THE ABOLITION OF THE CONVICT LEASE SYSTEM IN ALABAMA, 1913-1928

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A THESIS

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Almost from the first day of its organization, the penitentiary system of Alabama was a source of trouble to the state, and for years its operation was unprofitable in every sense. From the beginning, penology in Alabama labor-ed under the theory that the state's correctional institutions should be self-sufficient. In order to gain complete self-sufficiency, the state entered upon the policy of leasing the prisoners to private businesses and individuals.

During the early period of history of the penitentiary system, the prison was operated by the state under wardens of its own selection and at a heavy loss. Its management was transferred again and again to lessees, with some mitigation of the drain on the treasury, but at the expense of valuable property. Finally the state secured leases that not only provided self-sufficiency for the prison but a substantial profit to the state treasury. The financial profit accruing to the state annually from the hire of convicts to private individuals and corporations was the strongest argument in favor of maintaining the practice of leasing the convicts. Throughout the lease system the convicts appeared to have been treated with inhumanity and the prison system proved to be a failure in regard to the reformatory technique. The system was outmoded in
the light of modern penal theory and contrary to the intention of its founders, the prison system became a means of punishment more terrible than that which it was intended to modify.

This thesis endeavors to trace the efforts to abolish the convict lease system in Alabama from 1913 until the final abolition in 1928, and depends upon the Governor's messages, the Inspectors Reports, the Journals of the House and Senate, the Acts of Alabama, and especially the newspapers of the state for the available information.

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CHAPTER I
THE CONVICT LEASE SYSTEM IN THE UNITED STATES, 1900

In the history of penology in the United States, it has generally been recognized that prisoners should be kept employed as a means of promoting reform and of making penal institutions self-sustaining. While this study deals specifically with the convict lease system in Alabama, the methods utilized in the United States to provide profitable employment for prisoners greatly affected the prison problem in Alabama. Several systems of convict labor have been utilized: the lease system, contract system, piece price system, public-account system, state-use system, and the public works and ways system. These systems were in general use in the United States in 1900, and in order to understand better the convict labor systems of the nation the above named systems will be briefly described.

Under the system of labor classified as the lease system, the state entered into a contract with a lessee who agreed to receive the convict, to feed, clothe, house and guard him, to keep him at work, and to pay the state

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1. No one form of convict labor has had the approval of all prison administrators, legislators, and the public at large. For a discussion of the problems involved in convict labor see, Blake McKelvey, American Prisons, A Study in American Social History Prior to 1915, pp. 93-125; Fred E. Haynes, The American Prison System, pp. 310-334.
a specified amount for his labor. The state usually
reserved the right to make rules for the care of the con­
vict and to inspect the convict's quarters and place of
work. Usually there was no institution maintained by the
state other than a place of detention, where the convict
was held until placed in the hands of the lessee and in
which to confine convicts who were unable to work. Though
nominally subject to inspection by the state, the con­
victs were leased to private parties who used the labor
of the convicts in camps far from civilization and com­
pletely under the control of the lessee. If the convenience
and immediate financial interest of the state were of
paramount consideration in dealing with prisoners, the
easiest and cheapest way to dispose of convicts was to
turn them over to lessees. This system relieved the state
of the expense of providing prison buildings and of feed­
ing, clothing, and guarding the convicts.

Under the contract system of convict labor the state
would feed, clothe, house and guard the convict. To do
this the state would maintain an institution and a force
of guards and other employees. A contractor engaged with
the state for the labor of the convicts, which was per­
formed in or near the prison institution. The contractor

Commissioner of Labor, 1905, pp. 15-16; "Convict Labor in
1923," Bulletin of the United States Bureau of Labor
paid the state a stipulated amount per capita for the services of the convict, supplied his own raw material, and would superintend the work. The piece-price system differed from the contract system only as to superintending the work and determining the speed at which convicts must work. The state maintained an institution and would feed, clothe, and guard the convicts. The contractor supplied the raw material and paid the state an agreed amount for the work done on each piece or article manufactured by the convicts. The supervision of the work was generally performed by a prison official, although sometimes by the contractors. The officials of the prison not only maintained discipline, but dictated the quantity of work required of the convicts. Under the piece-price system the contractor financed the business and assumed all chances of profit or loss.

The lease system, the contract system, and the piece-price system were in general use in the United States before 1800. By the turn of the century, however, while these systems were still used, the public account system, the state-use system, and the public works and ways system, began to replace these systems. The public account system, so far as the convict was concerned did not differ from the piece-price system, but for the prison it was entirely

3. Ibid.
different. The state entered the field of manufacturing on its own account. It bought the raw materials, manufactured and put the products on the market, and assumed all the risk of the business. The state had complete care and control of the convicts and conducted the factory with them. The prison institution either sold the products directly or through an agent. Under the state-use system, which is still in use today, the state conducted a business of manufacture or production, as in the public account system. The use of sale of the goods produced was limited to the same institution or to the other state institutions. The principle of this system was that the state should produce articles or merchandise for its own consumption alone and should not compete directly with the business or manufactures employing free labor. Under the public works and ways system, also still in use today, the labor of the convicts was applied not to the manufacture of articles of consumption but to the construction and repair of the prison or of other public buildings, roads, parks, and permanent public structures. The operation of this system was very nearly like the state use system.

During the past one hundred sixty years these systems of convict labor have been utilized by the various states.

4. Ibid.
In the South since 1885 all these systems have been used. The use of these systems in nearly all the southern states not only met the demands of the people, but represented the political and economic organization of each state at that time. While the leasing of prisoners to private parties was not a southern invention, it was more generally used in those states. Throughout the nation, however, the lease system had grown with disfavor and many states had discarded it. By 1900, therefore, the lease system was fast disappearing. The lease system in the northern states decreased from twenty per cent to seven per cent of the convicts employed under that system between 1885 and 1904. In 1885-1886 under the contract system in the northern states, the percentage of convicts employed under that system was thirty-five per cent. In 1903-1904 the percentage of convicts employed under the contract was thirty-three per cent, a decrease of only two per cent.

5. For a discussion of the origin and development of the convict lease system in the southern states see, George W. Cable, *The Silent South, Together with the Freedman's Case in Equity and the Convict Lease System*, pp. 115-182.


The northern states therefore were discarding the lease system and adopting the public account, state-use, and the public works and ways system; where these systems employed fifty-two per cent in 1903-1904. In the southern states, however, in 1885-1886, sixty-one per cent of the productive convict labor was employed under the lease system. Although in 1903-1904 this had dropped to seventeen per cent, the contract system had gained from twelve per cent in 1885-1886, to thirty-eight per cent in 1903-1904. In 1903-1904 only two states, Mississippi and Louisiana, were not employing either the lease or the contract system. In 1885-1886, however, the public-account public works and ways, and the state use systems utilized only twenty-six per cent of the convicts; but in 1903-1904 these systems utilized forty-one per cent of the convicts employed in the southern states. Thus while the southern states were clinging to the lease and contract systems, they were nevertheless adopting more acceptable methods of convict employment.

In 1905, the lease system existed only in Alabama, Florida, Georgia, Virginia, and Wyoming. From a penological point of view these states were relegated to the rear ranks of prison management. In keeping with the reform era in the United States in the early 1900's, the other

states of the Union were adopting new and better methods for the care, custody, and employment of their prison population. The lease system, however, remained a feature of the prison organization of these five states. Alabama tolerated the system longer than the others; and, while the other states of the Union were progressively incorporating advanced theories of reform in their prison system, Alabama remained one of the most backward states in this regard. At times, the efforts to abolish the lease system in Alabama seemed an impossible task. Opposed to the lease system, however, was a growing group who would reorganize the entire penal system on modern theories of penology.
CHAPTER II

BACKGROUND OF THE LEASE SYSTEM IN ALABAMA

The history of penology in the State of Alabama dates back to the earliest days of the commonwealth, when the emphasis was on retribution rather than rehabilitation of the criminal. Justice consisted entirely of punishment and the punishment was harsh with the death penalty being inflicted for treason, murder, stealing a slave, burglary, robbery, and rape. Crimes of lesser degree were punished by the lash, branding, the pillory, imprisonment, or fine. The question of convict handling has been one of the most important social questions that the people of Alabama had to decide. From the beginning there has been a conflict between advanced thinkers and humanitarians who insisted upon the humane treatment of criminals at public expense, if necessary, and those who believed that criminals had forfeited all rights to consideration and should be handled so as not to become a financial liability to the state.

Governor John Gayle, who served from 1831 to 1835, was one of the early advocates of punishment reform. Governor Gayle was of the opinion that barbarous punishment methods were not in keeping with humanitarian ideals and recommended that the legislature abolish the whipping-post, pillory,
and branding iron. In 1836 the legislature passed an act to mitigate the severity of the penal laws. The act abolished the death penalty for white persons for burglary, robbery, arson, counterfeiting and forgery, with the punishment being fixed at imprisonment not to exceed two years and thirty-nine lashes on the bare back. The belief that convicts should be self-sustaining persisted with the founding of the penitentiary in 1839. Governor Gayle, Judge B. P. Porter, and others had to convince the people that the penitentiary would be self-supporting before they would abandon the practice of whipping and branding. By an act approved by Governor Arthur P. Bagby, the legislature appropriated $30,000 for a state penitentiary. The site selected was east of the Coosa River near the town of Wetumpka. In October, 1839, Governor Bagby laid the cornerstone for Alabama's first penitentiary, and the buildings were completed in 1841. The early prison organization provided for three inspectors, one warden, one deputy warden, one physician, one clerk, and a requisite number of overseers and turnkeys. The inspectors

2. Ibid., p. 2.
and warden were elected by vote of the two houses of the legislature and held office for two years. The clerk and physician were appointed by the inspectors but were subject to removal by the legislature.

Almost from the first day of organization, the prison was a source of trouble to the state. Unfortunately the administration of the penitentiary was unprofitable and unsatisfactory. During the first four years of its history expenditures were $31,980.69 in excess of receipts.

With the institution laboring under heavy pecuniary embarrassments, the principal ground of complaint was the failure of the penitentiary to prove self-sustaining.

Because of the desire of self-sufficiency for the penitentiary, the state entered upon the policy of leasing the convicts. On February 4, 1846, an act was approved to lease the penitentiary including buildings, convicts, machinery, and other property, for a term of six years. The act provided that the state should in no case pay the lessee anything in consideration of his taking charge of the penitentiary beyond the permission to take the profits of the labor of the convicts. Under the act the

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6. Ibid.

prison was leased to J. G. Graham for the period of 1846-
1852. The annual rental was to be $500 and the lessee
provided bond and security in the sum of $25,000. The
lessee had sole authority to direct the employment of the
prisoners within the walls, and had exclusive power of
choosing such officers, assistants, and managers as he saw
fit to employ. At the expiration of the lease, in 1852,
the penitentiary was leased again, the terms of the lease
being similar to those of 1846 and for a similar period.
Little is known of the number, treatment, health of the
convicts, condition of the buildings, or extent and charac-
ter of the machinery, during the period covered by the
leases as the manuscript records seem to have been lost.

In 1858 the penitentiary was leased again, this time
to Dr. Ambrose Burrows. After Dr. Burrows was murdered
by a convict in 1862, the state resumed control of the

8. Ibid., p. 10.

9. Code of Alabama, 1852, p. 675; Berney, op. cit.,
p. 255.

10. Governor Rufus W. Cobb, Message, 1882, Journal
of the Senate of the State of Alabama [hereinafter cited
as Senate Journal, 1882-1883, p. 111; For discussion of
the early leases of the Alabama penitentiary see Gladys
King, "History of the Alabama Convict Department," (M. A.
Fannie Ella Sapp, "The Convict Lease System in Alabama,"
(M. A. thesis, Peabody College, 1931), pp. 1-9; Berney,
op. cit., pp. 254-266.
penitentiary and did not negotiate another lease during the Civil War. During the period of the Civil War the convicts remained under the control of the state and manufactured artillery and wagon harness for the Confederate States. During the four year period of state control, from 1862-1865, the prison for the first time made a good financial showing. The warden turned over $96,631 to the state in Confederate money during these years, and drew out $40,000 in 1864, and $13,445.02 in United States currency in 1865. In 1865 the Federal forces released all convicts, but did not destroy the penitentiary and its equipment. The prison system of Alabama emerged from the Civil War in a much better condition than those of some other southern states. Nevertheless, Alabama was faced with an increasing number of vagrants and freedmen, and the financial condition of the state would not permit the construction of prisons to care for the increasing prison population. It was under these circumstances that Alabama adopted the lease system again. Governor Robert M. Patton recommended the lease for three reasons: first, as a means of relieving the crowded conditions of the prison; second, for financial relief; and third, to provide heavy labor


for unskilled laborers within the walls.

Thus the penitentiary was leased again for six years. The lease included all the machinery, implements, and tools belonging to the penitentiary. The lease was like the earlier leases in that all the convicts were hired to one firm or corporation, but differed from the earlier ones in that it permitted the working of convicts outside the prison walls. The lease was granted to Smith and McMillan, railroad builders, and provided that the lessees might abandon the lease if the next legislature failed or refused to authorize the employment of convicts on railroads or in the coal fields. The state also loaned the lessees $15,000 for six years at six per cent per annum. On December 7, 1866, the act was approved authorizing the employment of convicts upon private or public works anywhere in the state.

The lease turned out to be disastrous for the state. At the beginning of this lease the prison property inventory amounted to $19,688; but when the property was returned, the inventory was $9,050, and much of it was not in useable condition. In 1882 the bond of the loan was found


cancelled, and there is no record that the debt was ever paid. Although the official reports during this period show little more than the names of the convicts, they do reveal some appalling mortality statistics among the leased convicts: 18 per cent in 1868, 17 per cent in 1869, and 41 per cent in 1870. The total number sent to the penitentiary showed a steady decline after Radical Reconstruction began in 1867. It was less in 1873 than it has been before the war, and Negroes made up about three-fourths of the total.

In 1872 the Smith and McMillan lease expired and the state resumed control of the prison, but continued the system of hiring the convicts to contractors. The demand for convict labor grew along with the progress made in the development of the natural resources of the state, so that for the time the convicts were confined at thirteen different prisons, controlled by as many persons or companies, and situated at as many different places. During these years the convicts were hired out under contracts to coal and iron companies, plantation owners, and railroad builders. The abuses that crept into the convict

16. Ibid., p. 352.


system were caused primarily by the hiring out of the convicts to contractors and working them at different employments, with little restraint of law, and only a nominal inspection on the part of the officers representing the state.

