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50 Years of the Parole System
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Development of early release mechanisms in the Victorian convict prison system, 1853-1895

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The origins of the modern system of parole in England and Wales (as discussed in Guiney's article elsewhere in this issue) lie in the use of prison licensing established in the middle of the nineteenth century. This article will examine the use and development of prison licensing or early release mechanisms from the mid- to late-nineteenth century. The article draws on material produced during an ESRC-funded study that examined the use of prison licensing and the development of this system in policy, bureaucratic and financial terms.¹ Further, it draws on a sample of 650 male and female convicts who were released on licence in order to understand the impact of the licence system at the individual level. This study used a whole-life methodology to reconstruct offenders' lives, not only through their interactions with agencies of criminal justice and during their imprisonment, but also using data on births, marriages and deaths, census information and newspaper reports to provide as full a picture as possible of these individuals from cradle to grave.

The system of prison licensing came into operation in England in 1853 after the passing of the first Penal Servitude Act.² However, its origins were in a probationary system used in Australia to help transported convicts re-establish their lives as they progressed through their sentences. In Australia, from 1801, transportees were encouraged to earn a 'ticket of leave' after a specified term of their sentence. Under the terms of the 'ticket', they were able to find employment, marry, gain property but they had to observe strict conditions. If one or more of these conditions were broken then they would be returned to the penal system to continue their sentence. Tickets had to be carried at all times and be available for inspection. For numerous reasons, the use of transportation to Australia had dramatically declined by

the 1850s and it had already been decided that a new long-term prison system in England was required to replace transportation. This became known as the convict prison system and was established through the Penal Servitude Act in 1853 which instructed that long prison sentences replace previous sentences of transportation. For example, four to six years' penal servitude replaced seven to ten years' transportation. The convict prison system rapidly became highly bureaucratic and mechanical; prisoners passed through the progressive stage system (probation, third, second, first), which used a system of marks to represent daily work-based activities, 42 marks could be earned in a week, seven marks per day (if you were in hospital you could only earn six marks per day). Marks were earned, prisoners progressed through the stages, and once they reached the first-class stage (this also required them to be able to read and write, unless medically exempt) they were then looking at early release. Marks were also taken away as punishment or prisoners could be required to undertake stages again. Remission marks for good behaviour could also be gained and these represented days off the sentence. Conversely, any earned remission marks could also be lost following bad behaviour by convicts. More severe punishments were also possible for serious offenders within prison; confinement in a solitary cell on bread and water, or whipping (for males — corporal punishment in prisons was finally abolished in 1967).

The 1853 Act implemented the use of a licensing system at the third stage of the sentence of penal servitude; preceding this was a period of separate confinement and a period undertaking hard labour on the 'public works' — unpaid labour building barracks, military docks etc. On the face of it, the government simply transferred and subsequently adapted many aspects of the 'ticket of leave' policy from Australia and implemented it as part of the new sentence of penal servitude. Convict prisoners could be released after

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1. Economic & Social Research Council funded project on 'The Costs of Imprisonment, 1853-1945', RES-062-23-3102.
 2. Joshua Jebb's (Surveyor-General then subsequently, Director of the Convict Prisons) *Report on the discipline and management of the convict prisons, and disposal of convicts, 1854*, states that the system was introduced on 8 October 1853 and that by 27 June 1854, almost a thousand prisoners had been released on licence (1854: 29).

...serving two-thirds of their sentence, subject to their progression and behaviour in the previous two stages. As part of their release conditions, they were required to give a post-release destination address and location. Once approved for early release, male convicts were released on licence to be at large and were required to report to the police on arrival at their destination and monthly for the remainder of their sentence (and also to notify the police of any subsequent change of address). Female convicts experienced a slightly different system; those serving their first sentence of penal servitude were released first on a 'conditional' licence to a refuge and then to be at large, approved by the Directors of the Convict Prison, from the refuge after a period of between six and nine months.

