, the fortress prisons would fall into disuse as the Board of Prisons emphasised the inner security of prisons. The improvised nature of the fortress prisons, their large vaults, and their intricate architecture inhibited effective surveillance. When the security of the fortress prisons could no longer be invoked, there were simply no positive feedback effects remaining.

Perhaps the greatest similarity between both prisons has been the conditions in the prison vaults and the prison rooms. There were strong subcultures prevalent in both prisons and they actively defied the order imposed by the prison and the chaplains. Although it is difficult to gauge how many prisoners were morally improved or reformed, they were likely exceedingly few. The separate order which prevailed when the prisoners were left unattended at night was too pervasive and well-established for the chaplains to contend with. This was most likely a constant condition in both prisons and was frequently referred to throughout their operational time as perhaps the most important argument for their abandonment. This thesis has thus shown that the fears and anxieties regarding moral corruption were exceptionally analogous in both the prison hulks and fortress prisons. Additionally, the subcultural patterns adhered to by those confined in either prison were also remarkably similar. The power struggle which ensued between the order of the prison and the order of the prison subcultures ended in a stalemate in both prisons. This in turn created a separate order which favoured stability and the status quo over change and this thesis consequently contends that this balance of power functioned as a potent feedback effect which reproduced both prisons. While Mahoney argues that institutions are reproduced because they favour an elite group in society, this thesis instead suggests that the balance of power can be an equally powerful feedback effect which reproduces an institution.

Another aspect that appears to have been somewhat inefficient in both prisons was labour, and the main issue was supervision. This thesis has shown that there were not enough guards and officers to supervise the prisoners which ultimately left many idle. In the fortress prisons, the large influx of vagrants demanded more guards to supervise the labour, likewise, the convicts labouring in Portsmouth were chained together in large groups which left many idle. Labour was however more plentiful in Portsmouth than in the fortress prisons around Gothenburg, especially during the wars with France in the late eighteenth- and early nineteenth century. The labour performed by convicts during times of war was undoubtedly of great service and served as a strong feedback effect since it was cheap and could be used for governmental public works. However, in times of peace, the focus was instead set on the inefficiency of the labour performed. The introduction of the Pioneer Corps was a significant feedback effect as it served to disseminate the fortress prison. Although it would prove to be a failure, it still spread the logic of the fortress prison and its mode of labour. This thesis has thus argued that labour in both prisons was fraught with challenges and that it by no means was a clear-cut reason for their persistence well into the nineteenth century. Earlier research has emphasized the inexpensiveness, or the punitive and disciplinary role as the main aspects of prison labour. This thesis has instead drawn attention to the interdependencies between different departments and institutions which used forced labour. These interdependencies served as powerful positive feedback effects which constantly reproduced the prison hulks and fortress prisons despite the inefficiency of the labour performed.

Lastly, I would like to argue that a path-dependent analysis of older forms of confinement, not limited to the prison hulks and fortress prisons can serve to nuance and challenge earlier perceptions of the emergence of the modern prison. First of all, this thesis argues that the reliance on older forms of confinement well into the nineteenth century was far more prevalent than has hitherto been considered. Their persistence was not only a result of timeworn routines but a continuous reproduction dependent on a plethora of positive feedback effects. Secondly, this thesis has also emphasised the contingency of the development of prisons. The development of the modern prison and the parallel continuance of older forms of confinement were open-ended and at no point in time was it predictable. Thirdly, this thesis has shown that the continuance of older forms of confinement does not necessarily depend on deliberate decisions. Chance and timing are also crucial elements to consider when considering the development of prisons.

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Research Ethics Review Checklist



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|--|----------------|-------------------------------------|-----------|-------------------------------------|------------------------|-------------------------------------|
| Postgraduate Research Student (PGRS) Information | | Student ID: | UP2092125 | | | |
| PGRS Name: | Oscar Karlsson | | | | | |
| Department: | SASHPL | First Supervisor: | Karl Bell | | | |
| Start Date: (or progression date for Prof Doc students) | 1/10 2021 | | | | | |
| Study Mode and Route: | Part-time | <input type="checkbox"/> | MPhil | <input type="checkbox"/> | MD | <input type="checkbox"/> |
| | Full-time | <input checked="" type="checkbox"/> | PhD | <input checked="" type="checkbox"/> | Professional Doctorate | <input checked="" type="checkbox"/> |

| | |
|--|--|
| Title of Thesis: | Abysses of Misery: The Persistence of English Prison Hulks and Swedish Fortress Prisons ca 1780-1850 |
| Thesis Word Count: (excluding ancillary data) | 78 366 |

If you are unsure about any of the following, please contact the local representative on your Faculty Ethics Committee for advice. Please note that it is your responsibility to follow the University's Ethics Policy and any relevant University, academic or professional guidelines in the conduct of your study

Although the Ethics Committee may have given your study a favourable opinion, the final responsibility for the ethical conduct of this work lies with the researcher(s).

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| a) Have all of your research and findings been reported accurately, honestly and within a reasonable time frame? | YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> |
| b) Have all contributions to knowledge been acknowledged? | YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> |
| c) Have you complied with all agreements relating to intellectual property, publication and authorship? | YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> |
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Candidate Statement:

I have considered the ethical dimensions of the above named research project, and have successfully obtained the necessary ethical approval(s)

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If you have *not* submitted your work for ethical review, and/or you have answered 'No' to one or more of questions a) to e), please explain below why this is so:

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