In an effort to provide employment for the convicts and alleviate the working conditions, the state in 1873 purchased a 2,000 acre farm located near the penitentiary at Wetumpka. Because of the poor location of the farm much of the land was inundated for many months in the year, and the purchase of the farm proved unprofitable. For ten years, from 1873 to 1883, conditions in the prison system were chaotic. The working of the lease system resulted in abuses, and many of the inadequacies were exposed by Warden John H. Bankhead. At his request, Dr. John Brown Gaston, president of the Alabama Medical Association, and Dr. Jerome Cochran, state health officer, conducted an inspection of convicts working in the coal mines. Dr. Gaston presented his shocking findings to the State Medical Association and this precipitated a heated discussion in the state press.


Warden Bankhead worked out a plan which he felt would eliminate many of the abuses of the lease system. He suggested abandoning the penitentiary at Wetumpka and concentrating all convicts in a new prison at some coal mine where they could be supervised directly by the warden and physician. Realizing that such a plan would create a monopoly of convict labor, he nevertheless contended that the improved living and working conditions for the prisoners would outweigh any such consideration. Neither Governor Rufus W. Cobb nor the inspectors supported Bankhead's proposal.

The legislature of 1882-1883 considered Bankhead's proposal but failed to adopt all of his ideas. By an act of February 22, 1883, the working of convicts was more strictly regulated, and further reforms were made by the legislature in 1885. During the 1880's sentiment for prison reform began to grow and with the passing years it became stronger. The Populist party and organized labor, which was closely affiliated with it, demanded that convicts should be taken out of the mines. With the demand for reform on the one hand, the state was beginning to realize a source of income from the hire of

convicts on the other. Revenue received from this source had grown from $45,000 in 1880 to $103,332 in 1888, and in 1890 the revenue was $184,471. The objectives of the reformers were somewhat subdued in the light of the financial returns, and a majority of the tax-laden people were opposed to any change that would result in an increase in expenditures.

In 1889 "dual management" was introduced at Pratt Mines. By "dual management" the state was represented on the one hand and the Tennessee Coal and Iron Company on the other. The president of the board of inspectors, representing the State, stayed at Pratt Mines a large portion of the time. A general manager, and physicians, representing the Tennessee Coal and Iron Company, stayed at Pratt Mines all of the time. Alabama's lease system for this year was better than it had been previously. Between 1885 and 1889 some $40,000 to $50,000 had been spent by the contractors on improvements on the old prison at Pratt mines, and in building and equipping a new prison.

The convict system of Alabama embraced state convicts, county convict, and city prisoners. State convicts


included all persons with long term sentences, usually the more serious offenders, while persons convicted of misdemeanors and those with short term sentences were county convicts. While the state system was being developed, the conditions of the county convicts was found to be deplorable. The laws governing the hire of state convicts did not extend to those of the counties. Governor Thomas G. Jones actively denounced the treatment of county convicts. In 1893 a new "convict system" was created. The board of three inspectors was placed under the control of a board of managers of nine members, one from each congressional district. All convicts would be under the management and control of the convict board, and under the immediate custody and control of a warden or person in employment of the state. The act further provided that the convicts should be removed from the mines by January 1, 1895, if detriment was not done to the financial interests of the state. This legislation could have been far reaching in its results had it actively been carried out. The working of the convict system under the board of managers was found to be too cumbersome, however, and the removal of the convicts from the mines was found to be

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impossible because of the lack of adequate prison buildings and the financial interests involved. In 1895, by an act of the legislature, the board of managers was dropped and the act definitely provided for the continuance of the lease system with the conditions surrounding state and county convicts sanctioned as under the old laws.

From 1904 to 1912 the number of state convicts averaged about twenty-five hundred per year and county convicts in all counties about seven hundred. A little above eighty per cent of all were Negroes, and nearly ninety-five per cent males. All able state and county convicts had to work, and their labor was now bringing annually above $400,000 into the Alabama state treasury, and nearly $100,000 into the county treasuries. In a report of the convict department, Hugh Wilson, associate inspector of convicts, referred to the convict department as "a department of the state that does a million dollars worth of business annually, at close on to $500,000 net profits per year to the people."

33. Harrison, loc. cit., p. 1541.
From 1910 to 1914 the convicts were hired out to various contractors. The largest number in any one industry, thirteen hundred and fifty, worked in the coal pits of the Birmingham district. Three hundred were employed at saw mills, one hundred seventy-five in the turpentine camps, seventy-five in a stove foundry, and the remaining six hundred worked on the state farms and at the cotton mill erected at Speigner in 1893.

The enforced labor was sold by state and counties on slightly different plans. State convicts, supposedly the more serious offenders, were in the custody of the state at all times. In a few mines, however, during working hours the prisoners were not in the custody of the state. The wardens and guarding officers were state officials, responsible to the board of inspectors of convicts. The labor of the convicts was sold on something like a piece basis. For instance, convicts were divided into four classes on the basis of physical condition, and a definite task was assigned to each. The state, instead of receiving a uniform price per day or month for convict labor, was paid on the basis of the task. The tasks differed from mine to mine because of variations in the coal seams; but in general, men of the first class (seventy per cent of

35. Ibid., 1910-1914, pp. 6, 22, 23; Ibid., 1904-1896, p. 3.

36. Ibid., 1904-1906, p. 6; Harrison, loc. cit., p. 1541.
the total) were required to load eight tons of coal per day if they mined it themselves; second class men were tasked six tons of machine cut coal or three tons by pick; third class, four tons by machine and two tons by pick; and fourth class, two tons by machine and one ton by pick.

For the non-performance of class tasks, except under good excuse, corporal punishment could be inflicted in the form of whipping. The victim was made to lie down, and fifteen lashes over a back covered with only one garment could be, and usually were, administered. Evidently prisoners had been whipped on the bare back because Dr. J. M. Austin, state prison physician, and Hartwell Douglas, president of the convict board, recommended the abolishment of whipping the naked. The instrument used for whipping was a thick leather strap five feet long, made for the purpose, and resembling a harness tug with a handle.

The wardens and guards of state convicts were state officials but the wardens and guards of county convicts, while they had to be approved by the state board, were


38. E. Stagg Whitin, of the National Prison Labor Committee, when in Alabama discovered that women as well as men were whipped. Ibid.


40. Harrison, loc. cit., p. 1542.
employees of the companies. The companies had a direct interest in the output of each man and the well-being of the convicts was secondary. Wardens knew this, and there still existed a general feeling that state convicts, however badly they were handled, were better treated than county convicts.

Most employers were well pleased with the regularity and reliability of this labor force. Three hundred men, for instance, went to bed at night and three hundred men went to work in the morning, for three hundred ten days in the year. There were no picnics, no general laying off to attend funerals of fellow workers, and no excursions. A constant number of men reported for duty every day.

More questionable, perhaps, than the methods employed to force unpaid men to work, was the effect of the system upon outside, free labor. Almost from its inception the system was attacked on the grounds that free wages were kept down by this completely controlled labor supply that was constantly recruited from the four corners of the state. With the advent of machine mining, the old-time skill of the pick miner was no longer so essential in the soft coal beds, and fifteen hundred convicts could appreciably affect the wages of twenty thousand free men.

42. Harrison, loc. cit., p. 1546.
The system reacted against the miners' interests in another way. If it did not entirely kill unionism among the miners, it was at least a great detriment. If convicts went on a strike, they were beaten for it. If free labor had a grievance which it would make emphatic by quitting work, the convict miners kept grinding out enough coal to take the edge off their protest. In the big strike of 1908, which broke the back of unionism in the coal mines of the Birmingham district, convict labor turned out its daily quota of coal through the period. 43

The prisons at the mines in Alabama were owned by mine operators and were built primarily as work barracks, the builders being experts in neither prison planning nor construction. Critics attacked this feature of the Alabama prison system because prisons afforded no provision for segregation of different classes of prisoners. The prevailing type was a two-story T-shaped wooden dormitory building with dining hall, chapel, tailor shop, and warden's office. 44

In June, 1912, at Slope Number 12, operated by the Tennessee Coal Iron and Railroad Company, there were three hundred sixty-three convicts housed in six large sleeping rooms. Negroes and whites were separated. Thirty double

43. Ibid.

44. Ibid.; Proceedings of the Annual Congress of the National Prison Association of the United States, 1890, p. III.
beds housed the sixty convicts in each ward. Old criminals and young offenders, murderers and petty criminals mingled freely. Three hundred and sixty convicts of all sorts, loose in the darkness of the mine, received condemnation as being in no sense a school of reform but a school of crime.

The practice of leasing convicts had become very firmly entrenched in Alabama, especially for the utilization of convict labor in the mines. By this brief history of the convict lease system in Alabama there is shown the development of a profound social problem that the people by discussion and legislation would have to solve. Many Alabamians were not proud to display the limitations and deficiencies of the Alabama prison system. Throughout the long struggle to abandon the lease system, it became apparent that the system was devoid of adequate medical and hospital facilities, religious environment and vocational training, and was a failure as a reformatory institution. As in most reform movements, the public-spirited citizens who sought to safeguard the interests of the prisoners were in a minority. In the period from 1913 until the final abandonment of the system in 1928, however, the people of Alabama were rudely awakened by the successive exposures of the corruption and brutality of the prison system.

CHAPTER III

ARGUMENTS FOR AND AGAINST THE LEASE SYSTEM

From time to time the controversy over the convict lease system reached militant proportions with members of the press and civic organizations entering the dispute with enthusiasm. Since the time that Alabama began the policy of leasing convicts, a few citizens and public officials had found the system outmoded in the light of advanced legislation. By 1913, however, more and more of the people had become convinced that the system should no longer be tolerated. During the long controversy over convict leasing arguments were presented by those advocating the system and by those unalterably opposed to the continuance of the practice.

In July, 1913, an organization was created at a meeting in Birmingham, for the purpose of destroying the convict lease system in Alabama. It christened itself the Alabama Convict Improvement Association. The organization solidly endorsed the policy of taking the convicts out of the mines and working them on the roads of the state. J. A. Rountree of Birmingham and John Craft of Mobile, good road advocates, were instrumental in putting the organization on record as favoring convict labor on

1. Birmingham Age-Herald, July 1, 1913.
the roads. Committees were appointed and instructed to draw up a bill for presentation to the legislature in its next session, and to conduct a campaign for the purpose of arousing sentiment against working convicts in the mines. Frank S. White of Birmingham condemned this practice as more outrageous than African slavery. The organization also made plans to endorse a gubernatorial candidate favorable to the idea of destroying the lease system.

At a joint convention of the Alabama Convict Improvement Association and the Alabama Good Roads Association held in Mobile, November 20-22, 1913, a program to encourage civic workers everywhere to give thought and study to plans for convict improvement was endorsed. The United States Good Roads Congress in its session in St. Louis in 1913 adopted a resolution to put convicts on the public highways as a means of better morals, reformation of convicts, improved roads, and a higher order of intelligent citizenship. Senator John H. Bankhead was president of that organization.

The Alabama Good Roads Association while meeting in Birmingham in January, 1914, adopted a resolution to make

2. Ibid.
3. Mobile Register, November 9, 1913.
an active canvass to elect members of the legislature who were favorable to good roads and good roads legislation.

Quite a difference of opinion existed as to the actual value of working convicts on the highways. It was contended by some that the necessary expense for guards, together with the cost of maintenance of the convicts, would exceed the price of free labor necessary to perform the same work. W. S. Keller, highway engineer of the state highway department, said that the proof of successful and economical handling of county convicts on the roads without shackles and in the most healthful and sanitary way was demonstrated in Alabama by Jefferson, Bullock, and Houston counties. George H. Clark, county highway engineer, in an address before the Good Roads convention, declared that convicts on the roads of Jefferson County had been an unqualified success. Dr. R. F. Lovelady, President of the Board of Revenue of Jefferson County, stated that the system of working the county convicts on the roads was succeeding beyond the hope of the board.

During the entire period of controversy the most powerful argument for taking the convicts out of the

mines was the inhumane treatment received by convicts. The press and civic organizations capitalized on this argument in stimulating sentiment for the removal. A Mobile Register editorial stated:

"The system stinks to high heaven. It casts a stain of criminality upon every one of us who suffers it to continue without reproach, and even without strongest effort to remove it. The Register is on record against it; and is proud to say that never has an occasion passed that was not used to pronounce judgment against it. It is not economically sound as a system; it does not produce in actual profit what is claimed for it; it ignores the principle that modern penologists recognize as of first importance to society, namely, the states duty to try to institute reform of criminal desposition and habit—as much in protection of peaceful and law abiding inhabitants as for the benefit of the criminals themselves; it is unfair to free labor; it constitutes a partnership of the state and mine operators to overawe and control free labor. In short, it is indefensible, and the legislature will do its best day's work when it gets rid of it. In the name of all that is just and humane, let it be done now!"

Isadore Shapiro, President of the Alabama Committee on Prisons, in an address to the American Prison Association in New Orleans, pointed out some of Alabama's deficiencies when he said:

Alabama might be catalogued the gang State—she is sans the workable parole, sans the suspended sentence, sans the indeterminate sentence, sans probation, sans awarding the dependents of convicts a portion of their

9. Mobile Register, July 22, 1885. For a good discussion of the abuses of the convict lease system see William J. Martin, Has The State A Soul? A Discussion of the Present Method of Employing Convicts, pp. 1-86.
earnings, sans vocational training, sans prison schools—but not sans the lease system—the damnable system which sells human beings at auction to the highest bidder.... Alabama's lease system is her unholiest and most indefensible shame. Men are worked in coal mines and lumber and turpentine camps for private gain under the most horrible conditions. It is the most hellish sort of human exploitation. It is conducting a prison system for revenue only.10

The fact that twenty-nine per cent of the deaths among leased convicts was caused by accidents was an indictment against the system. Although coal mining was a hazardous occupation and accidents were frequent, neither the private operator nor the state was legally responsible for damages. The mines were also breeding places for tuberculosis, veritable incubators for the spread of the disease. Eighty per cent of all tuberculosis patients in the entire convive department came from the mines, and ninety per cent of all the cripples.11 According to Dr. R. E. Cunningham, state prison physician from 1881-1903, free miners did not have any more tuberculosis than other free people. Dr. Cunningham placed the blame for the high per cent age of tuberculosis among the convicts on overcrowding, aggregation, filthy, imper-


fect feeding, and overwork. In regard to the high percentage of cripples, the anti-lesion forces placed the blame on the practice of sending inexperienced young men and boys into this dangerous employment, thereby subjecting them to accidents resulting from sliding rocks and gas explosions.