By the time the prison licensing system was fully implemented there were approximately 2,500 convicts released on licence at any one time and this was almost one-fifth of the total yearly convict prison population.³ In terms of the bureaucratic operation of the system, our evidence shows that the overwhelming majority of convicts were released early from the system, even those with long sentences for serious crimes or recidivists. This is despite the prevailing view today that the Victorian prison system was particularly harsh and unrelenting.

Whilst breaches of prison rules could affect the early release date for prisoners, the overwhelming majority of those in our study did have a number of prison offences against their name. This was often for minor regulatory offences — for example talking whilst waiting to enter chapel, but some had been punished in the weeks or even days before they were released on licence for fairly serious bad behaviour and yet release was still permitted. As noted above, licensees were required to inform the prison system of their destination; often this was the name and address of a family member or a friend, but it could also have been a Discharged Prisoners' Aid Society (established in the 1850s and 1860s and expanding in use across this period) — publicly funded charitable organisations who gave prisoners practical and often financial assistance in order for them to re-establish themselves as productive members of society. As in Australia, released convict prisoners

were required to keep the licence document on them at all times and to be able to produce it when required by an officer of the law. They were to refrain from crime and were 'not to habitually associate with notoriously bad characters such as reputed thieves and prostitutes'. They should also 'not lead a dissolute life without visible means of obtaining an honest livelihood'. If the licence was forfeited or revoked, then they would be returned to prison to finish the remainder of their original sentence as well as any other new sentence, should a criminal offence be the reason for the revocation.

The convict prison population had increased quite quickly after the demise of transportation and without the introduction of early release on licence the number of offenders would have been difficult to accommodate; the average daily prison population

would have increased by about one-fifth, and a prison-building drive was only just under way. Despite public and media-driven criticism in the 1860s regarding the lack of deterrence in convict prisons, remission and the prospect of release on licence was still regarded as an important element of the system. Although a sensitive area in terms of public opinion, notably during the 'garotting panics' — media-fuelled concern about street violence carried out in London by recently released male convicts on licence, the

response was to increase minimum sentence lengths and make the daily routine (diet, labour etc) more severe rather than to abolish the system of remission.⁴ The problem of possible prison overcrowding became acute in the 1870s and early 1880s when the licensing system was used extensively to release pressure in the system. This saved the government a considerable amount of money as well as making the prison system more manageable.

One of the central questions of our research was the effect that imprisonment, sentence length and release on licence had on individual offenders and their subsequent lives, both in terms of their personal circumstances but also their ability or not to move away from criminality. We therefore outline two brief contrasting case studies below that illustrate both the benefits and problems that could affect convicts' post-release on licence.

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3. For example, there was an annual total of 15,231 convicts received in prison during 1856 and a total of 2,856 released on licence (Judicial Statistics, 1856: 100).

4. For further details of this moral panic, see Davis, J. (1980). The London garotting panic of 1862: a moral panic and the creation of a criminal class in mid-Victorian England. *Crime and the law: the social history of crime in Western Europe since, 1500*, 190-213.

Joseph Quarmby (born c.1822, d. c.1891)

Joseph Quarmby was a West Riding-born stone mason who offended regularly over a period of almost 30 years. His offending appears to have taken a more serious turn following a bad fall, which caused a severe chronic rupture which seems to have affected his employment prospects. He was first sentenced to penal servitude in 1870, when he received seven years for stealing tools. He was a troublesome prisoner throughout his sentence, rebelling against the system, often refusing to work, and complaining about physical abuse from warders. Shortly after his release, in 1878 he was again found guilty of stealing tools and sentenced to ten years' penal servitude to be followed by seven years' police supervision (whereby he had to report on a regular basis to his local police station). After being released on licence a year early, he continued to offend and in 1888 was sentenced to six months' hard labour for stealing tools. It appears that the magistrate was lenient as he considered the theft to be of a minor nature, but a contemporary newspaper report stated that Quarmby was unhappy with the sentence as he wished to re-enter the convict system as he received better medical treatment for his injury than he did on the outside. He continued to carry out minor offending and spent much of his later life in and out of the workhouse before dying in Huddersfield c.1891. Early release on licence appears to have had a detrimental effect on his life, as he clearly found it difficult to cope with his life-altering injury during his time as a free man.

