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Title: Kansas, Convicts and Labor: Systems of Labor Utilized at the Kansas State Penitentiary, 1861-1909

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This thesis examines the various forms of convict labor utilized at the Kansas State Penitentiary from 1861 to 1909. The study examines the main forms of convict employment, those being primarily the lease, piece-price, public account and state use systems. In looking at the various forms of labor, this study also charts the various changes that took place in the attitude of prison officials and politicians towards prisoners and the practices of the Kansas State Penitentiary.

From the beginning of the Kansas State Penitentiary in

1861 until approximately January of 1909, it was an accepted belief that prisoners should be assigned various tasks with an element of reform, that also made money for the state. The Kansas State Penitentiary, like those of other states, was viewed by the legislature as a money making operation. As the pressure for profits became stronger, the prison officials soon lost interest in reform and concentrated instead on profit.

Placing profit over reform reached a peak during the Populist and Republican struggles for power. Each group was eager to show that it could better provide for the state. One method of doing this was to obtain as much money as possible from state institutions such as the penitentiary. Corruption and scandal arose at the penitentiary during this stormy period of Kansas politics.

The element of reform eventually reentered the Kansas penal system due to Republican progressivism and the activities of Kate Barnard, the Oklahoma Charities and Corrections Officer. Investigating reports of abuse of Oklahoma prisoners at the penitentiary, Barnard's actions resulted in intensive investigations, accusations and the eventual removal of the Oklahoma prisoners from the Kansas State Penitentiary.

Much of the work force of the penitentiary disappeared with the removal of the Oklahoma prisoners. Kansas officials took advantage of the situation to eliminate all systems of

labor except the state use method. Kansas would no longer contract out or use prisoners in any way to make money for private enterprise. With this change, prison work to reform prisoners began to once again supplant the practice of exploiting prisoners for profit.

Kansas, Convicts and Labor: Systems of Labor Utilized at the Kansas State Penitentiary, 1861-1909.

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Table of Contents

Chapter One

Introduction

In 1861, a growing convict population forced the new state of Kansas to consider a state penitentiary.[1] This study traces the history of convict labor from the beginning of the Kansas State Penitentiary in 1861 to the termination of the contract system in 1909. It focuses on the major methods of convict labor utilized at the Kansas State Penitentiary and the various influences responsible for changes within the prison labor system.

As Kansas prepared for the construction of its penitentiary, state officials chose the Auburn system of penitentiary design. Under the Auburn system convicts slept in single cells but worked along side fellow inmates. The Auburn system offered the best possibility of both reform and profit for the state. Kansas constantly faced financial crises, and an Auburn style prison with its smaller cells and large communal work areas had low construction costs. With the congregate work force provided by the Auburn system, the state of Kansas even had an opportunity to add to its income through the sale of convict labor.[2]

In addition to monetary gains, reform also played an important role in the choice of the Auburn prison system. Labor and education were keys to the nineteenth century theory of reform. A prisoner not only avoided the evil of

idleness through constant hard work but achieved physical and moral rehabilitation as well. Prison work could be used to train convicts in a trade or skill to aid them in earning an honest living when released.[3]

From the very beginning, the Kansas State Penitentiary employed convict labor, including for the construction of the prison itself. As the penitentiary grew in both size and population, prison officials experimented with all the various systems of convict labor. Like most prisons throughout the United States, the Kansas State Penitentiary was criticized by humanitarian reform groups and organized labor because it hired out convicts.[4]

From 1861 to 1909 convict labor at the Kansas State Penitentiary underwent many changes. Convict labor originally served as a reform that also had the potential to earn money for the state. Two decades later, the emphasis of prison labor had shifted from reform to profit. As reform gained popularity, the prison emphasis on convict labor again shifted back to rehabilitation of inmates.[5]

Endnotes

[1]Frank Gable, "The Kansas Penitentiary," *Kansas Historical Collections* 14 (1918): 379-81.

[2]Ibid.

[3]Glen Gildemeister, *Prison Labor and Convict Competition with Free Workers* (New York: Garland Publishing Incorporated, 1987), 14.

[4]Gable, "The Kansas Penitentiary," 379-381.

[5]Ibid.

Chapter Two

1861-1879

Kansas was beset with problems in the first year of statehood. Amidst violence, flaring tempers, and strident debates, state officers attempted to organize a government as the battle over slavery intensified. One of many problems demanding attention was the disposition of convicts housed in the various county jails throughout the state. Early in the decade Kansas began preparations to construct a state penitentiary to house the growing convict population.[1]

During the period from 1861 to 1879 the Kansas State Penitentiary attempted to balance out the dual goals of reform and profit. Within ten years of beginning construction the prison was completed and convicts employed in a variety of occupations. Pressure from the state legislature, however, forced prison officials to search out more profitable industries resulting in the opening of the prison coal mine in 1881. Although profitable, the coal mine venture began for the prison a period in which profit was valued over reform.