The modes of punishing convicts constituted another argument against the system. As pointed out in the previous chapter convicts could be whipped. In July, 1922, Governor Kilby abolished the lash, but the use of it was returned by Governor Brandon after a mutiny at Bannister mines. Not only the lash was authorized but the "dog house," a coffin-like box with just enough space to accommodate a man standing erect, was used. The ingenious "dog house" was completely closed except for a hole two inches in diameter at nose level. When placed in the sun the temperature inside became unbearable, and in a few hours a man's body would swell and bleed. The punishment record ledger shows that four hundred prisoners served four thousand hours in the "dog house" during the fiscal year 1925-1926.


Free labor opposed the lease system because it reacted against unionism. President G. G. Crawford of the Tennessee Coal, Iron and Railroad Company said that the employment of convict labor undoubtedly blocked unionism. "It furnishes us," he said, "a nucleus of labor and of coal output." He was broad-minded enough to add, "And I really don't think we ought to have this club over the unions." The Farmers' Union in their convention in Birmingham, in August, 1914, adopted resolutions urging that the convicts be taken out of the mines; and the Alabama State Federation of Labor in its convention in Mobile, April, 1915, also adopted resolutions calling for the employment of convicts on the public roads and highways. Coal operators who did not use convict labor also favored the abolition of the system. Frank Nelson of the Alabama Mining Institute said there was no community of interest between the companies using convict labor and the remaining membership of the Mining Institute. The United Mine Workers of America eagerly awaited the removal of the convicts from the mines in order to invade the Alabama coal fields for the purpose of organizing Alabama miners.

20. Ibid., January 27, 1927.
Much agitation in regard to the lease system was stimulated in Jefferson County where many of the convicts worked in the mines. During the year 1914 there were employed in the mines in the Birmingham district one thousand four hundred convicts. The practice was condemned because they displaced good citizens to the amount of two thousand free miners, who would average in wages two dollars per day, or $616,000 a year; by allowing five to a family, the convicts reduced the population of Jefferson County by ten thousand. These people would benefit the furniture dealers, grocery merchants, and department stores, and would enrich the county millions of dollars in trade each year by putting their earnings into circulation.

State women prisoners were worked at the Speigner cotton mill and the state farm and received much better treatment than county women prisoners. Like the county male convicts the women were leased to contractors and this was a source of criticism. As an example, in 1917 the County of Escambia, near Mobile, formally leased for a term of two years all its women prisoners, both white

22. Ibid.
and colored, to W. C. Barribeau, at the price of fifteen cents a day "per head."

Profits to the state afforded one of the most powerful arguments for the working of convicts in the mines. Anti-leasing forces contended that the system was not as remunerative as believed. According to W. C. Davis, member of the legislature from Walker County, it was a mistaken idea that convict leasing brought into the Alabama treasury each year $1,000,000. "There is no question but that a large amount of money is received," he said, "but in support of the department it is quickly liquidated." In regard to the financial profit accruing to the state, Hooper Alexander, speaking before the Southern Sociological Congress, in Atlanta, April, 1913 stated:

Rightly considered, the convict lease is not a problem in penology, but a problem in economics—simply one of the many manifestations of the ancient struggle between feudalism and democracy. It has always been a favorite fallacy of 'practical' men that the greater problems of government can best be solved by farming out its duties to private contract. The fools and the cowards always believe it because it is


24. Mobile Register, July 2, 1913.
the line of least resistance; the greedy and
the bold pretend to believe it because it opens
to them the door of opportunity.25

The convict department in Alabama was not only self-
sufficient but afforded a profit to the state. For example,
in 1914 the total revenue for the state was $6,607,001, and
the total revenue for the convict department was $1,162,493,
seventeen per cent of the total revenue to the state.
In 1919, the total state revenue was $8,553,751, and the
total revenue of the convict department was $1,882,099,
nineteen per cent of the total revenue of the state.
In 1923, the total revenue of the state was $18,692,362,
and the total revenue of the convict department was
$2,620,690, fifteen per cent of the total revenue of the
state.

The figures presented as a result of the hire of con-
 victs in the mines made an impressive showing. For the

25. Hooper, Alexander, "The Convict Lease and The
System of Contract Labor--Their Place in History," South
Mobilizing For Social Service, Addresses Delivered at the
Southern Sociological Congress held at Atlanta, Georgia,
April, 1919, p. 101.

26. Annual Report of the Auditor of the State of
Alabama /hereinafter cited as Auditor's Report/, For the
Fiscal Year Ending September 30, 1914 to the Governor,
pp. 55-57. Per cent computed from figures taken from
these pages.

27. Ibid., 1919, pp. 14, 22. Per cent computed from
figures taken from these pages.

28. Ibid., 1923, pp. 21, 25. Per cent computed from
figures taken from these pages.
period September 1, 1910, to September 1, 1914, the total net profit from the hire of convicts was $2,188,604. For the same period the profit from the hire of convicts to the mines was $1,325,182, with this amount constituting sixty per cent of the total net profit from the hire of convicts. For the period of September 1, 1914, to August 31, 1918, the total net profit from the hire of convicts was $2,635,666. The net profit resulting from the hire of convicts to the mines was $2,059,963, seventy-eight per cent of the total net profit. For the period March 4, 1919, to September 30, 1922, the total net profit from the hire of convicts was $3,671,210, and the total profit from the hire of convicts to the mines was $3,357,354, ninety-one per cent of the total profit. For the period of October 1, 1922, to September 30, 1926, the state had eleven hundred fifty prisoners employed in the coal mines with an annual output of one and one-half million tons of coal at an estimated market value of three million five hundred thousand dollars. For the four year period the profit of the prison system was $3,269,098. The profit

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29. Inspectors Report, 1910-1914, pp. 41, 57, 58. Percentages computed from figures taken from these pages.

30. Ibid., 1914-1918, pp. 2, 32, 33, 40, 41. Percent computed from figures taken from these pages.


32. Quadrennial Report of the State Board of Administration to the Governor, 1922-1926, p. 44.
resulting from the convict labor in the mines was $32,590,533, seventy-nine per cent of the total profit. "This is a profit neither equaled nor even remotely approached by any other state."

From these figures it is evident that the labor of the convicts was an important factor in the amount of net profit the state derived from the labor of its convicts. With the prison problem closely associated with the problem of state finances, the officials of the state hesitated to abolish the lease system that netted the state so great a profit. Dan G. Trawick, chief clerk of the board of convict inspectors, took the defense of the state when he said:

Any convict who has worked at the various state camps, prefers to work in the mines instead of any other class of labor....The argument that in coal mining they come in competition with free labor seems far fetched for the reason that in road work or any other labor the same competition exists.

Practically the only argument the advocates of the lease system could offer was the financial profit. On occasions the defenders of the system argued that the state did not turn the convicts over to the coal companies, but that the convicts remained under the care and supervision of the state. Nevertheless, sworn evidence

33. Ibid., pp. 116-117.
at legislative hearings disclosed excessive whipping for trivial infractions, long hours of drudgery, the performance of the severest tasks, and housing conditions of unspeakable degradation. The anti-leasing forces replied with the question,

What does it matter whether coal operators or the state authorities are nominally in control of the convicts, if these men are mistreated?36

The idea of making a political and financial profit out of another man's misfortune came to be of great importance to the social conscience of the people of Alabama. Complacency began to ebb in spite of the fact that a large amount of money would be necessary to change the prison system, and notwithstanding the arguments of the advocates, the anti-leasing forces were convinced that the system was wrong in all phases and were willing to wage a long struggle before the final victory.

36. Mobile Register, May 10, 1926.
CHAPTER IV

THE CONVICT DEPARTMENT UNDER FIRE, 1911-1914

The convict department incurred severe criticism during the administration of Governor Emmett O'Neal when Theo Lacy, chief clerk of the state convict department and custodian of its funds, disappeared in March, 1913, with his accounts more than $150,000 out of balance and with money estimated at $200,000 in his possession.

The "Lacy Steal" served to focus attention on the deficiencies of the penal system and brought about severe condemnation throughout the state. The adverse criticism prompted Governor O'Neal to issue a sworn statement of the history of the convict department during his administration.

Immediately after the disappearance of Lacy, Governor O'Neal ordered a thorough investigation of every branch of the convict department. Discrepancies in accounts dated back to June, 1911, and the investigation revealed that the cash Lacy carried with him was obtained from Montgomery banks on checks signed by James C. Oakley, President of

1. The Convict Department, Its Management, Sworn Statement by Governor Emmet O'Neal, Governor of Alabama, 1913 (hereinafter cited as O'Neal Statement), p. 30.

2. Ibid.
the Board of Inspectors of Convicts. Under the law at that time neither the president of the state convict board nor any other member of the convict department was required to make bond. State attorneys, however, filed writs of attachment on all property of Oakley as a precautionary measure to protect the state's interest. In an effort to solve this severe discrepancy, every transaction of James G. Oakley and other members of the state convict board, every bill and document passing through their hands, the dealings of this department with banks and business houses of Alabama and other states were examined in a public investigation beginning in Montgomery on March 18, 1913.

The investigation brought out the fact that former Governor E. B. Comer on February 23, 1907, approved a bill providing for a change in the method of handling the funds passing through the state convict department. Through the provisions of the measure all money coming into the department was handled by the president of the state convict board, who was required to make quarterly settlements with the state auditor. Under the former law contractors


4. Ibid., March 15, 1913.

5. [Quotations not provided]

paying money to the state were required to make direct settlement within ten days after receiving their bills, and the money was certified at once into the state treasury. The convict board handled no money whatever resulting from convict hire. The duty of the convict board was merely to render contractors an account showing the amount due; settlement was made with the auditor. Through the provisions of the 1907 law with quarterly settlements and the handling of money by the convict board, discrepancies could arise in the interim before being discovered by the state auditor.

As a result of the investigation Oakley was arrested and charged with embezzlement of nearly $100,000. Immediately after the arrest Governor O'Neal announced that he had removed Oakley from office and that John D. McNeel, secretary to the Governor, had temporarily taken charge of the convict department. The arrest of Oakley was made as a result of tracing checks payable to him by Goodin Reid and company of Cincinnati. These checks were sent to Oakley as president of the state convict board during 1911 and 1912, and their absence from the records was the first intimation to the examiners that something was wrong in that branch of the state government.

The investigation led to further accusations against the convict department. The committee examined the contracts between the convict board and hirers of state convicts. Lax management and carelessness in handling the state's interest were brought out, along with charges of misfeasance and malfeasance in executing contracts for the hire of prisoners. Particularly questionable was a contract which transferred four hundred convicts from the lumber camps to the mines in an effort to bring in more revenue. The charge led Governor O'Neal to issue a statement in which he attempted to justify his position in connection with the contract.

According to Governor O'Neal, Oakley, as president of the board, took the position that the revenues of the department might be largely increased by taking from the lumber camps in south Alabama the convicts employed there and concentrating them in the mining camps in the Birmingham district. He argued that by the concentration of the convicts the expense of maintenance would be very greatly decreased, sanitary conditions improved, and revenues increased. There were a large number of convicts at that time employed by various lumber camps, and at every camp the state had to maintain a warden, guards, and physician,

11. O'Neal Statement, p. 43.
12. Ibid.
and all of these reduced the net earnings of the state. Oakley wrote a letter to the various contractors stating that their contracts would be cancelled in November, 1911. He then arranged for the hire of about four hundred convicts to the Pratt Consolidated Coal Company at Banner mines and the officials of that company offered to pay the state sixty-five cents a ton for washed coal, the state on its part to furnish certain tools, powder, explosives, and to maintain the convicts. The contract was approved to begin on November 15, 1911, and to terminate November 15, 1916.

Governor O'Neal investigated the contract and found it to be the best the state could secure. The convicts, however, were not transferred from the turpentine and lumber camps. Most of the convicts transferred to the Banner mines had been leased by the Tennessee Coal, Iron and Railroad Company. Oakley and others informed the governor that the seam of coal being worked by the Tennessee Company was only about three or four feet thick, that men were forced to mine the coal with picks and in a stooped position, and that the difficult work rapidly exhausted the strength and vigor of the convicts so employed. They

13. Ibid., p. 44.
15. Ibid., pp. 50-51.
cited as advantages in the transfer to the Banner mine the
fact that the seam of coal at that mine was six or seven
feet, that the men could work standing up, and that most
of the coal could be taken down by the use of machinery,
thereby securing a very much larger output per man.

The Tennessee Company complained that they had been
mistreated in not being allowed to renew their contract.
E. H. Coxe, former general superintendent of the Tennessee
Company coal mines, testified before the committee that
he was informed by Oakley that the miners would not be
taken from the Tennessee Company to start work for Banner.

At a later date, however, Coxe was informed that it would
be impossible to renew the contract as the lumber and tur-
pentine contractors had "raised such an uproar" that the
governor had decided to allow them to continue working
the convicts. Coxe was further informed that with the
Banner contract made there would be no convicts for the
Tennessee Company. The former Tennessee Company official
pointed out that his company wanted to make a contract for
an entire year before the Banner contract had been made.

17. O'Neal Statement, p. 51; Montgomery Advertiser,
March 29, 1913.
19. Ibid.
20. O'Neal Statement, p. 51; Montgomery Advertiser,
March 29, 1913.
Governor O'Neal, however, was under the impression that the Tennessee Company did not care to renew their contract.

The investigation revealed that the scales at the Banner mines were set twenty per cent under weight, thus cutting the state's return. C. H. Nesbit, chief mine inspector for the state, told the committee that the scales at the Banner mines were out of balance, and it was evident they had been purposely changed. In reply to this charge, G. D. McCormack, president of Pratt Consolidated, declared that the mine scales could in no way affect the Pratt Consolidated and its relations with the state; and, that they were used merely to weigh coal loaded by the individual convicts to ascertain whether they had performed their tasks.