Emily Brennan (born c.1850, date of death unknown)

In contrast to Joseph Quarmby, Emily Brennan appears to have eventually benefited both from the prison system and her early release on licence (despite being a serial offender). She committed a number of offences in her twenties, but first received a sentence of penal servitude in 1876 for attempted shoplifting. She received a seven-year sentence, but whilst in prison wrote regularly to her husband and received visits from a female friend and possibly one of her own children. She was transferred to Russell House Refuge in Streatham in October 1880, but shortly

after her subsequent release was found guilty of larceny and received a further sentence of seven years' penal servitude. Whilst in convict prison again she clearly made full use of her rights, writing regularly to family and friends and ensuring that her children were well cared for in both Princess Mary's Village Home and Barnardo's — a letter in her file speaks of her son Thomas prospering at the home. Upon her second early release on licence, she enlisted the support of the Discharged Prisoners' Aid Society in Charing Cross Road and was released into the care of a family friend in Brick Lane. We then lose all trace of her, but she does not appear to have reoffended under any of the variety of aliases that she used during her lifetime.

Conclusion

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Overall, did the prison licence system work at the individual level? For a large percentage of convicts, the operation of licensing allowed for a shorter period in custody and therefore reduced the impact of several aspects of institutionalisation, though it did not always solve post-release problems such as that of obtaining gainful employment. This was a particularly contested area for the released licensees.

By the time of the Kimberley Commission Report in 1878-9 there was growing concern about the surveillance and monitoring of those on licence and habitual criminals in general. The Royal Society for the Assistance of Discharged Prisoners presented evidence that police interference had resulted in convicts losing their employment. The police in some counties took the view that all employers should be informed of discharged prisoners in their employment but the Commission disagreed, fearing ex-prisoners would be driven back to criminality due to lost employment. However, problems with supervision persisted, in particular the use of retired police officers as supervisory agents. Reverend G. W. Reynolds claimed that the Society in Manchester was 'nearly ruined' by very active ex-policemen.⁵

In an attempt to ameliorate such problems, prison chaplains or Lady Superintendents of female refuges would write a standardised letter to potential employers of released convicts in an attempt to gain them employment:

5. McConville, S. (1995) *English Local Prisons: Next only to death*, London: Routledge: 322.

Sir, The Secretary of State being anxious to ascertain the prospect of employment of convicts who from time to time become eligible for release on licence, and with a view to assist them in entering upon a career of honest industry, has requested me to refer to any one likely to afford information, or to promote these objects. I therefore take the liberty of addressing you in the case of ... now a prisoner under sentence of ... in ... to make inquiry as to his prospects of obtaining employment, or the means of support, if liberated on licence. He is in ... state of health and his conduct during imprisonment has been I enclose a form which should be filled up by any one inclined to find employment for the man, or to support him, if an invalid. A certificate of such person's respectability, and power to fulfil his promise should be duly signed by a magistrate, or the minister of the parish. Whether the inquiries you

may be good enough to make may prove successful, or otherwise, I request the favour of your returning the enclosed paper filled up, addressed to the Chaplain of the prison in which the man referred to is confined. The prisoner states that ... of ... will give him employment or support him, as the case may be.

The period on licence also allowed more time for the possibility for desistance factors to occur: more time to find employment; a window for other supporting processes such as the establishment of relationships and familial commitments, and in general achieve more stability in their lives outside of the criminal justice system than had they served the full term of their prison sentence. The prospect of early release from a hard, degrading and dehumanising sentence must also have appealed to many convicts and perhaps contributed to modifying their offending behaviour whilst in prison.