

their ancient connexions, for a servile situation in a remote appendage to the British empire." In fact, he added that he thought the colonists "rather consider the convict as the more profitable servant, his term being for seven, the [indentured servant's] only for five years."¹⁹⁹

Through it all the buyers complained that they were getting the short end of the deal. "You have no idea of the plague we have with servants on this side of the water," a colonist wrote from Philadelphia in 1769. "If you bring over a good one he is spoilt in a month. Those born in the country are insolent and extravagant. The imported Dutch are to the last degree ignorant and awkward. The Irish . . . are generally thieves, and particularly drunkards; and the Negroes stupid and sulky, and stink damnably."²⁰⁰

CHAPTER TWO

A Land of Prisoners and Keepers

PURITAN CRIMES AND PUNISHMENTS

THE Puritans who had founded Massachusetts in 1630 viewed their war on crime as a moral necessity, for they considered every crime a sin and every sin a crime.

The most common crime in their colony was drunkenness, and repeated offenders were treated harshly by today's standards.¹ Ralph Golphorpe was whipped for his second offense, and Robert Coles was disenfranchised and ordered to wear a large red "D" on his clothes upon his third conviction. Believing that public humiliation would help deter others, the Puritans constructed stocks in every public square.² It was not enough for lawbreakers to be found guilty; they had to be made to look guilty and feel guilty.

As believers in visible signs of sainthood or sinfulness, Puritans often attached appropriate physical stigmata to convicted lawbreakers. A woman who skipped worship might have to stand at the church door with a sign around her neck, or, if the offense was more serious, the town fathers might force her (like Hester Prynne) to wear a scarlet letter on her clothes for life. Some markings were made permanent by the removal of an ear or two, or the branding of a shoulder, hand, forehead, or cheek. The punitive alphabet included "A" (adulterer), "B" (blasphemer), "D" (drunk), "F" (fighter), "M" (manslaughterer), "R" (rogue), and "T" (thief).³

Although upper-class persons were practically never flogged, unless their crime was extraordinarily shameful, whipping was a standard punishment for servants, seamen, or Indians who could not meet fines or restitution requirements.⁴

The Massachusetts Bay Company charter required a "House of Correction [to] be erected and set up, both for the punishment of such offenders, and to deter others by their example."⁵ In the fall of 1632, when Boston still consisted of less than forty houses, the General Court decided that "there shall be a House of Correction and a house for the beadle [keeper] built at Boston" as quickly as possible.⁶ More than two centuries later, Nathaniel Hawthorne, a descendant of one of the original Puritan settlers, began *The Scarlet Letter* by observing, "The founders of a new colony, whatever Utopia of human virtue they might originally project, have invariably recognized it among their earliest practical necessities to allot a portion of the virgin soil as a cemetery, and another portion as the site of a prison." He continued, "In accordance with this rule . . . the forefathers of Boston . . . built the first prison house, somewhere in the vicinity of Cornhill, almost as seasonably as they marked out the first burial-ground, on Isaac Johnson's lot."⁷ Boston's prison, graveyard, and church were congregated together, directly across the street from the marketplace. One account described the small but secure wooden structure as a "house of meagre looks and ill smells."⁸ John Winthrop, the colony's first governor, himself visited a condemned murderer who was "shut up in an inner room within the prison."⁹

Besides establishing prisons, other criminal punishments, and a system of servitude for members of their community, the Puritans soon began using even more extreme measures against the local Indians. In 1636 the Massachusetts Standing Council waged war against the Pequots, ostensibly to avenge the killing of a white trader who had died trying to ransom some Indians he had kidnapped. The Puritans held a Pequot ally, Chausop, in Boston's prison, then moved him to Castle Island "to be a slave for life to work, unless we see further cause."¹⁰ They also carried out one of the bloodiest attacks on Indians in history, teaming up with Narragansett and Mohegan warriors to murder as many as seven hundred Pequot women and children at Mystick (Connecticut), after which they sold some of the survivors to the Narragansetts and loaded seventeen others onto a Marblehead-built ship, the *Desire*. Captain William Pierce of Salem guided the vessel to the Caribbean, where he exchanged them for "cotton, tobacco, salt and negroes," which he took back to Boston.¹¹

A few months later, the Massachusetts Court of Assistants began sentencing white offenders to be "slaves" as punishment for various crimes.¹² Gyles Player, convicted of housebreaking and theft, was sentenced to be severely whipped and "delivered up for a slave to whom the Court shall appoint." Thomas Dickerson, Thomas Savory, and Jonathan Hatch were also sentenced to be "slaves," though it appears that they may have eventu-

ally been released. However, in 1641 the Massachusetts General Court adopted a new penal code, which carefully distinguished between the liberties of freemen, women, children, foreigners, and servants, each according to "his [or her] place."¹³ The Body of Liberties prohibited the arrest, restraint, banishment, dismemberment, or other punishment of any person, except by virtue of some specific law. Manstealing was deemed a capital offense, and bond slavery, villenage, or captivity were forbidden, "unless it be lawful captives taken in just wars, and such strangers as willingly sell themselves, or are sold to us."¹⁴ Yet within a few months after the code's adoption the number of Indian and black slaves had increased significantly, and the court had sentenced half a dozen whites to "slavery" for various crimes.¹⁵

Based upon his reading of the law, Emmanuel Downing privately acknowledged that it would be wrong to seize the Narragansetts without justification. But, he added:

If upon a just war, the Lord should deliver them into our hands, we might easily have men, women and children enough to exchange for Moors, which will be more gainful pillage for us than we can conceive, for I do not see how we can thrive until we get a stock of slaves sufficient to do all our business, for our children's children will hardly see this great Continent filled with people, so that our servants will still desire freedom to plant for themselves, and not stay but for very great wages.¹⁶

PERSECUTING QUAKERS

AMONG those the Puritans considered to be the most threatening and dangerous were "witches" and Quakers. Margaret Jones of Charlestown was hanged in Boston in 1648 after it was shown she "had a malignant touch . . ., produced deafness, practiced physic, and that her harmless medicines produced violent effects."¹⁷ And beginning in 1656, when the first Quaker proselytizers arrived in Boston, Massachusetts enacted more and more severe laws against the heretics.¹⁸

Even though threats of fines and other punishments discouraged many shippers from conveying more of them into New England, the Quakers themselves were not deterred. One built his own vessel and sailed it to New England with eleven other Friends. Boston's government thereafter proclaimed that any Quaker male who returned there after being banished "shall for the first offense have one of his ears cut off, and be kept at work

in the House of Correction till he can be sent away at his own charge, and for the second offense shall have his other ear cut off . . . and be kept in the House of Correction." Third-time offenders would have their tongues bored through with a hot iron. To show it meant business, the court ordered every town to maintain at least one cage for potential law-breakers.¹⁹

Even these drastic measures failed, however, and by June 1658 the Quakers had actually begun to win some supporters. The authorities responded by arresting any sympathizers. Even after three Quakers were thrown into prison to await their execution, they continued to attract so many supporters that the General Court quickly ordered a fence erected around the building—not to prevent a breakout, but to keep others from conversing with or aiding the prisoners.²⁰

Scarcely more than two decades later, the Quakers' fortunes had so improved that one of them obtained a royal charter to begin a new colony called Pennsylvania, one that would offer complete religious freedom and a criminal code that eschewed sanguinary punishments in favor of imprisonment.²¹ The founder, William Penn, had himself been imprisoned three times for political reasons before starting his "Holy Experiment" at Philadelphia. As governor, many years later, he would end up being imprisoned again in London, this time for debt. His health ruined, he died shortly after being released.²²

SERVANTS AND MASTERS

BY the end of the seventeenth century, three main classes (besides the Indians) had emerged in the North American colonies. Black slaves occupied the lowest rung. Convicts and other white servants, though often held under hard conditions, were somewhat better off, primarily in their chances for eventual upward mobility. And free white persons constituted the most privileged group in colonial society. Regardless of class, women generally enjoyed fewer rights and privileges than their male counterparts.