The Banner mine contract remained in the limelight more than any other contractual agreement ever entered into by the Alabama convict board. Further charges that the state lost money by making the contract were denied by the officials of the state and Pratt Consolidated. President McCormack declared that the contract was the most advantageous the state had ever entered into and

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22. Governor's Message, p. 36.
23. O'Neal Statement, p. 22; Montgomery Advertiser, April 12, 1913.
ought to net the state $46.30 per man per month. When confronted with the fact that the state had realized little profit from the contract, McConnell further pointed out that the year 1911 could not be taken as basic because production costs considerably increased that year due to the disastrous explosion at Banner mines on April 8, 1911. Nor was the year 1912 any more satisfactory, because the company was paying out a large sum of money monthly for the installation of new machinery.

More convict department scandal arose when the committee found that more than $22,000 worth of goods sold by the state cotton mill at Speigner were not credited on the books of the state convict department during the Oakley administration. These items dated back to June, 1911, and

25. Ibid., March 31, 1913.

26. On April 8, 1911, one hundred twenty-three Negro convicts working in the Banner mine were instantly killed by an explosion. Seventy-two of the convicts were from Jefferson County, and twenty-one out of the seventy-two, or thirty per cent, were convicted of offences so minor that their sentences, aside from costs, did not exceed twenty days. They were mainly for carrying concealed weapons, gaming, assault, vagrancy, or violating the prohibition law. Five others were serving sentences of thirty days, and one man was within three days of his release when he was killed. Another had been convicted only five days before the explosion. This incident caused a great deal of criticism throughout the state against the prison system. Ibid.; Shelby M. Harrison, "A Cash-Nexus For Crime," The Survey, XXII (January, 1912), p. 1541.

27. Montgomery Advertiser, March 31, 1913.
nearly all shipments were made to Goodin Reid and Company of Cincinnati. Also convicts received inhumane treatment of a revolting nature at the Henderson Lumber Camp at Shreve, according to the testimony of A. B. Lindsay, a former guard. He stated that forty-four convicts were whipped in one day, and three more were slated for punishment; but the man doing the whipping became exhausted and was not able to complete his task.

The probe revealed that too many convicts were employed in serving the other prisoners and officials in nearly every camp in the state. Salaries of officials were excessive in many cases. Hartwell Douglas of Montgomery, who was appointed by Governor O'Neal as president of the convict board, pointed out the expenses of the department could be cut down to such an extent that the state would save about $10,000 a year.

Charges against the convict department continued throughout 1913. Final figures compiled by Dan G. Trywic, chief clerk of the board, showed that the actual shortage in the bureau resulting from the alleged peculations of Theo Lacy and James G. Oakley amounted to

28. O'Neal Statement, pp. 94-97; Montgomery Advertiser, April 6, 1913.
29. Montgomery Advertiser, April 17, 1913.
30. Governor's Message, p. 39; Montgomery Advertiser, April 5, 1913.
The Governor authorized a reward of $5,000 for the capture of Lacy, and supplemented the aid of the Burns Detective Agency with the chiefs of police in Birmingham and Montgomery and a number of sheriffs in other counties. Communications with the State Department at Washington were also under way to bring to the state's aid the diplomatic services in Spanish and British Honduras where it was rumored Lacy had fled.

Lacy finally surrendered after remaining at large for more than ten months and after eluding the detectives placed on his trail by Governor O'Neal. He walked into the Montgomery County Jail and gave himself up on January 30, 1914. At this time both Oakley and Lacy were re-indicted by the grand jury of Montgomery County. On March 8, 1914, Lacy was sentenced to serve a minimum of ten years in the penitentiary, and on December 6, 1914, he was sentenced to serve six years in the penitentiary, a total of sixteen years. In the proceedings Lacy charged that Governor O'Neal derived a $27,000 "slice" of the convict money. The Montgomery Advertiser regarded Lacy's statement as "so

31. Montgomery Advertiser, April 22, 1913.
34. Montgomery Advertiser, March 8, December 6, 1914.
vicious and so palpably false" that they refused to publish it at the time. No judicial body ever took cognizance of Lacy's charge and in November, 1921, Lacy admitted these charges were false.

Oakley was indicted on several charges of embezzling state funds. On March 14, 1914, he was declared not guilty on one indictment. He was subsequently tried in Columbiana, in Shelby County, on charge of embezzling $3,500 of state funds. The jury acquitted Oakley despite the fact that Judge A. K. Alston gave an affirmative charge for the state, and not one material witness was introduced to testify for the defense. Governor O'Neal, believing that some of the jury had been improperly influenced, requested the circuit judge to call a special term of his court and investigate the charge. As a result, three persons were fined and imprisoned for contempt of court in improperly approaching and seeking to influence the jury in favor of Oakley, and one indictment was returned for bribery.

36. Montgomery Advertiser, November 7, 1921.
37. Ibid.
38. Ibid., March 15, 1914.
39. Ibid., April 8, 1914.
40. Governor's Message, p. 40; Montgomery Advertiser, April 10, 1914.
41. Governor's Message, p. 10.
The Governor firmly believed that Lacy was the "weak, pliant tool of others who conceived and carried out the conspiracy." He urged that the prosecution be continued until every person who was a party to the crime had been punished. Oakley was never imprisoned on any charge against him. Lacy, however, served his sentence and with time deducted for good behavior was released in 1926. After a lapse of more than twenty years the case of Lacy was finally brought to a close when Governor B. M. Miller granted him a pardon with the restoration of all civil and political rights. The Oakley-Lacy defalcation not only brought reproach upon the convict department throughout the state, but greatly increased the sentiment in favor of a complete reworking of the prison system. One editorial condemned the convict system by declaring:

It has constantly been a Pandora box of moral, financial, legislative and political evils. May it not be that the just God Almighty has constantly been visiting upon the people of this state retributive justice for their blindness and selfishness in making

42. Ibid., pp. 40-41.
43. Ibid.
44. Interview with Miss Frances M. Hails, June 8, 1949.
45. Montgomery Advertiser, December 11, 1934.
46. Ibid.
the first end in their convict system the production of revenue.47

Harry Pillans, commissioner of the City of Mobile condemned the system when he said,

It is brutal and unthinkable to handle convicts as Alabama and Russia handle them whether sold into slavery or held at the penitentiary.... The sale of galley slaves, particularly with a legalized authority to flog and crush the spirits of the prisoners, is a thing intolerable among so highly civilized people of the state of Alabama.48

During the years 1913 and 1914 the convict department received a great deal of criticism and publicity. Thoughtful people in various sections of the state questioned the validly of the Alabama prison system and with the next legislature concerted efforts were made to assure a satisfactory change in the system.

47. Birmingham News quoted in Montgomery Advertiser, March 28, 1913.

48. Mobile Register, November 9, 1915.
CHAPTE R V

EFFORTS TO ABOLISH THE LEASE SYSTEM IN
THE 1915 LEGISLATURE

With the events of the O'Neal administration still fresh in mind, the press and civic organizations made plans to secure a change in the prison system. The Alabama Good Roads Association, meeting in Birmingham in January, 1914, adopted a resolution for an active campaign to elect legislative members favorable to good roads and good roads legislation. The organization further resolved,

That the Governor of Alabama and state prison officials not take to long term leases or contracts for convict labor until the people of Alabama vote on a constitutional amendment permitting the use of convicts on the public highways.1

The association sent over three hundred letters to candidates for the House and Senate asking their views on the convict question, and every reply was favorable to abolishing the lease system. The written pledges of over two-thirds of the members elected were further secured.2

John Craft, president of the association, wrote E. B. Comer, Charles Henderson, John Wallace, W. D. Sneed, and R. F. Kolb, candidates for governor in the Democratic primary of April, 1914, asking them to express their views

on abolishing the lease system and working the convicts on the roads. Each one wrote letters endorsing the movement and most heartily agreed to exert influence in carrying out the policies of the association. According to a poll conducted by the Birmingham Age-Herald, the legislators from Jefferson County unanimously favored removing the convicts from the mines and placing them on the public roads. The farmers of the state also took an active part in Birmingham in August, 1914, adopted resolutions urging the working of all convicts on the public roads.

At the opening of the Alabama Legislature in January, 1915, Representative W. C. Davis of Jasper introduced a bill to prevent the working of state and county convicts in mines, turpentine camps, lumber camps, and all other private employment under lease or contract and provided for a referendum thereon in the general election of 1916. The Davis bill was introduced just before the legislative recess, but was carried over until the legislature reconvened in July, 1915. Also at this session of the legislature a committee was appointed under a joint resolution

3. Ibid.


of both houses to investigate the convict department. The committee was to sit during the recess and make its report to the July session. It consisted of Henry P. Merritt, chairman, J. W. Green, John R. McCain, George H. Smith, J. T. Denson, W. S. Welch, John B. Ward, and J. M. Bonner. The committee made a thorough investigation of the convict department, but would not reveal any of its findings prior to the opening of the July legislative session. Much curiosity was aroused as to the report the committee would make.

In anticipation of the July session the City of Montgomery was overcrowded with legislators, lobbyists, ex-grinders, and spectators who flocked to the capitol to watch the fight for convict legislation. Frank S. White and Robert Moulthrop, leaders of the movement to take the convicts from the mines and place them on the public roads, agreed to hold a meeting of the Alabama Convict Improvement Association in Montgomery, July 13, 1915, the day the legislature was to reconvene. The meeting was scheduled for this time because many of the members of the legislature were also members of the association, and

others in the House and Senate expressed their willingness to co-operate with the purposes of the association. Julia Tutwiler, Alabama's famous educator and prison reformer, endorsed the project of the Alabama Convict Improvement Association to take the convicts from the mines.

When the legislature reconvened on July 13, 1915, the committee report created a sensation. It clearly showed that Alabama's system of contracting the labor of convicts was a reproach to the state. A portion of the report of the committee, depicting conditions under which convicts were worked follows:

This subject was approached with an open mind. After consideration we have been forced to the conclusion that the convict lease system of Alabama is a relic of barbarism, a species of human slavery, a crime against humanity. We do not advocate the rempering of prisoners, and we are not seeking to prepare for them a bed of roses. They should be punished severely; they should be made to work; their fate should be an example to others. We have no legal or moral right after they are sentenced to add thereto 'cruel and unusual punishment.' A sentence to hard labor should not impliedly include a deprivation of nourishment, and absence of God's sunlight, the breaking of bones, the maiming of limbs, the disfigurement of persons, the loss of life itself. Lessees should not have the authority after jury and judge have acted, to add punishment which no court in the first instance would have imposed.

Farmers' sons, tillers of the soil, bred-in-the bone to open life; mountaineers, lovers of nature, used to God's country, we found them in the bowels of the earth, going in hours before

the sun rose and coming out hours after it had set. The imposition of tasks from ten to fourteen tons of coal a day required, and from one to four tons added to guard against rock in the coal, the enforcement of these tasks by brutal treatment, so brutal in some instances brought to the committees attention, the skin was literally beaten from the back, causing scars that will be carried to the grave, ill-prepared and insufficient food, their, burial in roughly constructed boxes made from lumber taken from old houses, at a cost not exceeding $2.50 a funeral, are all illustrations of man's inhumanity to man.

It may be said that we mention exceptional cases. We found them of general occurrence. We know these conditions exist because we saw them and have had evidence of them. Instances could be multiplied except for lack of space in this report.

Under normal conditions the convict would not perform average work, yet we find under this driving slavery system, where the free miner mines two tons, the convict produces four. The convict should not be allowed to choose his work, but without experience, knowledge, aptitude or training, he should not be forced to take his life in his hands by engaging in labor dangerous even to those who are trained and experienced in such work, on account of falling rocks, gas and dust explosions.

Our courts have decided that no one can contract against his own negligence and where the convict is working under control of the lessee the latter is liable for injuries received through his negligence or wanton or willful acts. We find that under the late leases of the State, they are so worded that the convict is under the control of the State and when maimed or injured has no remedy, however great may be the negligence, or however, wanton or willful may be the act causing his injury. The State has become not only a partner, but also a protector of these iniquities.

The system is wrong. It is indefensible. The more one studies it the greater his horror; but as dark as this phase of the picture it does not compare with the more dangerous feature of setting a prisoner to a task of this kind because of one mistake, and have him come out after years with a bitter enmity and hatred toward mankind. This is the class of man most dangerous to society. He cares for nothing now. He has undergone the most excruciating pain, the hardest toil, the deepest
humiliation. He has been driven like the beasts of the field by heartless task masters. Instead of society in the form of laws having protected herself from one considered an offender, she has multiplied and turned loose upon her own head the danger she is seeking to avoid.

It has been too much the policy of this state to look upon the commercial side of convict life. Each successive administration has done all in its power to increase the earnings of the convict department. The humanitarian side of the question has been entirely lost sight of. We believe however that the Convict system now in vogue in Alabama has not been a success for the State, even from the commercial standpoint. The last annual report of the Board showed earnings of something over three hundred thousand dollars, but there are many items of expense which properly should be charged against the system which do not appear. The average life of a convict sentenced to work in the mines is seven years. The effect of the system is to make by the process of death, long-term convicts into short-term ones.

It is unfair competition to employers of free labor, and to free labor. It has been brought to our attention that the State of Alabama under recent leases receives sixty-five cents a ton for a 'lock and key job.' It costs the employers of free labor, mining coal under the same conditions, from ninety cents to a dollar and five cents a ton. The result has been that at times of depression like the present the users of convict labor have been able to snap up the contracts for coal at a price less than the employers of free labor can make the same for. We therefore find the convict coal mines operating on full time, at full capacity, with the convict driven to the task of from ten to twelve times a day, while the mines of free labor employers are operating at a loss only two or three days a week.

It will probably be said that the State cannot afford to lose the income derived from the lease system; that we should attempt to remedy conditions, thereby retaining this much needed revenue. It is not right to say that we cannot afford the financial loss. This had been the curse of the
system long enough. It is a cancer that should be cut out of Alabama's body politic.12

The committee proposed three bills on the convict question. The first declared it unlawful to work convicts by lease or hire to any private person, firm, or corporation, effective on January 1, 1918. The second bill created a state prison commission in lieu of the convict board. This commission would have all the powers and duties of the existing board as well as that of the state prison inspector. It would have complete supervision over convicts, and also supervision over the highways. The bill further provided that one member of the commission be an expert highway engineer. The third bill proposed to place the able bodied convicts at the disposal of the several counties on a population basis for road work.

