

with murder or other crimes against persons faced the death penalty as did those charged with treason or sedition. Retribution was swift in colonial Maryland; a convicted person was either hanged or subjected to whipping, branding, or other corporal punishment. Public humiliation was considered a deterrent, so the convicted criminal was not locked up—only debtors languished in jail. One of the sheriff's earliest duties was to take custody of prisoners. Because few counties had a secure place of confinement for prisoners, most persons awaiting trial were out on bail, bond, or personal recognizance, and a sheriff who could not produce them for trial was penalized. Beginning in 1674, every county was required to build a jail (Chapter 16, Acts of 1674), and the Paper Currency Act of 1733 allotted funds for each county to erect a prison (Chapter 6, Acts of 1733).

In response to an increase in such crimes as burglary, robbery and horse-stealing, a Court of Oyer and Terminer and Gaol Delivery was created in 1793 for Baltimore County (Chapter 57, Acts of 1793). The Court could sentence convicted men for up to seven years hard labor working on the public roads of Baltimore County or building, repairing, or cleaning the streets or basin of Baltimore-town. Caretakers, a place of confinement, coarse apparel, and food, consisting of bread, coarse meat, and water would be provided by the Court. Convicts could be compelled to work in irons and wear a distinctive badge. Any misconduct was punishable by close confinement, a diet of bread and water, and up to thirty-nine lashes of the whip. Convicted women also could be sentenced for up to seven years hard labor; however, their labor was out of public view at such tasks as picking oakum, beating or hackling hemp or flax, manufacturing wool, knitting, or sewing. Women were not subject to whipping. The most interesting feature of the 1793 law was its statewide provision. County courts and the General Court of the State had the option of conveying their convicted criminals to the person or persons appointed to take care of criminals in Baltimore County for the fee of five pounds current money. The law also authorized counties to keep their criminals at home, the men at hard labor on the county roads, the women in the county workhouse. Such laws were known as "wheelbarrow" laws.

*Development of State Prisons.* In the nineteenth century, debate focused on systems of penology. Penitentiaries were built in response to public outrage at the spectacle of convicts laboring on roads and other public projects. Their institutional function was to punish prisoners through solitary confinement and, later, hard labor. Prison labor began as a punitive measure, but by the end of the century was perceived as rehabilitative, which justified any profit to the State.

The Maryland Penitentiary, authorized in 1804 and opened in 1811, vacillated between the two competing penal philosophies of the times, but was renowned for nearly always being profitable (Resolution no. 15, Acts of 1804). A legislative committee inspected the building under construction in 1807 and reported that the new penitentiary had depositories for raw materials and manufactured goods, nine cells measuring roughly 8 by 16 feet, separate rooms for women, and a chapel. The 1809 law, which specified for what crimes and what terms persons were to be sentenced to confinement in the new penitentiary, merely stipulated that convicts "shall be kept therein at hard labour, or in solitude," and male and female prisoners kept separate (Chapter 138, Acts of 1809). Thus, at its inception, the Maryland Penitentiary operated under neither the Philadelphia system of total isolation nor the Auburn system of moral isolation with its discipline of silence by day and solitary confinement by night, enforced by the whip. Both systems, however, exerted some influence. In 1829, the Directors of the Maryland Penitentiary reported the completion of a new east wing designed for solitary confinement at night. In 1837, the Directors were required to remodel or rebuild the old west wing so that prison discipline based on the Philadelphia plan could be extended to the women's department. Further, "the directors shall pay particular regard to the enforcement of the Philadelphia system, to the fullest extent of its admissibility, in the new cells, so as to be able to report to the Governor annually, the effects thereof upon the convicts, as a reformatory and punitive confinement, and also upon the financial and manufacturing operations of the Penitentiary, for the purpose of affording a comparative estimate of the merits of the two great systems of punishment now in use in the United States" (Chapter 320, Acts of 1837). The President and Directors of the Maryland Penitentiary noted in 1838, however, that "the experience of the past year has served to test the efficacy of the Auburn system of prison discipline in our Penitentiary, to the introduction of which the new workshops were expressly adapted." By 1841, the Auburn System was definitely in use.

Prisoners in the Maryland Penitentiary were kept at hard labor most of the time, either confined in their solitary cells (Philadelphia) or in a common but silent work area (Auburn). The 1809 law called for either hard labor or solitude, whereas the 1837 law required the prisoner to work in his cell during solitary confinement a period not less than one-twentieth nor more than one-half of the total sentence (Chapter 138, Acts of 1809; Chapter 320, Acts of 1837). The weaving of cotton and woolen goods was one of the more successful manufactures undertaken, as it employed even the older and more feeble inmates. In the late 1830's, however, the market for such products was undercut by cheap machine-made calicoes.