White servants were usually the most numerous part of the population, and they fell into several categories.²³ These included persons who had arrived under some sort of temporary servitude. "Redemptioners," for example, had voluntarily bound themselves in exchange for the cost of passage. Convicts, on the other hand, had been bound as punishment for their crimes; like other indentured servants, their terms of service were limited to a determinate period of years.

Another group of white servants consisted of persons, mostly young

apprentices, who were already residing in the colonies as freemen but who later had become indentured for a fixed term.²⁴ Some apprentices had been bound in accordance with laws regulating the poor, but most apprenticed themselves to a master more or less of their own free will in order to learn a trade. Boys were customarily apprenticed for seven years, until they turned twenty-one; girls usually were bound until they reached the age of eighteen or were married. Terms could be longer or shorter, depending upon the servant's age.²⁵

Colonial records indicate that apprentices were trained in such skilled trades as those of the cooper, sailmaker, and wheelwright, to name a few. In 1718 Josiah Franklin, a tallow chandler and soap boiler of Boston, looked about for a trade for his twelve-year-old son, Benjamin. In order to gauge his interests and abilities, he took the boy to observe joiners, bricklayers, braziers, and other craftsmen at work. After considering the cutler's trade, the father finally decided on printing, and Benjamin was apprenticed to his elder brother, James, till he was twenty-one years of age, a pattern Franklin males had followed for generations.²⁶

Servitude was a legal and social institution in which an individual was required by contract to serve a particular master for a specified period. So long as the servant remained under contract, he or she was considered movable property and could be transferred from one master to another, and from one place to another, subject to basic legal requirements. This meant that a servant might have to undergo a major, unanticipated change in living and working conditions. Theoretically, an individual rented his labor and not his person. In fact, servants were often treated more as things than as human beings. They had to perform whatever tasks the master required and obey all commands of that master and his duly appointed agents. Violations were punishable as crimes.

Servants had to remain in their master's custody and within the boundaries he established, whether the area was as large as a plantation or as small as a ship's hold or a cage. Servants were forced to live with others not of their own choosing. Sometimes this meant having to maintain intimacy with persons they detested. Their living quarters, tools, clothing, and other property belonged to the master, not to them. Any servant who left that custody or crossed the boundary without proper permission committed an offense. Any wayward servant could be tracked down, recaptured, and punished according to the master's discretion, provided the penalty did not violate local laws.

Family, marital, sexual, and other personal associations by servants were the master's prerogative. In order to marry, a servant ordinarily had to get the master's permission; if the prospective spouse was bound to another

master, he also had to approve the marriage.²⁷ Servants who engaged in unauthorized sexual relations could be punished and the illegitimate offspring confiscated, even if the “bastard” or “base-born child” had been sired by the master himself. Even when laws were adopted to prevent “disolute masters” from impregnating their maids in order to acquire another servant and to increase the maid’s term of service, they did not provide for any punishment for the master. Where the maidservant had a criminal record, the law often continued to entitle a master to service from her illegitimate child.²⁸

Proponents said servitude helped to reform the labor force, improve an individual’s moral fiber, inculcate good habits, and cleanse a sinner through retribution. Many believed that bondage ensured a more well ordered and productive society, figuring that close supervision generally deterred persons who otherwise might engage in antisocial behavior or fail to pay their debts. But the primary functions and objectives of servitude were economic: it existed to make profits for masters, agents, and suppliers.

Not much is known today about servant overseers of servants, except that they enjoyed greater freedom of movement and more privileges than those they supervised. Servants and overseers both probably exhibited many of the behaviors and attitudes characteristic of other prisoners and keepers throughout history. For although historians have seldom considered them as such, colonial American servants were, after all, prisoners. Held in captivity, under forcible restraint if necessary, indentured servants were treated as inferiors and faced severe punishment if they resisted authority.

Yet even though many contemporary accounts depicted servants and slaves as being more “sinful” and more “criminal” than free white persons, it is difficult to determine if that was really so. First of all, many servant crimes were punished privately, outside the courts, so they were not recorded. Frequently, judicial records do not indicate who was a servant and who was not. The historian Lawrence Towner, who studied servant protest in Puritan society from 1629 through 1750, found only about a dozen criminal cases involving servants per year, which led him to conclude that there was “neither a mass movement aimed at servile rebellion nor a total rejection of the system.”²⁹ The perception that servants were “more criminal” is also attributable, at least in part, to the fact that they were under more legal strictures than free persons. In many instances, criminality or criminal severity was determined, not by an act’s inherent harm, but by the status of the person who had committed it. (Thus, the most frequent servant crime was “theft,” and the most common theft was

stealing oneself—running away.) Servants and slaves were also held under tighter supervision than free persons, making it more likely that their crimes would be detected, and they were punished more severely if they stepped out of line.

Both the Scriptures and the penal codes treated murder as a capital offense, and certainly any servant who murdered (or sometimes only threatened to kill) his master was liable to be executed. But masters who killed their servants were not punished for murder, and in some instances they were not punished at all. Consider some cases from early Maryland: Ann Nevill was acquitted of beating to death her maidservant, Margaret Redgearne, despite convincing evidence to the contrary; Mr. and Mrs. Thomas Ward were fined three hundred pounds of tobacco for fatally whipping their maidservant Alse Lutt with a peach-tree rod; Captain Thomas Bradnox and his wife escaped indictment for murdering their servant, Thomas Watson, whom they had starved nearly to death before finally killing him by blows to the face; John Grammar whipped young Thomas Simmons more than one hundred stripes with a corded rope after he had lapsed into unconsciousness, continuing even until Simmons died, yet despite extensive eyewitness testimony the grand jurors refused to indict, and the cooper Pope Alvey beat his servant, Alice Sandford, till her body turned to “jelly,” then forced cold hominy down her throat, and yet got off with a brand on his hand.³⁰

A servant who had completed his term of service might expect to receive “freedom dues”—usually amounting to no more than a few coins, a suit of clothes, a bag of seeds, or some tools—to ease the formidable transition into the free world.³¹ In Maryland in 1640 this reward consisted of “one good cloth suit of kiersy or broad cloth, a shift of white linen, one pair of stockings, and shoes, two hoes, one axe, 3 barrells of corn and 50 acres of land”; the Massachusetts code of 1641 simply provided that discharged servants must “not be sent away empty.”

Despite such ameliorative efforts, the treatment of servants in Virginia during the late seventeenth century could be extremely harsh, with masters resorting to whippings, reduced rations, and cruel abuses.³² Most of the major servant protests in that colony took place between 1661 and 1682. This was the period when lifetime racial slavery was being imposed or expanded and Negroes were beginning to replace indentured servants as the primary source of plantation labor.

In 1661 servants in York County organized such a revolt. Led by Isaac Friend, forty of them planned to seize arms and “go through the country and kill those who made any opposition,” vowing to either “be free or die for it.” But the plot was exposed by an informer and the rebellion was

defused.³³ Two years later another incident occurred to the north in growing Gloucester County, where nine servants allegedly conspired to seize their master's arms and attack the governor's mansion to demand their freedom. Again, an informer alerted the authorities before the plan could be carried out. Several participants were executed and the informer was publicly rewarded with his freedom and five thousand pounds of tobacco. The arrest day, September 13, was made an annual holiday.³⁴

During the late 1660s and early 1670s Virginia authorities repeatedly expressed concern about the dangerous "giddy multitude" of servants, convicts, and recently liberated workers. In 1668 the Virginia House of Burgesses called for every county to erect a Bridewell, or workhouse, and empowered the county courts to "take poor children from indigent parents to place them to work in these houses."³⁵ Two years later the General Court voiced alarm over the "danger to the colony caused by the great number of felons and other desperate villains sent over from the prisons of England," adding that convict imports had given Virginia an undeserved reputation as "a place only fit to receive such base and lewd persons." The Court issued an "order about jail birds," forbidding any person to bring into the colony any capitally convicted offender from England.