The report of the committee stimulated protests throughout the state. In regard to the proposals of the legislative committee, the executive committee of the Alabama Convict Improvement Association expressed the opinion that they could see no reason for waiting until 1918 for the new order to go into effect if conditions


were as bad as the committee said they were. The Mobile Register and the Birmingham Ledger expressed similar opinions. As a result of the committee report, an investigation was held by the House committee on penitentiaries and criminal administration to probe into the conditions of the prison system.

W. C. Davis of Jasper, author of the bill to end the lease system, delivered an excoriating address before the committee and urged the passage of his bill. At this hearing G. D. McCormack, President of Pratt Consolidated Coal Company, and John H. Bankhead, Jr., attorney for that company, opposed the bill. McCormack admitted that the prevention of labor organizations in mines by the use of convict labor might influence the action of mine owners and operators in their opposition to the abolition of the convict lease system.

Milton H. Fies told the committee of his bitter experience as superintendent for the state at the Banner mines. Fies resigned after six months because of the pressure of corrupt politicians and the extremely bad conditions.

conditions in the mine. According to Fies, the convicts went to work from five to six in the morning and over half of them stayed in the mines until after eight at night. He also cited an instance where the pit boss had knocked down a convict with a wrench and shot at him.

W. C. Davis, appearing before the committee again, introduced evidence to prove that as a result of the lease system the cost of mining coal in the Birmingham district increased thirty per cent per ton. At the final hearing of the committee the corporations working the convicts of the state were represented as well as members of labor unions, operators who did not employ convicts, and members of the Alabama Convict Improvement Association.

By a vote of eight to six the House committee agreed to report favorably on the joint committee's recommendation providing for the abrogation of all convict lease contracts on January 1, 1913. G. B. McCormack charged the committee with unfairness and prejudice on the question. McCormack asserted that the committee had already made up its mind before the hearing, and thus argument was useless.

20. Interview with Milton H. Fies, June 10, 1940.
23. Ibid.
Governor Charles Henderson's position in the convict controversy provoked criticism throughout the state. The Governor, believing the convicts could not be worked on the public highways as cheaply as free laborers, maintained that the real solution to the convict question would be in work behind prison walls, but that the state's financial condition would not permit such a change. Governor Henderson played his strong card in a message to the legislature. He urged it not to discontinue the system until it had counted the cost and had worked out a plan for handling the convict problem. He maintained furthermore that there was no such thing as a "convict lease system" in Alabama as far as the state was concerned, and no state convicts were directly leased to any corporation. According to the Governor,

"The State of Alabama maintains all of its convicts, feeds, clothes, such convicts. Under the state system the lessees simply pay the state for services rendered by the convict." 27

Henderson believed that it was not wrong to use convicts in such a way that profit was returned to the state. As to the proposed changes he said,

"To make any radical change in our manner of handling convicts will entail upon the state a great expense, and with a deficit of two and one-half million dollars we are not in a position to consider additional obligations of the magnitude that would necessarily be incurred." 28

28. Ibid., p. 2283.
Governor Henderson's position may be explained by the fact that the state faced an economic crisis due to the depressing effect upon the business of the country caused by the European War. The markets for the products of Alabama declined, and it was not until late in his administration that the United States was called upon to feed and clothe not only herself but the warring nations, and not until that time did the products in Alabama find a ready market at advantageous prices. Through the years of strain upon the state's finances Governor Henderson urged and adopted the policy of strictest economy.

J. A. Rountree, Secretary of the Alabama Good Roads Association, expressed surprise at the position of Governor Henderson in face of his pre-election position on the subject. Rountree pointed out that Henderson received thousands of votes in the Birmingham district from labor people because he answered them by letter and in person that he would advocate the removal of the convicts from the mines.

The advocates of abolishing the lease system sent out ten thousand copies of the joint investigating committee's report. Included with the report was a letter in which they pointed out that a strong lobby was seeking to defeat the

31. Ibid.
convict abolition bill; and, urged the forcible efforts of
the people of Alabama to assure the passage of the bill.
The letter was signed by O. P. Ford, President, Farmer's
Improvement and Co-operative Union; Frank S. White, Pres­
sident, Alabama Convict Improvement Association; J. A.
Rountree, Secretary, Alabama Good Roads Association; W.
L. Harrison, President, Alabama Federation of Labor; J.
D. Rosenberger, President, Birmingham Board of Trade; J.
R. Kennemer, President, United Mine Workers of Alabama;
John W. O'Neal, President, Jefferson County Merchants Pro­
tective Association; Jacob Burger, President, Birmingham
Business Men's League, and Howard Walters, General Chairman,
Brotherhood of Locomotive Engineers in Alabama.

Abolition of the system was urged by Thomas S. Felder,
former Attorney General of Georgia, in an address before
the Alabama legislature. Felder explained the operation
of the system in Georgia under which convicts worked on
the roads. He further told the Alabama legislature that
he did not believe any state could prosper under a convict
lease system, that it was unfair to force convicts to com­
pete with free labor, and that the humane side should be
considered before all other propositions in the handling of
convicts.

32. Tuscaloosa News, August 7, 1915; Letter in Scrap­

Lines were tightly drawn preparatory to the fight on the floor of the House on the bills taking the convicts from the mines and the prison commission. Bibb Graves, Chairman of the State Democratic Executive Committee, outspokenly favored discontinuance of the system. In what was described as one of the "hottest" fights since the legislature convened, the House passed the measure providing for the creation of a prison commission in lieu of the convict board. The main fight was on the clause making the commissioners elective after the expiration of the terms of the existing commissioners in April, 1917.

During this time rumors circulated widely in the capitol. One report suggested that an agreement had been made by certain leaders in the House to the effect that the bill abolishing the lease system would be passed, but that when the governor vetoed it his veto would be sustained by the House. In this way members who desired to go on record as favoring the abolition of the convict lease system could do so, and still retain the system by vetoing against passing the bill over the veto of the governor. This was characterized as the "easiest way" method of settling the vexing convict

34. Mobile Register, August 6, 1915.
35. Ibid.
question. Another rumor to the effect that a compromise on the bill removing the convicts from the lease system had been reached. This rumor was "killed" by Henry F. Merritt, Chairman of the joint investigating committee, who said the anti-leasing forces would agree to no compromise.  

A compromise was reached, however, in the form of a substitute offered by Speaker A. H. Carmichael. The plan proposed to take men under five years sentence or less out of the mines before January 1, 1916, and for the abolition of the lease system by January 1, 1918. Representative Davis, author of the original bill, asked support of the compromise, and by a vote of sixty-six to thirty-one the House decided to pass the substitute bill. Great surprise was expressed at the vote, because it has been thought that not more than five votes would separate the two factions. When the clerk announced the vote, there was general rejoicing in the House and the gallery where a large number of persons had congregated in order to witness the contest.  

Political juggling was charged on the convict bill. The agreement reached in the House proved to be satisfactory

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38. Montgomery Advertiser, August 19, 1915.
42. Montgomery Journal, August 19, 1915.
to no one. The mine operators accepted it reluctantly, the
good road advocates did not fully approve it, and those
opposed to the measure on humanitarian grounds believed the
cost for the enforcement of the law was set too far ahead.
Supporters of the administration claimed the compromise bill
passed for the purpose of compelling Governor Henderson to
call an extra session of the legislature. The bill as passed
by the House did not make any appropriation to take care
of the convicts taken out of the mines and lumber camps.
Without an appropriation, Governor Henderson would find him-
self in an embarrassing situation in 1915. Those familiar
with the situation believed the appropriation was deliber-
ately left out for the purpose of bringing pressure upon
the governor.

The Birmingham News and the Birmingham Ledger predicted
that Governor Henderson would use his influence to prevent
the passage of the bill. Shrewd manipulations were carried
on while the bill was in the Senate. In an effort to defeat
the measure a sub-committee composed of Senators Pride,
Lewis and Thach were appointed to draft a substitute bill.
Charges circulated around the capitol that these men were
friends of the administration and opposed to the plan of

43. Montgomery Advertiser, August 20, 1915.
44. Ibid., August 22, 1915.
45. Birmingham News, August 23, 1915; Birmingham
Ledger, July 19, 1915.
46. Journal of the Senate of the State of Alabama
Hereinafter cited as Senate Journal, Session of 1915,
P. 2889; Birmingham Ledger, September 2, 1915.
taking the convicts from the mines until some provision had been made for their maintenance.

The sub-committee had a conference with Governor Henderson just before meeting and before action was taken John H. Bankhead, Jr., spoke for one hour and half opposing the taking of convicts from the mines. The sub-committee proposed a bond issue of $1,500,000 and a three mill tax to care for the convicts, with the plan to be presented in the form of a constitutional amendment. The proposal of the committee created a sensation in legislative circles, especially among those members who favored taking the convicts from the mines. The opponents of the lease system charged that various trades were made with senators, and at least one important office appointment was made to secure the support of a senator for the governor.

A great deal of sentiment had been aroused against the convict abolition bill, and it was generally believed that it would be defeated in the Senate. Forseeing defeat in the Senate, the House by a vote of sixty-three to thirteen passed the Rogers bill providing for the use

48. Ibid.
49. Ibid.
51. Montgomery Advertiser, September 1, 1915.
state convicts in the development of coal lands owned by the University of Alabama. The bill under provision of an amendment by Merritt made it unlawful to hire or lease convicts to any person, firm, or corporation after the law went into effect. The Merritt amendment assured the abolition of the lease system in the event the state should use her convicts in mining the coal lands owned by the University.

The Senate by a vote of twenty-one to twelve, and in the presence of representatives of a number of the largest contracting concerns of the state, "killed" the House compromise bill. Also by a vote of twenty to eleven the Senate indefinitely postponed the consideration of the Senate sub-committee's substitute bill, which would have submitted to the people the solution of the problem of the convict lease system. The bill creating the Prison Commission died in the Senate without any action being taken on it. The Rogers bill met a similar fate. The defeat occurred when the House refused to concur with the Senate in its report on the bill. A committee was named to adjust


53. Ibid.


the differences between the two houses and recommended 56 that the amendment to end the lease system be eliminated. The House refused to accept the committee's report. 57

As a result of this action, the big question, which had been before the legislature since January, 1915, was abated for the time being. The chief argument against the bill was the fact that the abolitionists had made no financial arrangement for caring for the convicts. The only utterance of more than ordinary interest was the intimation by Senator J. M. Bonner that the administration had interested itself in the fight against the plans of the abolitionists because of its desire to work the convicts of the state in the timber tract recently acquired by kinsmen of the governor on the Warrior River in Tuscaloosa County. 58

The broken pledges of the legislators, a strong lobby at Montgomery, and the powerful influence of Governor Henderson were ascribed by J. A. Rountree as the reason why the convict system in Alabama remained the same. The Birmingham Labor Advocate placed the blame on the pressure of the convict employers and the dollar mark and condemned

58. Birmingham Age-Herald, September 17, 1915.
the continuance of "slavery of human beings that would shame an African slave driver." A strong denunciation of the working of convict labor in the mines, coupled with the declaration that the next governor and legislature would be pledged to the removal of these conditions, was made by Frank S. White in an address before the Alabama Good Roads Association. The same sentiment was expressed by the Alexander City Outlook when it said:

Alabama will have to wait four more years before she can put her convicts on the roads, but she will have an opportunity in the meantime of electing officials who will keep their promises. With the close of the 1915 legislature the efforts of the anti-leasing forces went down in defeat. Various factors contributed to this failure. Governor Henderson's attitude toward the lease system was directed by his desire to maintain the economy of the state, which depended in part on the profit from the hire of convicts. Of necessity, the removal of the convicts from the mines would mean added expense to the state. The powerful influence of the employers of convicts strengthened the position of the governor and members of the legislature who were unwilling for the state to lose this source of profit. The economic

60. Birmingham Labor Advocate, October 8, 1915.
62. Alexander City Outlook quoted in Mobile Register, October 10, 1915.
condition of the state caused by the European War therefore made the time impractical for so great a change in the method of convict handling. The people of the state in general were too engrossed in world affairs to give thought and effort to the problem of convict leasing despite the revelations presented to the legislature.
CHAPTER VI

EFFECTS TO ABDLISH THE LEASE SYSTEM IN
THE 1919 AND 1921 LEGISLATURES

Frequently in the course of a struggle for reform, events are overshadowed by national and world affairs. Such was the case with the movement to abolish the convict lease system in Alabama. With the advent of World War I and the entrance of the United States into the conflict, the efforts of the people of the state and nation were directed toward the culmination of the great war. The newspapers of the state carried headlines of war news and not much space was devoted to local affairs. Nevertheless, the movement to abolish the convict lease system continued to exist. The convicts themselves were important in the war effort. With the heavy business in war materials as a result of the continued world conflict, coal companies renewed their efforts to secure the use of state and county convicts. They contended that convict labor was the only labor that could be depended upon at all times; and, that they must have some assurance that they would have labor to produce the coal.

While the nation was in the midst of the world war, the Alabama gubernatorial campaign of 1916 resulted in the

election of Thomas E. Kilby. In his platform Kilby advocated many reforms in the field of social legislation. He supported without reservation the ratification of the national prohibition amendment. He advocated increased pay for jury service, and for other services which farmers furnished. He opposed the convict lease system and desired to see this "relic of barbarism" abolished. He advocated taking the convicts from the mines and placing them on the public roads or in state owned and operated mines.

Although the time was still unpropitious for social legislation, Governor Kilby addressed the first session of the legislature on the subject of the convict lease system. He called attention to the barbarism of this form of human slavery, but also presented the difficulties of the abolition of a system which brought in approximately $750,000 yearly to the state treasury. This money would have to be replaced in some manner. While Governor Kilby was an ardent advocate of social reform, he nevertheless placed emphasis upon economy in state finances. If the men were taken from the mines and put to work on the state highways, the state would need to buy new equipment. Complex as the problem was, Governor Kilby promised to recommend some

3. Ibid., p. 38.
solution at the adjourned session of the legislature. At the first session of the 1919 legislature a joint resolution called for a committee to sit during the recess and look into all matters pertaining to the working of convicts upon the public roads, and make an investigation of the conditions surrounding the care and custody of state and county convicts.

During the legislature recess Governor Kilby personally inspected the coal mines to determine the true nature of the situation. He often paid his visits of inspection at unexpected times so there would be no preparation for his coming, and he always went into the mines himself. As a result of his findings, Governor Kilby was firmly convinced that measures should be taken to ameliorate the conditions under which the state convicts were forced to work. As early as April, 1919, Kilby announced he would ask that a bill be presented to the legislature which would abolish the convict lease system. The Birmingham News supported Kilby's contention that the lease system should be abolished.


