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Criminality and its Penalties in Victorian Times

By Leon Litvack

Dickens's conception of Magwitch confirms his deep interest in criminals. At the time when *Great Expectations* is set (the 1810s and 1820s), the authorities had to deal with a growing number of offenders, most of whom were convicted of theft, which was a felony, and, like homicide, rape, robbery, burglary, and arson, was punishable by death; however, as various legal reforms were instituted, recommendations were made to Parliament that some of these crimes should cease to be capital offences. An alternative was found in transportation — a scheme which resulted in the dispatch of 162,000 male and female prisoners to the convict colony of Australia between 1787 and 1868.

Transportation began with the sailing of the 'First Fleet' to New South Wales, under the command of Captain Arthur Phillip. The government of William Pitt had wished to find a suitable dumping-ground for the convicts, because, it was believed, there was no possibility of existence for them in England or Ireland. Most transportees were male, unmarried, and city-dwellers, with an average age of about 26. Eighty per cent were shipped out for thefts (such as breaking and entering, highway robbery, cattle or sheep stealing, and mugging); other offenders were convicted of grand larceny, receipt of stolen goods, swindling, impersonation, and forgery of banknotes or other documents. These serious crimes represented a threat to commerce — one of the most important principles on which the modern British state was built.

Before being shipped off to Australia, convicts generally went to the hulks, which make an appearance in the opening chapters of *Great Expectations*. They were old troop transports and men-o-war, used as floating prisons since 1776, when the birth of the United States put an end to the transportation of convicts to the New World. The masts and rigging of these ships were removed, and they were moored off the mudbanks along the Thames and the southern naval ports of England. The ships were still afloat and theoretically habitable; in reality, however, they were wet, dark, cramped, and foul-smelling.

Conditions were some of the most appalling in British penal history. Convicts could spend several months on the hulks, working ten-hour shifts ashore — often in the Royal Navy dockyards — during the day; they then returned to the rotting ships by longboat at night. They were fitted with leg irons and given rough canvas clothing to wear. It was degrading to do such hard labour, because these chain-gangs were considered grotesque 'tourist attractions'. The common view was that prisoners on the hulks were hardened criminals; as Mrs. Joe tells Pip, 'People are put in the Hulks because they murder, and because they rob, and forge, and do all sorts of bad'. Corruption was rife, and the prisoners' lives were governed by a maze of whimsical rules. Bribery was also widespread, playing a part in many aspects of daily life, and also in death: a convict's body, instead of being buried, could be sold to the dissectors' agents who visited the docks. It is a wonder that a majority of convicts survived the horrors of the hulks, the last of which was decommissioned in 1858.

Once convicts had spent some time on the hulks, they were moved to transport ships for the 15,000-mile journey to Australia. Almost all of the 825 vessels dispatched were fitted out by private contract, and none of them was purpose-built for transportation. The government laid down strict conditions for getting the human cargo to its destination; but abuses were widespread. Some of the early transports were undertaken by former slave-traders, and their treatment of the convicts on the voyages (which could last up to eight months) was almost inhuman. In some cases, the prisoners' quarters had no portholes or sidelights. The lower decks were often dark and damp; lanterns and candles were banned for fear of fire. The only fresh air many of them got was from a sail rigged so as to scoop a breeze down the hatchway; in a storm, however, when the hatches were closed, there was no fresh air below. Sometimes corpses were left to rot for a week or more. Prisoners who were thought to have broken the ship's rules were flogged or otherwise abused. Conditions were so appalling that victims of crimes often appealed on prisoners' behalves, once

they realised the terrible fate that lay in store for the convicts.

Life in the hulks and on board the transport ships gradually improved — particularly after 1815, in a period which came to be known as the ‘Golden Age’ of transportation. Supervision became more strict; the journey time was reduced to about 100 days; exercise and better accommodation were offered. Indeed by 1846 the hulks had improved to the extent that the *Illustrated London News* presented them as symbols of the utility and economy of the prison system; one such vessel, ‘The Warrior’, moored at Woolwich, boasted an infirmary, a washing-room, and a chapel.