As more servants completed their terms, the swelling ranks of impoverished freedmen presented Virginia officials with a dilemma. The lack of opportunity was breeding discontent, not only among the free poor but also among the servants, who saw little incentive to be cooperative.³⁶

Led by Nathaniel Bacon, Virginia's former servants erupted in 1676 in the largest rebellion to date in any English colony. Freedmen rose up again in 1682 in the plant-cutting rebellion in Gloucester County.³⁷

According to the historian Edmund S. Morgan, "The substitution of slaves for servants gradually eased and eventually ended the threat that the freedmen posed: as the annual number of imported servants dropped, so did the number of men turning free."³⁸ Morgan has argued that unfreedom and freedom advanced together, along with the gap between them.

It is difficult to determine how many servants managed to move on to assume better positions in colonial society, but indications are that the number was relatively low. Abbot Emerson Smith calculated that probably only one of ten indentured servants ultimately became a farmer in comfortable circumstances, and that only one other attained artisan status. The remaining eight, he figured, either died, left the country, or succumbed to a life of propertyless vagrancy, maritime service, chronic dependency, or trouble with the law.³⁹

"A RACE OF CONVICTS"

AS for the British and Irish prisoners who had been transported into servitude, a leading American historian of the subject figured that "their ultimate fate is shrouded in mystery, where it is perhaps as well that it should remain," since most of them were, in his judgment, "certainly . . . worthless and dangerous."⁴⁰ Many historians have simply dismissed the transports as unsavory types who did not play any significant role in American development. Likewise, generations of genealogists have regarded them with a mixture of embarrassment and scorn, snipping them from family trees as if they were diseased branches. Wrote a visitor to Maryland in 1708: "You'd blush (if one could blush) for shame," if you knew "who from Bridewell or Newgate came."⁴¹

Firsthand accounts by transported convicts are extremely rare. One of them—*The Poor Unhappy Transported Felon's Sorrowful Account of His Fourteen Years Transportation, at Virginia, in America*, by James Revel—did not appear until the mid-1700s, and some historians have suggested that it may have been written as early as the late seventeenth century.⁴² All that is known about the author is what is contained in his rhymed chapbook account, leaving doubts about its authenticity. Yet many details seem accurate, indicating that Revel may have arrived sometime between 1656 and 1671. He claimed to have been born near London's Temple Bar and apprenticed at age thirteen to a tin-man at Moorfields. There he fell into "wicked company" and ran away from his master. After some time prowling the streets with a gang of rogues he was apprehended. Three of his companions were hanged; he drew fourteen years' transportation.

Five of the threescore convicts aboard his vessel died during the seven-week crossing. After the ship entered port, young Revel was cleaned up and then inspected by a stream of planters who examined his teeth and questioned him about his background. Eventually he was bought by a "grim old man" and taken in chains to a waiting sloop. He later learned that his new master had himself been transported before settling in Wicoccmoco, in Rappahannock County. Arriving at the plantation, the boy was issued a canvas shirt and trousers and put to work hoeing among the tobacco plants. He worked there from dawn to dusk, six days a week, for his master's good; on the seventh day he worked to produce his own food. With him in the fields were five other convicts and eighteen black slaves, all of whom fared the same in work and food. In the master's house, four convict servants waited upon the owner's daughter and spouse. Any who tried to run away were made to serve a day for every hour gone, and for every day a week, for every month a year.

Twelve years passed. Revel's master died and the young man was put up for sale. A rich lawyer from Jamestown bought the black slaves but refused to have anything to do with a transported felon. So Revel and his fellow jailbirds were auctioned off to the highest bidder. He was fortunate to be sold to a kind master, and upon the completion of his fourteen-year sentence he was freed and returned home to England.

Many historians have portrayed transported felons as losers in their own day who generally failed to rise very much in economic or social status, a class that over generations formed the basis for what came to be known as Southern "poor white trash." But there is reason to question these assumptions. Even though some respectable colonists viewed convicts with distaste, if not revulsion, it is also true that many others—including Captain Augustine Washington and his son, George—purchased transported felons as trusted personal servants. Some "king's passengers" performed important gentlemanly tasks as well as essential hard labor. Young George Washington was tutored by a convict. As an adult, he purchased convicts for all sorts of jobs, among them John Winter of Charles County, Maryland, who was known as a "very compleat House Painter" who could "imitate Marble or Mahogany very exactly" and "paint Floor Cloths as neat as any imported from Britain." In 1759 Winter went to work painting Mount Vernon.⁴³

Some convicts managed to avoid being sold after their arrival. Dr. David Benfield, an Oxford physician who had been transported for poaching and allowed to buy his way out of servitude, wrote home to his former Oxford gaoler in 1772: "I have had very Great Success in My undertakings. I have folloed nothing but physick and Surgorey since I have been heare." Benfield estimated that he would clear a hundred pounds that year, adding, "I Lives Like a Gentleman."⁴⁴ Another transport, John Jones Van de Huville, practiced medicine in Prince Georges County, Maryland, with his master's permission.⁴⁵

Daniel Defoe, the English journalist and novelist whose reporting career brought him into close contact with the London underworld and who had been imprisoned and pilloried in England for his political views, popularized stories about transported convicts who achieved happiness and fortune in America.⁴⁶ None better personified this than his fictional heroine in *The Fortunes and Misfortunes of the Famous Moll Flanders*, published in London in 1722.⁴⁷ In the novel, Moll's aging mother-in-law confided that "many a Newgate-bird becomes a great man, and we have . . . several justices of the peace, officers of the trained bands, and magistrates of the towns they live in, that have been burnt in the hand." With that the old lady removed her glove to expose a scar, saying: "You need not think such

a thing strange, daughter, for as I told you, some of the best men in this country are burnt in the hand, and they are not ashamed to own it. There's Major———, says she, 'he was an eminent pickpocket; there's Justice Ba——r, [he] was a shoplifter, and both of them were burnt in the hand, and I could name you several such as they are.'"⁴⁸

Three decades after *Moll Flanders* was published, an Englishman returned from a tour reported that "the convicts . . . sometimes prove very worthy creatures and entirely forsake their former follies."⁴⁹ Eleven years after that, Malachy Postlethwayt observed, "Even your transported felons, sent to Virginia instead of Tyburn, thousands of them, if we are not misinformed, have, by turning their hands to industry and improvement, and (which is best of all) to honesty, become rich, substantial planters and merchants, settled large families, and been famous in the country; nay, we have seen many of them made magistrates, officers of militia, captains of good ships, and masters of good estates."⁵⁰

Anthony Lamb served out his sentence in Virginia and moved north to become America's "most celebrated and skilful optician, and maker of mathematical instruments." His son, John, was a general in the Continental army.⁵¹ Patrick Colquhoun, a Scotsman who got his start working in the convict trade, went on to achieve fame as a pioneer police official and banking expert in London. Years later he said many former convicts had risen to positions of prominence. "Possessed in general (as every adroit thief must be) of good natural abilities," he wrote, "they availed themselves of the habits of industry they acquired in the years of their servitude—became farmers and planters on their own account; and many of them, succeeding in these pursuits, not only acquired that degree of respectability which is attended to property and industry; but also in their turn became masters, and purchased the servitude of future Transports sent out for sale."⁵²

Nevertheless, many colonists strongly resented and opposed convict transportation, and their legislatures passed ordinances restricting shipments of prisoners. In 1683 Pennsylvania proposed that "no felons be brought into this country."⁵³ In 1721 an act was finally passed that fixed a duty of five pounds on every convict brought into the commonwealth; it also required the importer to put up security in the amount of fifty pounds for the transport's good behavior during the first year. Any person bringing convicts into Pennsylvania was also required to present a certified inventory of those transported, listing their names, offenses, and other information. Justices of the peace were also empowered to inquire into every importation. The stated reason for this act and others like it was economic. Upon being sold as servants, many convicts allegedly ran away or commit-

ted further crimes, resulting in great loss to their owners.⁵⁴ Like impressment, the Crown's policy of convict transportation was alleged to be injuring American colonial interests.