7. Ibid.; Mobile Register, April 17, 1919.

8. Ibid.

9. Mobile Register, April 20, 1919.
pointing out that the system of leasing the labor of men to mine operators destroyed the men morally and embittered them against society. The Mobile Register applauded the governor's business-like inspection tour and agreed that the mines and the prisoners would benefit from the abolition of the system.

In his message to the adjourned session of the legislature, which opened in July, 1919, Kilby condemned the system as "repugnant to our higher sense of justice." The governor cautioned the legislature, however, that abolition should be gradual, and should be replaced by some better system. "It would be folly," he said, "to do so simply to meet a demand that comes from mere emotionalism or a sentimentalism ..." The investigating committee on convicts made its report to the legislature, after personally inspecting conditions at the convict camps and examining numerous witnesses. The majority report of the committee was quite similar to that of the investigating committee of 1915. As a means of indicating some of the atrocities, brutal punishment, and murder still imposed upon the convicts of the state, a portion of the committee's findings is quoted:

11. Mobile Register, April 29, 1919.
The convict is required and compelled to go where-
evver he is sent to perform the task which is imposed
on him by law and he usually is leased to the bidder
who will pay the most for him, like so many slaves of
cattle, usually the party seeking the convict labor
has a mine or turpentine camp where it is next to im-
possible to acquire free labor to do and perform the
work... We found convicts working in the mines where
it is four miles from the entrance or mouth of the
mine back in the earth to their work. They are given
a task and required to get it. They start early and
are required to walk to their work through the rough
wet, dripping slope and when they have performed their
task they have to walk back up the slopes and in some
instances almost climb this distance of four miles
and the result is they seldom see the light of day
except on Sundays. Such conditions almost go beyond
human endurance and the strongest and best physical
being’s [sic] cannot last long under such a strain....
The records show conclusively that they are maimed
and crippled by falling rocks and terrible gas ex-
plosions which snuff out the lives of scores almost
in the twinkling of an eye. At one of the mines
we found five men whom were apparently big, able-
bodied and strong before the explosion who were
cought in an explosion and the skin was almost tot-
ally burned from their bodies. They were lying on
beds covered with oil cloth with secretions dripping
from their burned bodies scarcely breathing... At
another mining camp we found three men in the same
horrible condition and the evidence shows that these
men were forced into the room in the mines where the
explosion occurred, after they had told the inside
foremen that the place was charged with gas and while
they were begging and pleading with him not to force
them into this room the explosion occurred.... The
reports show that it cannot be denied that ninety per
cent of all the cripples in the convict department
came from the mines as a result of falling rock, ex-
plosions and numerous other causes peculiar to a coal
mine. It is shown by unimpeachable evidence that
eighty per cent of all the tuberculosis patients in the
entire convict department come from the mines.14

The committee recommended that the convict lease system
be abolished during that session of the legislature; that

14. Ibid., pp. 757-768; Journal of the House of Repre-
sentatives of the State of Alabama [hereinafter cited as
House Journal], 1919, pp. 848-850.
and class one and class two male convicts be placed on the trunk highways of the state; that they be worked under the supervision of the state highway department in co-operation with the state convict department; that the process of transferring all of class one and class two male convicts from the lease system begin immediately after the first day of January, 1920, and continue as rapidly as possible until all class one and class two male convicts had been transferred from the mines. They further recommended that on and after the first day of January, 1923, it be made unlawful for any of the convicts of the state to be leased to any firm or corporation. Immediately after the report of the committee, Representative Thomas E. Orr of Marshall presented a bill incorporating the recommendations of the committee.

A minority of the committee was not in agreement with the recommendations of the majority report. The minority composed of J. W. Green, John A. Rogers, and W. J. Densby presented their recommendations as follows:

We therefore, recommend the abolition of the lease system as soon as some rational disposition of convicts can be made, which will enable them to be self-sustaining. We are unalterably opposed to any disposition of the convicts that will impose additional taxes on the citizens of Alabama for their upkeep and management.

15. Ibid.

We recommend...a bill empowering the Governor to investigate the coal lands belonging to the state....We do not believe that it would be wise to employ on the public roads of this state all able-bodied criminals among the convicts.17

Meanwhile in the Senate a bill to provide for the employment of the convicts in mining coal on the lands of the University of Alabama with the provision that the governor and the board of convict inspectors investigate the practicability of such a plan, was introduced by Senator John A. Rogers. The Rogers bill had the backing of the administration. A similar bill to work the convicts on the coal lands of the University of Alabama was introduced by Senator Rogers in the 1915 legislature. The measure, however, was defeated.

The Orr bill developed one of the "prettiest" fights on the floor of the House between the majority and minority of the recess committee on convicts. The leader for the bill was Representative Orr, while Representative Dansby championed the ideas of the minority. Representative Dansby offered an amendment whereby the governor would have the discretion in the time when the convicts should be taken out of the mines. (The original bill made it mandatory

that all convicts should be out of the lease system by January 1, 1923). A rather dramatic presentation was witnessed in the address of Representative Orr in which he brought out a leather strap four or five feet in length and about two and one half inches broad, which he showed to the House as the means of punishing convicts who did not come up to their task in the mines. He made a strong plea for taking the convicts from the mines and out from under the "damnable system," as it was called by a number of speakers. Finally the House passed the Orr bill by a vote of fifty-six to twenty-five and sent the bill to the Senate.

The newspapers of the state generally favored the Orr bill. The Mobile Register urged the passage of the bill and considered the Alabama convict system completely contrary to modern penal theory. The Birmingham Ledger advocated the passage of the Orr bill and condemned the Rogers bill because it connected a great state institution and the education of the youth directly with the usufruct of convict labor. The Ledger asked,

What's the use of having the horror's of the convict leasing system presented to us at every quadrennial session of the general assembly if all that is accomplished is to fill our souls with chagrin, disgust and depression over man's inhumanity to man?25

24. Mobile Register, September 3, 1919.
The Montgomery Advertiser on the other hand contended that the abolition of the system would increase the state's deficit anywhere from $1,250,000 to $2,000,000 a year, unless something should be done to replace the money. The Advertiser did not think it at all practical to plan work for the convicts on the state roads, and further contended that it was the free miners who wanted the convicts removed so that their pay would be better.

The Senate did not look favorably upon the Orr bill and defeated the measure by a vote of twenty-two to ten. Advocates of good roads considered the defeat of the Orr bill a harsh blow to their hopes. The Rogers bill, to provide for the employment of state convicts in mining coal on the coal lands of the University of Alabama, passed the Senate, and thereupon went to the House. The House was unfavorable to accepting the bill without a definite limit on the time for taking the convicts out of the mines. Representative Orr and Representative George Ross made strong attacks on the Rogers bill and attached an amendment providing that on and after January 1, 1923, it would

be unlawful for any person to lease or let for hire convicts. The bill as amended passed the House by a vote of forty-eight to twenty-nine. The Senate concurred in the amendment adopted by the House and the bill was delivered to the governor, September 17, 1919.

In final form the Rogers bill provided that the governor and board of convict inspectors be empowered and directed to make a thorough and full investigation of the practicability of employing state convicts in the mining of coal on the lands of the University of Alabama and for the purpose of aiding them in making the investigation, to employ such mining engineers and other practical experts as they deemed necessary. Two hundred and fifty thousand dollars was appropriated for the purpose. Section eight of the act provided, that on and after January 1, 1923, it would be unlawful for any person to lease or let for hire any state or county convicts to any person, firm or corporation. Nothing was said in the act, however, to prevent the state from working convicts in the state operated coal mines of the University of Alabama after that date.

31. Ibid., p. 2126.
32. Senate Journal, 1919, p. 2346; Mobile Register, September 16, 1919.
In the meantime as a measure to reduce the expenditures of the state, the Board of Inspectors of Convicts was supplanted by the State Board of Control and Economy and would have charge of all the charitable institutions of the state and the convict department. It would make all purchases and make rules and regulations governing the hire of convicts. Governor Kilby estimated that the centralization of the purchasing of all supplies under the direction of one board would save the state not less than $300,000 a year. During Kilby's administration other improvements were made in the convict system, including the abolition of the lash as a method of punishing convicts. Also the building of a state penitentiary near Montgomery was begun with the view of ultimately working the state convicts behind the prison walls.

Governor Kilby made a careful inquiry into the feasibility of developing the coal lands of the University of

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34. Ibid., p. 1152. For a discussion of state finances during the Kilby Administration see, Owen, op. cit., pp. 38-39.

35. Mobile Register, March 2, 1919.


Alabama, but found the proposed development impracticable. The Governor then issued a proclamation for a special session of the legislature to amend the act providing for the employment of convicts on the coal lands of the University. In his message to the legislature, he stated that not only had it been found impracticable to develop the coal lands, but a satisfactory substitute for the lease system had not been found. The Governor stated that the conclusion was reached, that the mining of coal from lands belonging to the University was not feasible with the amount of money authorized for the purpose ($250,000). In the opinion of the Board of Control and Economy, to open and equip a mine with a capacity of 1,000 tons per day electrically operated would cost approximately $500,000. In view of the fact that the prison near Montgomery could not be completed until the close of his term, and the cotton mill within the prison could not be put in operation until after his successor had been inaugurated, and with no definite plan to care for the convicts if removed from the mines, the Governor recommended that the legislature extend the time for the abolition of the system to a date not earlier than December

41. Message of Thomas E. Kilby, Governor to the Legislature of Alabama, January 9, 1923, p. 72.
31, 1924. Governor Kilby further pointed out that the existing contracts would not expire until December 31, 1922; and in view of the fact that the responsibility for the conduct of the convict department during the four years following that date would rest upon the next administration, he felt that that administration should make the plans and put into effect the regulations under which the department should be conducted during its incumbency.

Representative Dansby of Choctaw introduced a bill in the House to amend Section eight of the act, extending the system for state convicts until January 1, 1924. Efforts of Representative Chauncey Sparks of Barbour and Representative A. S. Van De Graaff of Tuscaloosa to place county convicts under state convict department failed when an amendment offered by Sparks was defeated by a vote of fifty-six to ten. In presenting the bill and arguing for its passage Representative Dansby said it would give W. W. Brandon, who he believed would be the next governor, and the next legislature time to prepare for the change in the system. The House passed the bill and sent it to the

42. Acts of Alabama, Special Session 1921, p. xix.
43. Ibid.; Mobile Register, November 1, 1921.
44. House Journal, Special Session 1921, p. 9.
45. Ibid., p. 167.
46. Birmingham Age-Herald, October 21, 1921.
The Senate passed the bill without much debate and in the final vote there was no opposition.

Thus once again the convict question was safely set aside by extending the date for the end of the system. Although Governor Kilby was an open opponent of the lease system, he was unable to terminate the system during his administration. He was, however, instrumental in setting up a program providing for the ultimate termination of the lease system. The economic conditions of the time also affected this phase of the movement to abolish the convict lease system. In 1919 as a result of World War I, the cost of living had reached unprecedented heights, and state governmental expenses had advanced in a similar manner. The state, also, had a large indebtedness, which again made the officials of the state reluctant to incur additional expense. Governor Kilby had thought that a solution to the problem might be in the working of the convicts on the coal lands of the University under the operation of the state; and, another possible solution would be in the working of the convicts behind the walls of the state penitentiary. While he was not able to carry out these plans, the convict lease system still remained a problem that the next administration would have to face.

47. House Journal, Special Session 1921, p. 169.
CHAPTER VII

EFFECTS TO ABOLISH THE LEASE SYSTEM IN
THE 1923 LEGISLATURE

The legislative session of 1923 and the administration of Governor William W. Brandon proved to be the stormiest period in the fight for convict legislation.

As a result of the action of the 1921 legislature, the lease system was extended to January 1, 1924. Apprehension as to the effect of the act was manifested throughout the state. Although the impression was general that the law prohibited the working of convicts in coal mines after January 1, 1924, it did not accomplish this objective. The law forbade the leasing of convicts after that date, but it did not prohibit the state from working convicts in mines provided they were not leased or let for hire. The effect of the legislation was to abolish the convict lease system, but to permit the contract system. It was possible for the state authorities to contract with coal operators to mine, load, and deliver coal at the mouth of the mine at so much per ton.

The misunderstanding regarding this measure prompted Governor Kilby to deliver an address to the opening session of the 1923 legislature on the convict question. He believed that the only safe and justifiable condition under which convicts could be worked in coal mines would be in mines owned or leased by the state and operated independently.
of all outside interests. He recommended that the act of September 23, 1919, be further amended so as to forbid the working of convicts in any other than state owned or leased mines. Kilby admitted that there were certain interests working to defeat and turn about the forward steps already taken, and cautioned the legislature that public sentiment demanded the abolishment of the system. The Governor further stated:

Gentlemen of the Legislature, if you take one backward step in this matter it will be heralded to every nook and corner of this nation and to the world, to the shame and disgrace of the State. I earnestly beg you to save the state from this disgrace.

Governor Kilby's administration, however, ended in January, 1923, and William W. Brandon became the Governor of Alabama. Governor Brandon took a different view of the convict question. In his message to the legislature, January 16, 1923, he said:

I believe in time the lease system should be abolished and prisoners should be taken from the mines. This can only be done when the State has otherwise made provisions for the convicts where they will not be a liability on the state. I am not convinced that such a time has arrived and would therefore recommend that the time be extended for taking the prisoners out of the mines until such time that the Governor and the Convict Board determine that it could be done without liability to the State for their upkeep and


2. Ibid.
maintenance, and until provision could be made for their proper employment and confinement.3

In view of the Governor's recommendation, a bill was introduced in the House to amend the act of 1921 by extending the lease system until January 1, 1927.4 An amendment, offered by Representative Ashcraft of Lauderdale, provided that as soon as suitable quarters and employment could be provided for the convicts and the finances of the state so readjusted, the governor should discontinue the lease system; and further provided that the governor should in his discretion remove portions of the convicts from the lease employment as soon as said provisions could be effected.

The bill as amended passed the House by a vote of seventy-four to twenty and was sent to the Senate.