There were essentially two things that could happen to convicts once they landed in Australia. They either went to work for the government (on, for example, chain-gangs building roads through the Blue Mountains), or they were employed under a system of assignment, in the service either of free settlers (who had willingly emigrated to Australia), or of emancipists (ex-convicts who had completed their sentences).

Magwitch’s case is in some ways typical. He was sentenced to fourteen years’ transportation for putting forged banknotes into circulation (though this was increased to transportation for life because he escaped from the hulks). He tells Pip that he had been working for a ‘master’ (as an assignee), had received his ticket-of-leave (a form of parole), and had gone to work for himself. His emancipation probably occurred in the period 1815-1820, at a time when tickets-of-leave were readily granted to deserving prisoners. He becomes ‘a sheep-farmer, stock-breeder, and other trades besides’. There is historical evidence to suggest that an ex-convict like Magwitch could have earned a great deal of money, which enabled him to become Pip’s benefactor.

As someone who was transported for life, Magwitch could, supposedly, never return to England. The fear of death which accompanies his reappearance, at the close of the second stage of Pip’s expectations, seems to have been introduced by Dickens primarily for reasons of plot. Historically, the last returned transport was hanged in 1810 (though the crime technically remained a capital offence until 1834). If Magwitch returned to England in about 1828, he need not have feared for his life. In practice very few convicts returned to Britain.

Dickens’s interest in criminals and prisons stemmed in part from his memory of his father’s incarceration in 1824 in the Marshalsea debtors’ prison. This painful boyhood experience, which led to his working in Warren’s Blacking Warehouse — for which he ‘suffered in secret’ — weighed heavily on his mind for the rest of his life. He also read many works about penology, including Wakefield’s *Facts relating to the Punishment of Death* (1831); Kingsmill’s *Prisons and Prisoners* (1849); and Hill’s *Crime: its Amount, Causes, and Remedies* (1853). Dickens read various pamphlets by the reformer Alexander Maconochie (who had been in charge of the prison on Norfolk Island), and whose ‘marks system’ he adapted as the basis for discipline in Urania Cottage — the home for homeless women he opened in 1847 in Shepherd’s Bush. He also inspected prisons and met with reformers on his travels through England, Scotland, Switzerland, France, and the United States.

Dickens had a particular interest in Newgate Prison, which he first visited in 1835. It features in *Great Expectations* as the place to which Wemmick takes Pip and is also the setting for Magwitch’s death. It was a prominent feature of the urban scene in Dickens’s day, being the most central, awesome, and historic of the prisons in the London area. Its poor classification system meant that prisoners of all ages and every shade of guilt were housed together, with little employment or instruction. Dickens’s account, entitled ‘A Visit to Newgate’, commented on the custom of forcing prisoners awaiting their execution to sit in the ‘condemned pew’, next to their coffins, during the last Sunday service before their deaths. Through the eyes of Pip, Dickens highlights the ‘ugly, disorderly, depressing scene’ which characterised Newgate Prison.

There was much discussion of criminality throughout the whole of Dickens’s lifetime. Public debate affected transportation to Australia, attitudes towards capital punishment, the penal and legal systems more generally, and the substance of fiction, including *Great Expectations*. Dickens was the epitome of

the self-made, middle-class man, aware of his position as a public figure, for whom criminality — with all its considerations of class, and its effect on prosperity and the ownership of capital — was a serious issue. He was sensitive to the physical and psychological effects of imprisonment, and used this knowledge effectively in the portrayal of Magwitch, a character who remains shrouded in mystery in one of Dickens's darkest novels.

Further Reading:

Philip Collins, *Dickens and Crime* (3rd edn., London: Macmillan, 1994).

Robert Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia 1787-1868* (London: Pan, 1988).

Leon Litvack, 'Dickens, Australia, and Magwitch Part I: The Colonial Context'; Part II: 'The Search for *le cas Magwitch*', *Dickensian* 95.1, 95.2 (1999).