An act barring convict imports into Maryland was passed in 1676, but not enforced.⁵⁵ Afterward the province became the favorite dumping ground for transported felons. Fear of convict rebellions became acute in early 1721, when a band of felons was arrested for conspiring to seize the town's arms and ammunition depot at Annapolis. But the plot was uncovered before it could be carried out. Some Marylanders charged that the influx of known criminals had resulted in an inordinate number of prosecutions and felony trials, "as well as common trespasses, breaches of the peace, and other misdemeanors since the late importation of convicts from Great Britain into this province."⁵⁶

Lawsuits were brought against Jonathan Forward, the importer, and in 1723 an act was passed to restrict convict shipments.⁵⁷ In 1728 another act was passed, requiring all captains to furnish a certificate for every convict brought into Maryland. Any captain who refused to declare under oath whether any of his passengers were convicts was subject to a stiff fine.⁵⁸ South Carolina took similar steps about the same time, and in 1741 another bill was proposed there to "prevent convicts being brought into this province."⁵⁹ But despite colonists' repeated protests against convict transportation, and local laws enacted to discourage the practice, Britain continued to send greater numbers of felons to America.

Public opinion in Maryland was aroused once again in March 1751. Jeremiah Swift, a convict field hand for John Hatherly, in Anne Arundel County, had been hoeing soil in a tobacco field with two of his master's young sons. He went berserk and beat both boys to death, then entered the house and slaughtered their fourteen-year-old sister with an axe. He also stabbed another child, but the youth survived. Swift was tried and executed, but his ferocious attack sent waves of panic throughout Maryland and beyond.⁶⁰

Benjamin Franklin, who had himself been the victim of a burglary, was among those who reacted strongly. Writing as *Americanus* in the *Pennsylvania Gazette*, he called England's unloading of felons "an insult and contempt, the cruellest, that ever one people offered to another."⁶¹ In exchange, Franklin proposed that the colonies ship some of their indigent rattlesnakes to Britain. There, they could be carefully distributed in St. James's Park and other haunts of the nobility and gentry, "but particularly in the gardens of the prime ministers, the lords of trade, and members of Parliament, for to them we are most particularly obliged." Franklin acknowledged there might be obstacles to such a scheme, but added

sarcastically, "What is a little house-breaking, shop-lifting, or highway-robbing; what is a son now and then corrupted and hanged, a daughter debauched, and pox'd, a wife stabbed, a husband's throat cut, or a child's brains beat out with an axe, compared with this 'Improvement and well peopling of the colonies?'"

But transportation continued. One distinguished British magistrate proclaimed that transporting felons "out of the way" was the wisest, most humane punishment available, saying it "immediately removes the evil, separates the individual from his abandoned connections, and gives him a fresh opportunity of being a useful member of society."⁶² When the British ministry appeared to be bowing to American pressures against convict transportation, London's Dr. Samuel Johnson roared in disgust to James Boswell, "Why they are a race of convicts, and ought to be thankful for anything we allow them short of hanging!"⁶³

PERPETUAL SLAVES

INDENTURED servants generally served six-year terms, and convicts seven or fourteen, but slaves were bound for life. Although convicts and other white servants were often held under harsh conditions, slaves were even more oppressed. Servants enjoyed a chance to become free someday, but slaves remained as such perpetually, so that their status was transmitted from one generation to the next, from the living to the as yet unborn.⁶⁴

In time, blacks took the place of the Irish as the colonies' most degraded class, and some former servants became overseers of the slaves. The development of racial slavery helped to ease some of the tensions building among the rising servant class, and it provided present and former white servants with a sense of higher status, if only because there was now a more degraded group of servants who could never compete with them.

One of the first legal references to inheritance of the slave status occurred in 1662, when the Virginia House of Burgesses declared: "Children got by an Englishman upon a Negro woman shall be bond or free according to the condition of the mother, and if any Christian shall commit fornication with a Negro man or woman, he shall pay double the fines of a former act."⁶⁵ This statute—which reversed English common-law tradition holding that a child's status should depend upon the status of the father—proved instrumental in perpetuating black slavery. From that point, every female slave assumed additional value, because she could be used to produce more slaves; every product of her unions, including those with the master himself, was born into slavery, and their children, and their chil-

dren's children. This was true not only of native Africans and their black progeny, but of any racially mixed infant who had at least one black ancestor.

Maryland enacted similar laws in 1663 and 1664, stipulating that blacks were to serve *Durante Vita*.⁶⁶ Slavery in Carolina was authorized from the early days of the proprietorship, when the Puritan-educated John Locke helped to write into the Fundamental Constitution a provision that "every Freeman of Carolina shall have absolute power and authority over Negro slaves."⁶⁷ (Although he was later credited with inventing the concept of man's "inalienable rights" and esteemed as champion of the social contract, Locke was also a staunch advocate of slavery who had made a fortune from his slave-trade investments.)⁶⁸

In 1670, even Puritan Massachusetts stopped exempting children who had been born there under slave parents, thus paving the way for perpetual slavery of blacks.⁶⁹ Neighboring Connecticut, although it never established slavery by law, nevertheless allowed it in practice through various statutes and court decisions.⁷⁰ Rhode Island acted early to limit bondage to ten years, but that restriction was openly violated and the colony became one of the leading slavery centers in the Northeast.⁷¹ Slavery in New Hampshire was officially acknowledged in 1645.⁷² After the British took over control of New Netherlands from the Dutch, in 1684 New York officially adopted hereditary slavery.⁷³ New Jersey had slavery from the beginning of the proprietary period and the institution continued after royal-province status was granted.⁷⁴ Delaware (formerly New Sweden), which had originally prohibited the buying or keeping of slaves, also resorted to slavery after it passed into English hands.⁷⁵ Pennsylvania employed slavery at its inception.⁷⁶ Georgia lifted its ban against slavery in 1750 to become a major slave colony.⁷⁷

Colonial governments tried to prohibit imports of political prisoners or professional criminals into their jurisdictions, on the grounds that they would cause trouble. Colonies also discouraged imports of "seasoned" slaves, who had been sent to America by way of the West Indies or other transitional points. Such persons already had been exposed to slavery, and many had learned at least some English. However, it also meant that they had learned how to beat or sabotage the system, possibly even how to escape or attack. Seasoned slaves were often suspected of having been sent as punishment for crimes they had committed in the West Indies. Consequently, many colonists preferred to import slaves directly from Africa.

Douglas Greenberg conducted a computer analysis of the fifty-three hundred criminal cases contained in New York's court records for the

period 1691 to 1776; he concluded that blacks were actually prosecuted at a disproportionately lower rate than whites, even though whites generally regarded blacks as "more criminal." Although blacks made up about 11.5 percent of the colony's population, they accounted for only 7.4 percent of the criminal cases appearing in the court minutes. Among the alternative explanations that Greenberg explored was the possibility that most slaves were kept in relative isolation from each other and held under constant surveillance, which may have deterred them from offending. Blacks also faced harsher punishments than whites, including discipline that their masters dispensed without ever going to court.⁷⁸

Every colony developed its own slave code and control apparatus.⁷⁹ Police powers and punishments were bolstered, and communications networks among the colonies were improved. The foundation for slavery already had been laid with indentured servitude. Systems of control already were established; housing arrangements and supervisory staff were in place. People had become conditioned to accept the notion of human beings as property to be bought, sold, taxed, and transferred. What remained was to tighten the shackles that bound servants to masters and masters to the slavery system. In fact, much of America's early government was devised and strengthened to protect slavery.