The Birmingham News urged upon the Alabama Senate sincere and prayerful consideration of the bill passed by the House extending for four years the "iniquitous and indefensible" convict lease system. The Senate, however, amended the bill and extended the system until March 31, 1927. The bill as amended passed the Senate by a vote of

5. Ibid., p. 255.
6. Ibid., p. 256.
twenty-seven to seven. The House concurred in the Senate amendment and once again the convict lease system was extended.

Although the hiring of convicts was to be done away with in 1927, the legislative action tended to remedy only in name existing conditions. The state, instead of hiring convicts to the mines, leased the mines and worked the convicts in them. Belle Ellen mine was the first to be taken over by the state. The contract became effective February 1, 1924. Flat Top mine was taken over by the state on July 1, 1924 with Denner and Aldrich being taken over in March and August of 1925 respectively. In spite of the fact that under this system the convicts were under the control and direction of the officials of the state the convicts were still subject to great abuse.

Surprisingly enough there was little opposition to the legislative action at the time. Sentiment soon changed when the report was released to a horrified nation that Martin Tabert, a convict, was brutally killed in a convict camp in Florida. Alabama citizens began asking their legislature why their state should be the last in the Union to

9. Ibid.


clinging to the barbarities of the convict leasing system; and why, after damaging reports by the legislative committee in 1915 and 1919, should the system be extended again. The anti-leasing forces actively spread reports of working conditions and cruelties in the convict operated mines.

Because of the bitter criticism in all parts of the state, Governor Brandon issued a statement defending Alabama's system of working convicts. The governor asserted that Alabama convicts while at work and at rest were under the supervision and control of the state. He cited sixty-nine occupations in Alabama rated as more hazardous than underground coal mining. The governor further stated that there was no such thing as leasing of state convicts in Alabama; that the state had carefully worded agreements whereby the coal companies were liable to the convicts for personal injuries. In doing this the technical term of "hiring" was incorporated in the contracts, said the governor.

When the legislature reconvened in July, 1923, a petition signed by citizens of fifty-nine counties urged the abolition of the lease system. Judge William E. Fort of


14. Ibid.

15. Mobile Register, July 18, 1923.
Birmingham, representing a statewide campaign, also urged the legislature to take favorable action. W. C. Davis of Jasper, addressing a mass meeting of opponents of the convict lease system in Montgomery, deplored the system and called on the legislature to take action without delay.

The administration and its supporters in the House and Senate worked out a clever scheme to block convict legislation. On the opening day of the legislature, July 13, 1923, Representative J. Lee Long of Butler, offered a resolution to the effect that, "It is the sense of the legislature that the present convict lease system not be changed at this time." The resolution was rushed through the House by a vote of fifty-two to twenty-two and sent to the Senate. Senator Walter S. Brower of Jefferson blocked the efforts of those opposing the introduction of anti-leasing legislation by making an address in opposition to the adoption of the House resolution. Senator Brower was speaking when the time arrived for a joint session with the House to hear an address by Senator J. Thomas Heflin. The

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resolution remained unfinished business, but when the Senate reconvened after the joint session, Senator J. B. Ellis of Dallas moved that the resolution be postponed until July 17, 1923, and be made a special order for consideration. This was acceptable to Senator Crower and the motion was adopted.

In what was described as a "memorable" battle, the Senate on July 17, 1923 considered the House resolution. In an effort to defeat the resolution, Senator C. B. Teasley of Montgomery offered a substitute which would have submitted convict lease abolition legislation to the people at the next general election. Senator J. M. Foster, the administration floor leader, made an address in opposition to the Teasley substitute and in favor of the Long resolution. He proposed that child welfare work be made the beneficiary of the proceeds of the convict lease system. The proposal, according to the anti-leasing forces, was a "subtle" attempt to alienate the welfare workers from the support of the abolition movement. The Teasley substitute was defeated by a vote of nineteen to fourteen. Senator

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22. Ibid.
24. Mobile Register, July 17, 1923.
Walter S. Brower led the fight in opposition to the Long resolution, being joined by Senators G. Ernest Jones of Barbour, John W. Overton of Randolph, and Velvin Huston of Morgan. Senators Brower and Jones charged that the resolution was a "gag rule" which would deprive the people of the state of the right to petition and would prevent the legislators from listening to the expressions of the people. Senator Brower introduced a bill which would submit to the people, at a special election to be called by the governor ninety days from the adjournment of the legislature, an amendment to the constitution for the purpose of abolishing the lease system on January 1, 1925. The Brower bill was referred to the committee on Finance and Taxation, and subsequently given an adverse report. The Senate, however, concurred with the House and passed the Long resolution by a vote of twenty to thirteen. Thus the Alabama legislature went on record as against any change in the law relating to the system of working convicts.

Several of the newspapers of the state reacted against the action taken by the Alabama legislature. The Mobile

26. Mobile Register, July 18, 1923.
30. Ibid., p. 661; Mobile Register, July 24, 1923; Acts of Alabama, 1923, p. 86.
Register, Montgomery Journal, and Tuscaloosa News openly disapproved of the legislative action. The Mobile Register asked,

Shall greed and avaricious impulse be the deciding influence in retaining the blot and stain upon the good name, the good morals, and the good faith of Alabama represented in the convict contract system with its traffic in human labor? 32

Not only the press but various members of the lower house expressed sentiment against the resolution, and the Jefferson County delegation stated that they would not be bound by the legislative action. Judge William E. Fort asserted that such rapid-fire action would deprive thousands of people of the state, who had a conscientious conviction that the convict system should be abolished, from a voice in their own legislature. Members of the clergy also took up the fight. Reverend Gardner C. Tucker, rector of St. John's Episcopal Church in Mobile, in an address before a crowd of fifteen hundred branded the system as "slavery." The Reverend W. E. Lockler in a sermon at the First Baptist Church, Montgomery, charged that the state sold convicts

32. Mobile Register, July 14, 1923.
33. Ibid., July 17, 1923; Montgomery Journal, July 16, 1923.
34. Mobile Register, July 13, 1923.
35. Ibid., July 16, 1923.
into bondage "as great as that in which the children of Israel found themselves in Egypt." The anti-leasing forces were backed by the League of Women Voters. According to Mrs. Pattie R. Jacobs, second vice-president of the national organization and an active worker in the Alabama woman suffrage movement, a large majority of the people of Alabama desired the leasing system amended. Because of the continued agitation in Alabama, the United Mine Workers of America filed a request that the federal coal commission investigate convict leasing in Alabama.

Although the legislature was on record as against any change in the method of convict handling, the question came up again in September, 1923. Five hundred convicts leased to the Banner mines mutinied because of alleged mistreatment. The convicts were dissatisfied because the legislature failed to pass measures for penal reform and because of overwork, lack of medical attention, and proper food. The convicts wrecked all the machinery of the mine and held mine officials prisoner for several hours. At this point Governor Brandon made public a resolution adopted by the

36. Ibid., July 30, 1923; Montgomery Journal, July 30, 1923.
37. Mobile Register, July 19, 1923.
38. Montgomery Journal, July 23, 1923; Mobile Register, July 24, 1923.
39. Mobile Register, September 18, 1923; Montgomery Journal, September 18, 1923.
state board of convict supervisors to re-establish the use of the whip. As to this action former Governor Kilby said, "The whipping system is a relic of barbarism that no civilized government should sanction and no enlightened people should tolerate." The former governor also expressed regret that he had not abolished the lease system before he retired from office.

With the use of the whip sanctioned, leaders of the mutiny were whipped, one so badly that he was hospitalized. Solicitor James C. Davis of Jefferson County asked for an investigation of conditions at Banner mines. Governor Brandon, however, would not permit the investigation and called the action "an intention to interfere with the power of the chief executive of Alabama." The Birmingham News characterized the governor as "unwise" in interfering with the investigation, stating that there would be time enough to discuss the abuse of power "after the iniquitous and undefensible system, whereby a state surrenders its control of its wards and sells men's bodies into a penance little removed from slavery has been done away with."

40. Mobile Register, September 19, 1923; Birmingham News, September 19, 1923.
41. Mobile Register, September 20, 1923, July 1, 1928.
42. Mobile Register, September 20, 1923.
43. Ibid., September 19, 1923.
44. Ibid., September 20, 1923.
Despite Governor Brandon's order, Solicitor Davis held an investigation of the Banner mutiny. Convicts from the mines gave testimony of inhumane treatment and brutality. However, when Solicitor Davis and the Jefferson County grand jury went to the Banner mines to investigate the conditions within the mines, they were blocked from the prison camp by an official notice stating that they would not be admitted to any state prison camp.

The legislature, however, re-affirmed its faith in convict leasing. It passed a joint resolution stating "that convicts should be treated in a humane and just manner," and expressing the confident belief that "all convicts are receiving as good, careful and considerate treatment as they should receive." The resolution went on to say, "That it deplores the continued agitation of the convict question in this state by certain newspapers, public agitators and ill-advised and misled citizens of the state." The resolution concluded by commending the action of the governor with reference to quelling the mutiny at Banner mines.

As previously mentioned, in 1919 the convict department was placed under the direction of the State Board of

46. Mobile Register, September 23, 24, 25, 26, 27, 1923.
47. Acts of Alabama, 1923, p. 369; Mobile Register, September 21, 1923.
48. Ibid.
In order further to consolidate the state agencies and more adequately define the authority and responsibility for administration, this board was replaced in 1923 by the State Board of Administration. The State Board of Administration was designated the authority to supervise the operations of the convict department, and was the general business agency of the administration.

This organization was composed of two members, a president and an associate member. Members of the board were appointed by the governor and were subject to removal at his pleasure.

The associate member of the board served as chief of the convict department and directed the administration of the entire state penal system. Under the supervision of this board efforts were made to overcome the criticism of the convict department by employing more practical and humane methods of care and custody of the prisoners.

Thus ended one of the most turbulent sessions of the legislature. For the first time in the movements to abolish the convict lease system the people of the state actively participated in the struggle for convict legislation. The efforts of the anti-leaseing forces were doomed to defeat by

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49. See Chapter VI, pp. 81.


51. Quadrennial Report of the State Board of Administration, 1922-1925, p. 43.
the powerful influence of Governor Brandon. The governor did not exhibit any personal interest in the abolition of the convict lease system. Although he had knowledge of Kilby prison and was aware of the steps that had been taken in an effort to end the hiring of the convicts, in his first message to the legislature he openly advocated the extension of the system. Throughout his administration, the governor was consistently opposed to any change in the method of handling convicts. By having a strong machine in both houses of the legislature, he was able to prevent any changes of magnitude from being made. With the date for the ultimate abolition of the system definitely set, the issue was seemingly settled for the time. The question, however, came up again in 1926 and in a forceful way.
Alabara's convict system had frequently been under fire since the state established the practice of working convicts in coal mines and of leasing convicts to private interests. The system, however, was never subjected to such severe criticism as it was in the spring of 1926 when Attorney-General Harwell G. Davis released his report on the death of James Knox, a convict at Flat Top prison.

In many respects the Knox case resembled the Martin Tabert case in Florida, which precipitated legislation in that state prohibiting the leasing of all classes of convicts. Evidence showed that young Tabert, a county convict in Florida, died from flogging. James Knox, whose home was in West Virginia, was convicted in Mobile County of forgery, the charge being that he signed the name of another person to a check for thirty dollars. He died a few days after he was transferred from Kilby prison to Flat Top prison on August 13, 1924. The death certificate stated that he died from bichloride of mercury taken with the intention of committing suicide.

1. See Chapter VII, p. 84.
3. Ibid.
Late in 1925 a report spread over the state that the death certificate did not give the facts; that the convict had been beaten with a heavy steel wire and then dipped into a laundry vat full of hot water. When this report reached the Birmingham Age-Herald, the newspaper caused a subpoena to be issued to the state board of administration requiring the production of the death certificate. When the subpoena reached the board of administration, the board began an inquiry to learn why the Age-Herald desired to go into the Knox case. Governor Brandon requested Attorney-General Harwell G. Davis to make an inquiry. The investigation consumed more than two months and witnesses were examined in and out of the mines.

At the conclusion of the exhaustive investigation, Davis notified Governor Brandon that James Knox probably did not die of bichloride of mercury self administered. Dr. Walter C. Jones of Birmingham-Southern College had reported to Davis: "After death it seems that a discoloring poison was injected artificially into his stomach through the natural passages in order to stimulate accidental death or suicide." The Attorney-General further reported that the doctor performing the necropsy had stated that Knox


5. Ibid.

6. Ibid.
died in a laundering vat. The doctor reached the following conclusion as to his death:

It seems most likely that James Knox died as a result of heart failure, which probably was caused by a combination of unusual exertion and fear acting upon an abnormally small heart which in turn was weakened by an extra large load of fat....

The report of the Attorney-General provoked protests throughout the state. As mentioned previously under the existing contract system the state leased the property from the owners, mined the coal with convicts under its entire control, and sold the coal back to the lessor. Actually the state only leased the prison stockade, its grounds, and buildings. This peculiar form of lease brought charges that when Governor Brandon replaced the old outright state leases with the contract system, he was merely engaging in subterfuge.

Newspapers of the state heaped condemnation upon the system. The Anniston Star maintained that the difference between the lease system as it was before and the "so called" contract system was the difference between "tweedle-dum and tweedledee!" Said the Mobile Register: "No play of words by those who seek to preserve the system; no subterfuge


9. Anniston Star quoted in Mobile Register, April 18, 1926.
no denunciation, no defense of it is going to satisfy the conscience of this commonwealth." The Albany-Decatur Daily not only condemned the system but concluded that Governor Brandon had ended his political career so far as his state was concerned, because "he has refused to see the light." The Montgomery Journal announced that Alabamians would be satisfied with nothing short of a new deal for its convicts. The Centerville Press remarked that the case was "not a very encouraging sign of humanity," and added, "We don't know whether a state convict can get insurance on his life in this state or not, but he has entered a hazardous business when he gets into the hands of the state and the lessees of convicts." Even the Montgomery Advertiser, defender of the lease system on previous occasions, took the position that the state should think less of its reputation and more of its duty and sense of justice. According to the Advertiser, "It is humiliating; it is disgraceful; but the first thing to be thought about is the wrong done a

10. Mobile Register, March 31, 1926.
12. Montgomery Journal, March 28, 1926. For a similar demand see Mobile Register, May 15, 1926.
helpless man in which he was subjected to such abuses that he died."