The transformation from servitude to racial slavery entailed an escalation of imprisonment from temporary restraints to total control. Blacks were increasingly segregated from whites, housed in separate (and inferior) quarters. On Southern plantations, these usually took the form of detached huts or shanties; in the North, slaves were assigned to a remote section of the master's house in which whole families crowded into a tiny, spartan space. Slaves were fed apart from other servants, and even buried apart. Most colonies adopted statutes prohibiting them from leaving their owner's plantation without a pass, and then only under necessary circumstances. Nighttime curfews were imposed. The level of supervision increased and greater use was made of chains, fetters, cages, and locks. Blacks were made more regimented, more conspicuous and identifiable. Hair was closely cropped and skin was branded. Greater attention was paid to clothing, on the grounds that a slave should always look like a slave, both to prevent escapes and to deny any sense of prestige or individuality. South Carolina law, for example, specified what garb was permitted: "negro cloth, duffelds, coarse kearsies, osnabrigs, blue linen, checked linen, or coarse garlix or calicoes, checked cottons, or scotch plaids, not exceeding ten shillings per yard."⁸⁰

The possibility of a black person becoming free amidst all of this was

sealed off. A South Carolina code of 1722 required masters who wished to manumit or set free one of their slaves to provide "for his departure out of this Province; and such slave who shall not depart this Province by the space of 12 months next after such manumission (being at liberty to do so), shall lose the benefit of such manumission, and continue to be a slave."⁸¹ Later laws limited a master's right to free his slaves to cases in which the slave had performed some valuable public service, such as revealing a plotted slave revolt, and mere conversion to Christianity was eliminated as a possible escape route to freedom. Slaves were also forbidden to trade or own property without their master's consent, and any unauthorized property was supposed to be confiscated and the slave punished for receiving stolen merchandise. Horses, boats, guns, or other articles that might be used for escape or revolt were strictly forbidden. Blacks were barred from serving in the militia. Slaves were denied legal rights that other servants enjoyed, such as the right to bring a case to court or the right to testify in court, unless it was against another slave. They were treated as an inferior species, to be degraded, shunned, ridiculed, mastered, detested, disciplined, and sold and acquired through the last wills and testaments of their deceased white superiors.

PLANTATIONS

ISOLATED from its neighbors by wide stretches of open fields, dense woods, and running water, the rural Southern plantation was a prison without walls: self-contained, stratified, paternalistic, coercive; a society unto itself with its own laws, rules, customs, and language. Plantations varied in size from a couple of dozen acres to vast tracts of thirty thousand acres or more, containing anywhere from a few to a thousand slaves, who ranged in age from newborns to wizened old folks.

A mid-eighteenth-century visitor who approached from the long and dusty road leading to one Savannah estate described coming to an opening "occupied by a miniature palace, elegant in its exterior and embellished by the most refined taste, in the midst of a noble plantation, and surrounded by a little village of Negro huts."⁸²

Most slave quarters were about 8 by 10 feet, or 10 by 12, with dirt floors and only a hole in the roof or a wooden chimney to let the smoke out, and no furniture inside. Commissary Alexander Garden observed about Negroes in South Carolina: "They are as 'twere a Nation within a Nation, in all Country Settlements," and added, "they live in Contiguous houses, and often 2, 3, and 4 Families of them in one house Slightly partitioned

into so many Apartments, they labour together and converse almost wholly among themselves."⁸³

George Washington was a third-generation slaveholder who grew up accepting slavery as natural, necessary, and moral. One of his inventories listed 216 slaves. He both inherited and acquired some by marriage, and he bought and sold slaves throughout his life. When his slaves gave him trouble he could not handle, he shipped them to the West Indies. Like his father before him, he also imported convicts to work on his plantation. On one occasion, he purchased four felons for £110.⁸⁴ (Washington was not the only prominent colonist to own convicts, servants, and slaves; some others included Alexander Spotswood and Landon Carter in Virginia, and William Fitzhugh and Charles Carroll in Maryland.)⁸⁵

By the eighteenth century, the system had evolved to the point that Washington could employ a white overseer in 1762. The contract specified that the man should "take all necessary and proper care of the Negroes . . . using them with proper humanity and discretion." He expected his overseers' wives to work as house servants and to make clothes for Negroes.⁸⁶

In Virginia and South Carolina, Negroes gradually replaced whites as the preferred domestic servants, and no self-respecting plantation lady could do without at least one Negro to perform household chores. "I shall keep young Ebba to do the drudgery part, fetch wood, and water, and water and scour, and learn as much as she is capable of Cooking and Washing," Eliza Pinckney of Charleston wrote. "Mary-Ann Cooks, makes my bed, and makes my punch. Daphne works and makes the bread, old Ebba boils the cow's victuals, raises and fattens the poultry, Moses is employed from breakfast until 12 o'clock without doors, and after that in the house. Pegg washes and milks."⁸⁷ Sharp distinctions arose between slaves who worked in the fields and those assigned to the master's house.

A slave's choices were essentially those of any prisoner. He or she could try to escape by running away or committing suicide. In either instance, such actions could also have painful effects for loved ones left behind, since besides losing forever all contact with their fugitive kin such relatives might suffer whippings or sale. A slave could try to subvert the institution through malingering, sabotage, arson, pilfering, slowdowns, poisonings, and secret reprisals. He or she could seek to overthrow the captors by force, or submit as much as necessary and simply try to do his or her time in the least painful manner.

Slavery elicited all of these responses, and all of the attending physical and psychological consequences. It also produced powerful fear and paranoia in slaveholders. Whites always had to remain alert, vigilant. They

could not relax. Many worried that one day they might suddenly be overcome and butchered, or even enslaved as they had done to others. Some whites were tormented with guilt.

Rebellion was not confined to the North or the South. Among colonial American slave revolts, the bloodiest occurred in New York City in 1712 and 1741, and in South Carolina in 1739.⁸⁸ South Carolina had a black majority, whereas New York's slave population probably constituted less than 10 percent of the city's total population. All three conspiracies occurred during a period of general economic and social unrest. Each was preceded by the passage of a strict new slave code and took place amidst a climate of fear or anxiety aroused by a recent precipitating incident. In each instance, the slaves' apparent plan was thwarted before it could be fully carried out, and the number of black fatalities exceeded those of whites. After each revolt there was a public inquiry, quickly followed by mass public executions of slaves. Anyone suspected of playing even an indirect role was severely punished, placed under tight security, or sold far away. Reports about the conspiracy were widely circulated throughout the slaveholding world, alerting masters everywhere about potential dangers and contagions.

Master-dominated legislatures enacted protective measures that immunized the slaveholders, as well as overseers, patrollers, and any other white person having "sufficient cause or lawful authority," so they could not be held liable for their actions.⁸⁹ Limitations on the killing or maiming of slaves were few and far between, usually being reserved for the most sadistic kinds of punishment.⁹⁰

Lawmakers also expanded the number of capital crimes for slaves. In Georgia execution became mandatory for any slave who had killed a white person, except when it could be proved that the slave had done so by accident "or in defense of his master or other person under whose care and government such slave shall be." Additional capital offenses peculiar to slaves included the grievous wounding, maiming, or bruising of a white person; the raising or attempting to raise of an insurrection; the enticement of any slave to run away from the province; the assistance of anyone who had run away; the willful and malicious destruction of any stack of rice, corn, or other grain produced in the province; the destruction of tar-kiln barrels of tar, turpentine, or resin; and poisoning. Slaves could also be executed for teaching or instructing another slave in "the knowledge of any poisonous root, plant, herb, or other sort of poison" and for giving false information.⁹¹

Formal court trials were seldom held; slaves were summarily killed. And

the manner of killing could be extremely brutal in order to terrify others.⁹² Colonial records are filled with accounts of slaves being disemboweled, roasted, decapitated.

As early as 1669 the Virginia Assembly formally declared what had already become plantation practice—no master who killed one of his slaves should be judged guilty of a felony, "since it cannot be presumed that pre-pensed malice . . . should induce any man to destroy his own estate."⁹³ The protection of masters did not end when the offending slave was dead. Laws were also passed that recognized the value of a slave's life in terms of the loss it posed to the master. Thus, for every slave killed or put to death by law, the master was entitled to be reimbursed from the public treasury.⁹⁴

RUNAWAYS

SOME servants and slaves tried to escape. Convicts were the most apt to run away, but even so only a small minority of felons—maybe 5 to 10 percent—bolted. After all, most slaves and servants knew precious little about what lay beyond the plantation where they were kept. In some places, the whole region consisted of plantations, and escape was difficult. The masters, on the other hand, were intimately familiar with every corner of their district, and most of them knew each other by name. Planters kept in touch by word of mouth and correspondence, and their control system was aided by information exchanged in books, broadsides, and newspapers. Each newspaper edition contained notices about the latest servants and slaves who had deserted, the first lost-and-found columns.

Thus William and Thomas Bradford of Philadelphia advertised on July 19, 1775, for a runaway servant lad of nineteen, John Cass, who they said "may pass for a Printer or Book-binder, as he understands a little of both."⁹⁵ Another master announced:

Ran away from the subscriber, living in Annapolis, on May 23, a Convict Servant Woman named Hannah Boyer, about 23 years of age. Pitted much with Small Pox, has a Scar in one of her Eye Brows, not very tall, but strong, fresh colour'd, robust, masculine Wench. She had on and took with her a blue Jacket, an old whitish Cloak, a brown Petticoat, a double Mobb [cheap hood], an Osnabrigs Shift, no Shoes nor Stockings; but without doubt will change her cloathing. She had a Horse Lock and chain on one of her Legs.⁹⁶

Ads for fugitive whites often appeared next to descriptions of runaway blacks. Where whites and blacks had run away together, the advertisers usually described the white suspect as a transported convict, a known criminal, or an Irishman, who had become romantically involved with a slave. For example, the *South Carolina Gazette* reported that a young sandy-haired convict had stolen a horse and “enticed with him a short lusty well-set Negro wench” who spoke plain English and was last seen wearing men’s clothes.⁹⁷ Ironically, a white and a black fugitive traveling together were better able to pass themselves off as master and slave.

The runaway ads often appeared in several cities simultaneously, especially if the fugitive was suspected to be heading in a particular direction. “The wicked and bad of them that come into this Province, mostly run away to the Northward,” one Marylander said. Convicts commonly were pictured as wearing iron collars, or a darby on each leg with a chain to one of them, all double riveted. Many columns noted a missing finger, a broken wrist, or a face badly pitted by smallpox. Fugitives were known to walk with a limp and to have backs scarred from whippings—or backs freshly wounded. And they bore other telltale marks of hard life, such as a swelled testicle said to have been caused from a kick on the convict ship, an unhealed rupture, or a saber cut or gunshot wound gained in struggle. Notices often testified to the runaway’s defiant character and “bold” or “insolent” manner. Such was the case of William Hatton, who was described as having a scar running from the corner of his mouth to his chin, and a “very remarkable way of staring any body in the face” who spoke to him.⁹⁸

A white prisoner’s chances of escaping were vastly greater than a black’s because whites were less conspicuous. Some white runaways improved their chances by dressing like free persons, often after stealing some of their master’s clothes. Thus one newspaper notice pointed out that Anne Barret had left home fully attired in a striped Holland gown, a quilted callimanco petticoat, ruffles, aprons, and new pumps with red heels. Mary Holland, whom her master angrily described as “much conceited in her beauty,” had fled with an elegant wardrobe complete with a fine lawn apron and a flowered handkerchief.⁹⁹

A modern study of newspaper notices in eighteenth-century South Carolina concluded that only 1 of 221 missing whites was reported caught, whereas 862 of 2,001 fugitive slaves were captured alive.¹⁰⁰ Still, the slaves kept trying. The more they tried, the more their masters took steps to prevent escape. Heads were shaved, skin was branded, legs were clamped in heavy irons. Chains, padlocks, handcuffs, and neck yokes were standard equipment.¹⁰¹ When such restraints failed, fugitives risked being set upon by yelping hounds or shot down as they ran.¹⁰²

Indentured servants who were caught could expect to serve more time—in some places, a week for every day gone, or a year for every week.¹⁰³ A runaway could also be whipped up to thirty-nine lashes for the first offense, be branded or lose an ear for the second, have his nose split for the third, and be executed for the fourth.¹⁰⁴ Anyone who helped or harbored a fugitive servant or apprentice was subject to a stiff fine or worse.¹⁰⁵ If the fugitive was a slave, punishments were more severe, and in some cases the offended master was actually legally required to take certain measures, for the good of the system.¹⁰⁶ Masters commonly offered a reward for the capture of a runaway. Sometimes a bounty was promised if the slave was brought back dead or alive, as did the owner who offered ten pounds to “any man who will bring him Toney’s head.”¹⁰⁷

Owners formed networks of volunteers to patrol their areas. The first were conducted sporadically, on a rotating basis; patrols eventually became the duty of the local militia, whose primary function in some places grew to be “police supervision of the slaves.”¹⁰⁸ Officers were appointed and given lists of all the slaves residing in their district, and the units travelled the countryside gathering intelligence and making arrests.

A South Carolina statute of 1734 organized the task into districts and set requirements for the makeup and operation of the patrols. Five-man units were instructed to make the rounds at least once a month, with authority to question any travelling Negro, search Negro homes, and confiscate firearms and other contraband. Their license included the right to kill or torture any Negro who resisted arrest.¹⁰⁹

Similar systems were developed in the other plantation colonies. Georgia’s code of 1735 empowered commissioned militia officers to “disperse, suppress, kill, destroy, apprehend, take or subdue . . . any company of slaves, who shall be met together or who shall be lurking in any suspected places, where they may do mischief or who shall have absented themselves from the service of their owners.”¹¹⁰

Thus was born the first organized system of police in plantation country.

JAILS

JAILS were among the first public structures built in colonial America.¹¹¹ Besides being an essential part of the prisoner trade and a useful receptacle and staging place for arriving reluctant emigrants, they were an integral part of the system of servitude and slavery. A plantation was organized for labor, but a jail was meant as a holding pen for persons

who somehow had managed to escape from bondage: fugitives, unruly servants, debtors, vagrants, and common criminals awaiting trial or execution. Flaws in the imprisoning ability of the plantation had led to the rural South's first police system and jails. Elsewhere, in the coastal cities of Charleston, Philadelphia, Boston, Newport, and New York, the apprehending was performed by an expanding corps of nightwatchmen, constables, and marshals. In North and South alike, many of the fugitives and other lawbreakers caught by slave patrols and city police were first taken to jail to await their fate. Jails helped to enforce the laws of bondage and to uphold the authority of masters. For men who owned men and women, a world without prisons was inconceivable.

As reliance on servitude grew, colonial governments required every local jurisdiction to establish and maintain its own jail at public expense. Keepers were appointed and salaries set. Eventually a locked room in the sheriff's house was replaced by a wooden structure erected for the specific purpose of detaining offenders. Reinforced walls were introduced and boards gave way to stone and brick. Jails became more pervasive, more secure, more permanent. By the 1720s every city and virtually every county had at least one detention house, and most had several. Colonial America had more jails than public schools or hospitals.