Other newspaper editors in widely scattered cities throughout the United States, horrified by the report of Attorney-General Davis, agreed in the words of the Washington Post, that "the honor of the state of Alabama is involved in this hideous affair." The New York World brought out the point that the abolition of the convict system could be materially hastened if the corporations would take a proper position because they share in the reproach as well as the profits. The World sent Donald Ewing, staff correspondent, to Birmingham to investigate the affair.

Governor Brandon, in an interview with Ewing, said he could find nothing wrong with the prisons of Alabama. The governor, however, informed employees of the state that any one found guilty of mistreatment would be discharged.

Comparing punishments which he said existed in Alabama prisons to "savage and inhuman treatment of ancient days when thumbscrew and rock were used," Solicitor James G.

14. Montgomery Advertiser, March 26, 1926.


16. New York World quoted in Mobile Register, April 11, 1926. For a similar condemnation see Mobile Register, March 22, 1926.

17. Mobile Register, April 8, 1926; Montgomery Journal, July 27, 1926.

18. Mobile Register, March 21, 1926.
Davis of Jefferson County announced that he expected to continue the inquiry into the case until every man guilty of any wrong was brought to justice. Solicitor Davis and the Jefferson County Grand Jury opened their inquiry on April 26, 1926, and in the investigation sensation followed sensation. Named convicts, some of them mere youths, told their stories to the grand jury. The investigation revealed that three life term convicts ruled as monarchs over their fellow inmates underground. Convicts were worked by three "check runners," who profited financially by making the convicts do more than their tasks. Long imprisonment in "dog houses" and the indiscriminate and unsupervised use of the whip were the principal forms of punishment, although cases were cited where men had received broken limbs and bore life long scars from the use of hickory clubs or maces. Floggings were administered by Warden Davis and it was no uncommon practice for him to strike convicts on the head with a long rubber tube, leaving them unconscious, the grand jury stated. Reports of murders by "straw bosses" were numerous. According to the grand jury these cases should cause more concern than the usual homicide, because they evidenced a condition of "lawlessness in the very agencies of law enforcement."

10. Ibid., March 28, 1926.
19. Ibid., March 28, 1926.
20. Montgomery Journal, May 18, 1926; Mobile Register, May 19, 1926.
21. Ibid.
22. Mobile Register, May 21, 1926.
Warden Charles R. Davis and four of his "strong-arm" men at Flat Top were indicted for the Knox murder. At the trial in November, 1925, despite all the unfavorable publicity given the Flat Top scandal, Davis received a verdict of "not guilty." The cases against the others indicted with Davis were nol-prossed.

Meanwhile during the 1926 gubernatorial campaign the convict leasing issue became acute. Many of the newspapers of the state urged the people to elect a man to the governor's office who would do away with convict leasing. A. C. Patterson, A. H. Carnichael, and Bibb Graves, candidates for governor in the Democratic primary of 1926 all pledged themselves to abolish convict leasing. G. S. McDowell, another candidate, however, would not commit himself without a plan because he believed abolition of the system would result in bankruptcy. Bibb Graves, the successful candidate for governor, maintained in his platform that he would take the convicts from the mines and use them in road building. In an effort to devise plans for working

23. Ibid., May 6, 1926.
24. Ibid., November 13, 1926; Birmingham News, November 15, 1926, July 1, 1926.
25. For a survey of press reaction throughout the state see Mobile Register, April 10, 12, May 23, 1926.
27. Birmingham Age-Herald, May 2, 1926.
the convicts upon removal from the mines, the governor-elect toured Georgia, North Carolina, and Virginia to observe the successful use of convicts on the roads.

The legislature was convened in a special session, December 28, 1926, by Governor Brandon with the co-operation of Governor-elect Graves. The special session of the 1926-1927 legislature enacted laws providing for a constitutional amendment authorizing a $25,000,000 bond issue for maintaining the roads of the state, and imposing an additional tax of two cents on gasoline to pay the cost of the road bonds. After his inauguration, Governor Graves urged the legislature to take steps to put the convicts on the roads. The governor pointed out that the road needs were so great that every available asset should be devoted to them; not only the money derived from the gasoline tax and road bonds but convict labor as well. Under the Act of 1925, Governor Graves could remove state convicts from the mines without additional authority; there was no authority, however, to remove county convicts. It was

28. Interview with Mrs. Bibb Graves, June 8, 1949.


the governor's wish that the system for both state and county convicts be formally abolished as soon as possible.

Fulfilling one of his campaign pledges, Governor Graves announced the removal of state convicts from the mines beginning on February 13, 1927. In the meantime two bills were introduced in the Senate. (The bills were sponsored by Lieutenant-Governor W. C. Davis with the date of the abolition of the lease system for county convicts set for December 31, 1927). The first bill abolished the distinction between state and county convicts insofar as leasing and working the convicts in the mines was concerned. The second, a companion measure to the first, placed county convicts under the jurisdiction of the board of administration if the various counties of the state desired to surrender the convicts to the state. The provision was optional and counties could keep their convicts and work them on the roads, but no county convict could be worked in the mines after December 31, 1927. The Senate committee on penitentiaries and prison reform reported favorably the two anti-convict lease bills after Lieutenant-

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31. Interview with Mrs. Bibb Graves, June 8, 1949.
34. Ibid.
Governor Davis delivered a strong plea that Alabama abandon a custom which was similar to "stocks," slavery, and other obsolete forms of punishment. Davis and Senator C. R. Teasley were the only speakers before committee. Frank Nelson of Birmingham, president of the Birmingham association of coal operators, authorized Davis to say that all the coal operators except possibly those who worked convicts felt the question should be settled. The Senate passed the bills and they were sent to the House. Passage of the bills caused an outburst of applause by the senators.

Those familiar with legislative affairs pointed out that the 1927 legislature was the most harmonious body ever assembled in a similar capacity. The harmony, however, was to break over the question of adjournment. The Governor, Lieutenant-Governor, and the Senate were of the opinion that the convict legislation should be enacted before the two houses adjourned. The House, however, was of the opinion that convict legislation could wait until the summer session. The deadlock and hostilities began when the rules committee of the two houses met with Governor Graves.

35. Montgomery Advertiser, January 27, 1927.
38. Montgomery Advertiser, January 20, 1927.
in an effort to agree upon a date for adjournment. In retaliation for pressure put on the House, the House committee on penitentiaries and prison reform refused to report the convict abolition bills. Action was finally taken after the presentation by Speaker J. Lee Long of a letter from Governor Graves asking that the bills be passed and suggesting an amendment to the effect that the laws go into effect September 30, 1928 instead of December 31, 1927.

Governor Graves had become convinced that the extension of time was necessary so as not to cripple any industry by taking too many of the men from any one operation at the time; and, also, to give the state more time to build prison camps for working convicts on the roads. The governor's suggestion was acceptable to the House and the amendment was added. The bills were reported back to the Senate where Senator J. B. Tassley launched a fight on the House amendments. The fight on the floor of the Senate assumed a belligerent nature in which insinuations of "insidious" forces at work to defeat the anti-lease measure, were made in rapid fire order, and the governor was subjected to criticism for recommending the House amendment.

40. Ibid.; Montgomery Advertiser, January 27, 1927.

without consulting the Senate. Senator J. E. Bonner, member of the 1915 legislative investigating committee, said Alabama did not need more time to prepare to remove the convicts, nor did the coal operators leasing them.

The Senate defeated the House amendments by a vote of twenty-one to seven.

Since the two houses could not agree, a joint conference committee was requested by the Senate. Parliamentary practice provided for conferees to represent both the minority and the majority. Lieutenant-Governor Devis, however, appointed three of the most outspoken opponents to the extension amendments as conferees (Teasley, Nolen, and Bonner). The House, with indignation appointed avowed advocates of convict leasing to serve on the joint committee (Tunstall, Merrill and Lovelace). Chairman Woolsey Ponnell of the state highway commission and Chairman Charles Moffett of the state board of control appeared before the committee. Both said the time extension would

44. Senate Journal, 1927, p. 341.
45. Ibid., p. 342.
46. Ibid., p. 342; Birmingham News, February 5, 1927.
be necessary to take care of the convicts. The joint conference committee was unable to reconcile the differences between the two houses and a new committee was appointed. Governor Graves appeared before the committee and pointed out the advantages of a compromise settlement. Finally a compromise was reached which set the date for the final abolition at June 30, 1928. The House accepted the committee's recommendation. The concurrence of the Senate followed a two-hour debate in which half of the members of the upper house expressed their views on the issue. Senator C. B. Tessler, who was the only member of the conference committee to dissent, led the fight against non-concurrence. Senator Travis Williams, also a member of the committee, directed the forces who finally triumphed. By a vote of twenty-five to ten the Senate adopted the recommendations of the committee.

Thus June 30, 1928, was finally set as the day for formally abolishing the convict labor system in Alabama.

51. Montgomery Advertiser, February 12, 1927.
Governor Graves congratulated the legislature on solving the convict question and thereby giving expression to the earnest desires of the people. Immediately after the passage of the act, the removal of convicts began. On February 14, 1927, one hundred twenty-six convicts employed at Flat Top, Banner, and Aldrich mines arrived in Montgomery to work in Speigner and Kilby prison. The governor announced that two hundred and eighty-five county convicts employed in coal mines operated by the Alabama By-Products Company at Negro would be removed from the mines on June 1, 1927. The board of administration began the removal of all white convicts from the mines and lumber camps. The convicts were placed at Kilby and Speigner prisons and were employed in the cotton mills on a double shift. On July 1, 1928, some seven hundred prisoners left the privately owned coal mines and were transferred to state farms and road building camps.

The abolition of the convict lease system was lauded throughout the state and nation. The Mobile Register

58. Birmingham News, July 1, 1928; Montgomery Advertiser, July 1, 1928.
"Flat Top and its horrors will no longer hurt the pride and sting the consciences of men and women of this proud commonwealth." According to the Birmingham Age-Herald, "It required a long time for the conscience of the state to become aroused, but the awakening finally came." The New York World, which for many years exposed the iniquity of the convict lease system, saw in the law abolishing the convict leasing, "The beginning of the end of ignorance, bigotry, and cruelty in the South." The changes in the convict lease system involved large capital outlays to provide means for convict employment. The problem was partly met through an extension of the existing prison system and the establishment of Moffett State Prison near Atmore. The construction of Moffett prison utilized the labor of over five hundred convicts for more than a year. The outlay of the prison exceeded $600,000 but by 1931 the prison was a source of income and profit to the state. A tag mill was built at Kilby prison costing $95,000, and the installation of new machinery in the Spagnier cotton mill cost around $100,000. By 1931

59. Mobile Register, July 1, 1928.
60. Birmingham Age-Herald, July 1, 1928.
these also were a source of increased revenue to the state.

Many of the convicts removed from the mines were placed on the roads. Eighteen road camps were established, with buildings, road building machinery, and equipment paid for out of the special gasoline tax under the act passed by the special session of the legislature 1926-1927. The convict road work showed a net profit of $120,179 for the period of June 1, 1929, to September 30, 1930. The design of the road camps was commended by the National Prison Congress, and despite the fact that working convicts on the roads gave rise to the chain gang in the Alabama prison system, the building of roads with convict labor proved remarkably successful.

The practice of leasing convicts in Alabama finally came to an end. The cruelty and brutality of the Flat Top mine disclosures, with the exposures of the iniquities of the convict lease system, aroused such a storm of protest that the state legislature under the guidance of Governor Graves enacted a law forbidding convict leasing. Governor Graves in his platform advocated the end of convict leasing and the termination of the convict lease system stands out

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63. Ibid.

64. Quadrennial Report of the State Board of Administra-
tion 1926-1930, p. 28.
as an outstanding achievement of his administration. This culminated a hard and bitter fight in the struggle for social reform in Alabama. While the termination of the lease system made Alabama the last state in the Union to abolish it, Alabama entered a new era of prison administration which marked the impending transfer from the rear ranks of prison management to the front ranks.
CHAPTER IX
CONCLUSION

Reforms of magnitude and meaning are not easily accomplished. They have been accomplished by painfully slow movements, starting from obscure sources, and slowly gaining attention, until some great crises brought them forward. Such was the case with the movement to abolish the convict lease system in Alabama.

From the beginning of the practice of convict leasing in Alabama a few individuals agitated for reform, but the public at large was not aroused to a perception of the nature and importance of prison reform. It was a slow, laborious process of arousing public attention. Of course, from time to time there were a few courageous public officials and citizens who constantly gave impetus to the movement. Public apathy, however, tolerated the system despite the Oakley-Lacy scandal during the O'Neal administration. The revelations of the 1915 legislature during the administration of Governor Charles Henderson aroused some public sentiment. The 1919 legislature with its disclosures on the practice of convict leasing still further increased agitation for reform. The Martin Tabert case in Florida so stimulated the people of Alabama that they petitioned the 1923 legislature to abandon convict leasing. The movement to abolish the convict lease system gained momentum throughout these
Disclosures, and finally the sensational exposure at Flat Top prison in 1926 sufficiently aroused the citizens of the State to demand the abandonment of the system.

The course of the convict lease system in Alabama seems to have been directed by the economic conditions of the state. From its beginning, penology in Alabama labored under the theory that the state's correctional institutions should be self-sufficient. The system of leasing convicts in Alabama was begun as an effort to make the prison system self-sustaining. Despite the unsuccessful experiments during the early leasing period, the state continued the practice with little regard for the care and treatment of the convicts. The damaging effects of the Civil War left Alabama with little recourse except to continue the system. World War I, too, served to fasten the system more tightly upon the state by its influence upon the economic conditions. With the Alabama state government suffering constantly from the lack of finances, it was neither disposed to give up a system that brought revenue annually into the state treasury nor to make a change in the system that would involve additional expense. Throughout the entire movement to abolish the convict lease system the economic motive was a strong plea of the advocates of convict leasing. By 1927, however, with the advent of economic prosperity throughout the state and nation, the efforts to abolish the lease system were made somewhat easier.
The movement was made all the more difficult because it involved the pecuniary interests of large business groups. Because of the powerful political influence of the corporations working the convicts, the anti-leasing groups had a formidable force to overcome. When public indignation was aroused, however, the business groups were forced to yield to the social will.

With the abolition of the convict lease system, Alabama settled a profound social problem that had perplexed the state for more than a generation. The transition from retribution to rehabilitation in Alabama was a slow, tedious process, and prison administration remained in a stagnant state as long as it was conditioned by the lease system. With the abandonment of this "relief of barbarism" Alabama entered a new era of penal development.
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