In Virginia, the economic losses that masters incurred as a result of slaves and servants escaping resulted in several laws being passed. In 1657 the General Assembly made the counties liable for damages for any inmate who escaped for want of a sufficient prison.¹¹² Four years later it announced that any county that did not construct a "good strong prison" within eight months of the passage of the act would be fined five thousand pounds of tobacco.¹¹³ In 1669 the General Assembly authorized the construction of a new capitol and other buildings, including a "substantial Brick Prison, thirty foot long in the clear and twenty foot wide in the clear [with] three rooms on the lower floor, one with Chambers above for the gaolers or prison keepers owne use and for confinement of small offenders, and the other two smaller on the lower floor . . . for the criminals of both sexes."¹¹⁴

In Maryland, the preference for public prisons arose in the spring of 1662, when the assembly stated the need to create a prison "for the securing of malefactors and other exorbitant persons."¹¹⁵ In 1663 funds were appropriated for building a log house at St. Mary's, because "divers inconveniences have happened within this province through want of places for securing offenders."¹¹⁶ In 1666 another institution was authorized to be "well and sufficiently built" near a spring on the east side of St. Mary's and furnished with irons and other restraints.¹¹⁷ In 1674 a substantial sum was

appropriated to construct a brick statehouse and prison at St. Mary's, and every county was ordered to erect its own courthouse and jail.¹¹⁸ Two years later an act was passed by which each sheriff who "voluntarily or negligently" allowed a prisoner to escape was to be fined twenty thousand pounds of tobacco, indicating that some sheriffs had been incompetent, if not corrupt.¹¹⁹

In April 1640 the Connecticut Court of Election ordered a jail to be built at Hartford, citing the "many stubborn and refractory persons [who] are often taken in these liberties, and no meet place is yet prepared for the detaining and keeping of such to their due and deserved punishment."¹²⁰

Within a few years jails could be found in the smallest towns. By the middle of the eighteenth century, an observer wrote, the tiny village of Bristol, Pennsylvania, had only one road "marked by anything like a continuity of building," but that cluster included an Episcopal church with its lonely graveyard, a Quaker meeting-house, and a brick jail.¹²¹

The colonial American jail was as minuscule as a plantation was large—often merely a cage, no bigger than the closets that later were introduced into American homes, and rarely more than twenty square feet—and neither its face nor its interior bore any trace of elegance. The structure built at Henrico County, Virginia, in 1683 was designed to be "15 feet square, the floor laid out with stout plank, the ceiling lined with cedar, and the roof covered with shingles [with] a single chimney . . . placed on the outside of the house."¹²² The one put up in Salem, Massachusetts, that year was twenty feet square, with a "convenient yard, fenced and closed," a brick chimney, "a lock on the door . . . , iron bars for the lights," and a dungeon.¹²³

In some institutions the jailkeeper, and occasionally his family as well, resided in a separate wing. But neither his quarters, nor his status, resembled that of a plantation master. He was more like an overseer, except that his prisoners generally did not have to work.¹²⁴ A prisoner's lot could depend on his ability to pay the keeper for food, blankets, fuel, and other necessities. He usually was forced to sleep on straw that often had been used before. The room in which he was kept was likely to be smelly, poorly ventilated, and dark. Oftentimes it was crowded.

A minister who visited the Charleston jail in 1767 reported: "A person would be in better situation in the French King's galleys, or in the prisons of Turkey or Barbary, than in this dismal place—which is a small house hir'd by the Provost Marshal containing 5 or 6 rooms, about 12 feet square each and in one of these rooms have 16 debtors been crowded." He added that the occupants "often have not room to lie at length, but succeed each other to lie down—one was suffocated by the heat of the weather of this

summer—and when a coffin was sent for the corpse, there was no room to admit it, till some wretches lay down, and made their wretched carcasses a table to lay the coffin on. Men and women are crowded promiscuously—no necessary houses to retire.”¹²⁵

Benjamin Franklin’s brother, James, printed an early newspaper. One edition carried an article that was deemed seditious, and when he would not reveal its author he was committed to Boston’s stone jail. He remained there for a month until a physician certified that his health had suffered from confinement.¹²⁶ Writing from the same stone prison thirty years later, another incarcerated journalist complained, “If there is any such thing as a hell upon earth, I think this place is the nearest resemblance of any I can conceive of.”¹²⁷ That winter in New York the debtors issued a public appeal that they had not “one stick to burn” and were freezing to death.¹²⁸

The jail’s importance as a receptacle for bondsmen was not limited to the South. Boston’s almshouse, constructed in 1685 as a supposed refuge for the poor, was used mostly as a prison for troublesome servants and slaves.¹²⁹ In 1721 a new bridewell was established for the detention of “unruly servants and minor offenders.”¹³⁰ Newport’s prison was utilized for keeping runaway or recalcitrant slaves.¹³¹ New York’s almshouse was designed to hold “beggars, servants running away or otherwise misbehaving themselves, trespassers, rogues, vagabonds, [and] poor people refusing to work.”¹³² As such, the various kinds of jails were a key component of the system for disciplining unfree laborers.

But even shackles or jails could not restrain people who were determined to be free. The most frequent public complaint about prisons was that they permitted too many escapes. Governor Culpeper of Virginia said there was none in his colony that could not be “easily broken.” After three pirates busted out of Charleston’s prison, an editor snapped that “few criminals stay till the times appointed to make their trials.”¹³³ The Philadelphia Common Council called their jail “a public nuisance . . . it being too notorious that criminals frequently escape.”¹³⁴ In Newport in 1737 the escapees added insult to embarrassment by leaving a chalked message on the prison floor. “Fare you well Davis,” it said, “your prisoners are fled; your prison’s broke open while you are in bed.”¹³⁵

In response to such embarrassments, jail breaking was made a felony, law enforcement was bolstered, more and stronger prisons were called for, and authorities paid closer attention to separating different types of offenders—both by creating a greater variety of institutions and by segregating inmates within the same prison.

One of the most advanced institutions in its day was the sturdy stone jail at Third and High Streets in Philadelphia, which had been designed

in 1722 by Quakers under the influence of John Bellers, an English prison reformer. Consisting of two connected buildings with a yard and high wall, it featured cellular housing and separate wings for debtors and common criminals, with the latter being housed in locked cells. There was also improved ventilation and exercise facilities. But not even those features could eliminate escapes: from 1729 to 1732 at least fifteen inmates broke out.¹³⁶ By the depression of the 1760s, the old place had become severely overcrowded, and conditions had deteriorated so much that concerned residents solicited donations to keep the distressed inmates alive. In 1772 at least three prisoners starved to death.¹³⁷

Government’s unwillingness to provide for inmates’ most basic needs was typical during the seventeenth and eighteenth centuries. To some extent it reflected a desire to ensure that jails were unpleasant places. By withholding food and other necessities, authorities increased the pressure on inmates to confess or otherwise cooperate. Starving prisoners were more vulnerable to “voluntary” servitude, military “enlistment,” and other forfeitures of liberty. Their misery served warning to others. The wretchedness of some inmates—most often, the debtors—also provided an outlet for “humanitarian” impulses. Sometimes the debtors’ pleas for assistance were answered by gifts of food from kind-hearted residents, and occasionally someone even stepped forward to pay off the problem debt.¹³⁸

In New York, a legislature hardly known for soft-heartedness responded to the debtors’ plight in 1732 by enacting a law stating that “many poor persons may be imprisoned a long time for very small sums of money . . . to the ruin of their families, great damage to the public who are in Christian charity obliged to provide for them and their families . . . and without any real benefit to their creditors.” The statute provided that debtors owing less than two pounds could be assigned to service for five months if they were male and seven months if they were female.¹³⁹ Prisoners may not have been forced to work inside the institution, but they were now compelled to bind themselves to work outside.

PROTESTS AND REBELLIONS

CRITICISM of the prisoner trade increased during the eighteenth century. Although officials and merchants in England denied complicity in anything illegal, scandals occasionally surfaced that implicated prominent, seemingly respectable people in kidnapping and other sordid schemes.

In 1739, on the Isle of Skye and neighboring islands, over a hundred

The jail's importance as a receptacle for bondsmen was not limited to the South.

men, women, and children who had been forcibly seized from their beds at night and loaded onto ships for transportation to America managed to escape and get help. A judicial inquiry later ordered them freed.¹⁴⁰ In 1753 in Philadelphia the Quarter Sessions freed young Ann Dempsey from her indenture after she proved she had been kidnapped in Ireland.¹⁴¹ Joshua Brown, a Quaker, later wrote about his mother being kidnapped in Scotland and sold off to America when she was just thirteen.¹⁴² George Eskridge, who was kidnapped and sold in Virginia, went on to become a member of the colony's House of Burgesses and the legal guardian of George Washington's mother.¹⁴³

One famous case involved a boy named Peter Williamson, who claimed to have been stolen out of his aunt's home in Aberdeen and sent to Philadelphia.¹⁴⁴ In another, James Annesley, son and heir to Lord Altham, alleged that his uncle had conspired to have him kidnapped and sent to America in order to gain his inheritance.¹⁴⁵

Yet many masters apparently felt little remorse over the fact that persons they had bought and sold as servants or slaves had been illegally kidnapped into bondage. After all, their reasoning went, they had not performed the manstealing; they had merely purchased servants who were already bound, so that everything they had done was perfectly legal and respectable. As far as polite society was concerned, complications arose only in that rare instance when a victim turned out to be some "reputable" person, like themselves.

At the same time, some critics on both sides of the Atlantic assailed impressment, or military conscription, as "repugnant to the liberties of an Englishman, and irreconcilable to the established rules of law, viz. that a man without offense by him committed, or any law to authorize it, shall be hurried away like a criminal from his friends and family, and carried by force to a remote and dangerous service."¹⁴⁶ Still, the practice continued. Many of the protests against it followed a common theme: freeborn white English subjects did not deserve to be treated like common criminals or sooty slaves. Or, put another way, criminals and Negroes did.

Impressment was extremely unpopular in America, and especially provoked violent reactions in Boston, where victims and bystanders often physically resisted depredations by press-gangs. Many local merchants there opposed impressment because it was their servants, apprentices, and employees who were being taken, at considerable loss to themselves. Seizures of the pool of available seamen and laborers worsened the labor shortage and boosted the costs of doing business.¹⁴⁷

In 1746 a Boston town meeting petitioned the House of Representatives to put an end to the roundups, saying that the city had lost three thousand

men to the "lawless rabble" of press-gangs.¹⁴⁸ A year later, after several violent incidents involving press-gangs, Governor William Shirley ordered the militia to put down a major riot that had erupted after a gang had seized some men without warrants. Public sentiment against press-gangs was so strong that no militiamen, except officers, would obey the order.¹⁴⁹ Continued resistance prompted officials to enact a statute in 1751 for suppressing unlawful assemblies and riots.¹⁵⁰

Popular resistance to press-gangs intensified during the 1760s. Mobs freed some victims, assaulted procurers, and burned naval vessels.¹⁵¹ Following one incident, and in defense of some whalers who had killed an officer while resisting an attempted impressment, attorney John Adams contended that it was not the townspeople who were the rioters, but the kidnappers who went about apprehending citizens without lawful authority.¹⁵² Impressment sparked further protests in Boston, New York, and other cities in 1770, one of which resulted in the Boston Massacre.

The New England colonies were also the scene of frequent brawls, tumults, tax protests, rent strikes, tenant uprisings, attacks on inoculation centers, jailbreaks, mob attacks, and riots. Historians have disagreed over whether the general occurrence of these disturbances was purposive and ideologically motivated or represented spontaneous and anarchic expressions of underlying discontent and rage, and some writers have questioned the role of local political leaders in fomenting revolt. But few have disagreed that collective unrest was widespread, intense, and growing prior to the outbreak of armed rebellion.¹⁵³

Slavery as well came under increasing attack. Some tracts contended that the slave trade was encouraging wars and grave crimes in Africa, that enslavement was not the necessary and humane result of sparing a captive's life in war, that it was wrong to punish when no criminal act had been committed, that compulsory labor without recompense was illegal, that manstealing was a mortal sin and a serious crime, that enslavement compelled men to act cruelly in order to force compliance, and that slavery led to the separation of families and the breaking of God's commandments.¹⁵⁴

"Man is born free, and yet we see him everywhere in chains," Jean-Jacques Rousseau wrote in *The Social Contract* (1762). "Those who believe themselves the masters of others cease not to be even greater slaves than the people they govern." Rousseau rejected the notion that some men were slaves by nature. He argued that slavery was not a natural right or condition, but a forcibly imposed and maintained status. "Force made the first slaves," he wrote, "and slavery, by degrading and corrupting its victims, perpetuated their bondage."¹⁵⁵

Others challenged slavery on economic grounds. David Hume observed

that a disproportionately large ratio of slaves to freemen necessarily resulted in insecurity and harsh discipline and that it retarded population growth to such an extent that the slave system would eventually begin to consume more than it produced.¹⁵⁶ Benjamin Franklin also used economic arguments to condemn slavery, asserting that, if the colonies continued their dependence on slave labor, they would be at a fatal disadvantage in trade.¹⁵⁷ Such views about slavery received their fullest development in Adam Smith's *Wealth of Nations* (1776), which contended that slavery was flawed because it was less productive than the work done by free men.

Fiery rhetoric about slavery also found its way into the political discourse of many prominent colonists, although a good number of them were slaveholders. Richard Henry Lee and other leading Virginians urged an end to further slave imports, in part because they wanted to protect their investments, fearing that a further influx would depreciate the value of slaves they already owned, property for which they were already taxed.¹⁵⁸

John Dickinson, formerly Philadelphia's leading slaveholder, complained, "Those who are taxed without their consent . . . are slaves."¹⁵⁹ John Adams described his fellow colonists as "the most abject sort of slaves."¹⁶⁰ Washington and other leaders of the independence movement openly asserted that the British government was attempting to implement a deliberate plan to enslave the colonies and bring them under arbitrary control. The "MONSTER of a standing army," one orator claimed, was part of "a PLAN . . . systematically laid, and pursued by the British ministry, near 12 years, for enslaving America." The Stamp Act, insisted another, had been calculated to "enslave the colonies."¹⁶¹

Virginia's Patrick Henry, patriot and slaveowner, rose to advise his fellow legislators. Standing with his head bowed and his wrists crossed, as if to imitate a manacled slave, he asked: "Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery?" After a pause, he shouted: "Forbid it, Almighty God! I know not what course others may take. But as for me—give me liberty, or give me death!"¹⁶²

No wonder that Dr. Samuel Johnson asked, "How is it that we hear the loudest yelps for liberty among the drivers of Negroes?"¹⁶³

A clause of Thomas Jefferson's original draft of the Declaration of Independence included a passage that attacked the Crown for waging "cruel war against human nature itself, violating its most sacred rights of life & liberty in the persons of a distant people who never offended him, captivating & carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither." But this section was deleted at the request of South Carolina and Georgia.¹⁶⁴ The final version cited a "long train of abuses and usurpations," some of which plainly involved the

prisoner trade. They included complaints the Crown had obstructed the administration of justice, sent swarms of officers to harass the people, deprived many of the benefits of trial by jury, transported persons beyond the seas for pretended offenses, and committed other injustices. Having failed by peaceful means to gain an end to these oppressions, the "Representatives of the United States of America" solemnly declared their colonies as "Free and Independent States."