Between 1861 and 1863, the progress of the Kansas State Penitentiary was marked equally by progress and disaffection. Once construction began on the prison in 1863, the project sped along rapidly. In 1873, ten years after opening, a

variety of industries within the prison earned nearly seventy percent of its operating cost.[2]

Simultaneously, the prison was a disappointment to state politicians. Prisons of the day were not only expected by state legislatures to support themselves but also to make a profit for the state. A profitable prison industry was found only when the prison coal mine opened. Profitability had a price, however, as neglect of convict welfare and managerial instability eventually resulted from the prison emphasis of profit over reform.[3]

After some political skirmishing, Charles Robinson became the first state governor in 1861, and his administration was responsible for establishing a state prison. In early 1861, Robinson appointed a three man committee to oversee the construction of a penitentiary. The committee found a suitable location in northeast Leavenworth County and signed a deed in late 1861 for a triangular section of land bordered by Seven Mile Creek on the north, Nine Mile Creek on the south, and the Missouri River on the east.[4]

The prison committee initially had considerable trouble securing funds. The legislature failed to appropriate any money for the committee's travel, surveying the site, or even the purchase of the land, which cost $660 including interest. The state was also temporarily housing criminals in the Leavenworth and Lawrence jails; this cost was charged to the

state penitentiary, which was in debt $4,271 before actual construction began on the facility.[5]

Kansas already had a severe shortage of income due mainly to the high cost of setting up a new government and dislocations caused by the outbreak of the Civil War. Inadequate allocations for the penitentiary, however, had deeper causes based on greed and personal gain. Leavenworth County was one of the most populous in Kansas at this time and its influence in the state was considerable. The prospect of having a penitentiary was attractive to every county, as it would be a constant source of jobs and income. Given its political influence, Leavenworth County was unsurprisingly considered by many to be the perfect site for the penitentiary. The biggest obstacle to the plan was that Governor Robinson lived in Lawrence, which was in Douglas County.[6]

Lawrence had been selected as the site for the state university, which might increase the level of education of the town, but did little to increase its income, and, thereby, Robinson's interest in it. Determined that Douglas County should have the penitentiary, Robinson did everything in his power to impede construction. Despite the prison committee's pleas, he continuously halted their appropriations. Robinson claimed, among other things, that the site was too small for a prison. When the committee

proposed adding more land, he delayed the necessary legislation.[7]

In 1861, when the prison committee had initially requested legislation to allow state prisoners to work on the prison, it provided detailed explanations why the Convict Labor Bill and larger appropriations were absolutely necessary. It considered adequate space essential to separate youths and first offenders from violent criminals and repeat offenders. Such housing would help to ensure convict rehabilitation. Passage of the Convict Labor Bill would allow convicts to be worked in a useful manner, and the sentence of hard labor given to many prisoners could be carried out. The bill passed the legislature, but was rejected by the disgruntled Robinson. This impasse, the complications of Civil War, and the lack of even an architectural design for the prison resulted in the abandonment of all penitentiary planning for almost a year and a half.[8]

On February 21, 1863, the legislature finally passed a bill to "provide for the erection and regulation of a penitentiary and making appropriations therefore."[9] It also established the Board of Directors, a three person committee in charge of making annual reports to the governor. Governor George Carney, who signed the bill, lived in Leavenworth, oddly enough. With the political road clear, the officials and the convicts could begin building the penitentiary.[10]

In 1863, thirty-three prisoners were housed in county

jails in Lawrence and Leavenworth. Efforts to contract these prisoners out for wages were unsuccessful, and the state was paying the counties seventy-five cents a day to room and board each convict. The penitentiary advertised for bids from companies to begin prison construction, and, after some initial difficulty, accepted the offer of building contractors Caldwell and Flory.[11]

Prison architect E. T. Carr suggested that the directors visit various prisons before deciding on a design. They toured prison facilities in New York, Ohio, Michigan, and Illinois. Finally deciding to duplicate the Illinois State Prison in Joliet, the committee obtained the necessary plans and Carr approved the choice. A strategy that was to have long term implications for the state was Carr's suggestion to construct and occupy the prison simultaneously to avoid building a temporary facility at the site. Although substantially following the architect's advice, the state did erect a temporary structure, probably to avoid the room and board payments to the counties. Carr also advocated constructing a huge prison to provide for the needs of the state far into the future and thereby avoid constant additions.[12]

Prisoners finally began to satisfy the labor portion of their sentence when they erected a long low wooden barracks for themselves, which also housed guard offices and quarters. Inhumane conditions existed for the prisoners in the

temporary building. On an inspection trip, the directors found the facility overcrowded, crawling with bugs, and the inmates lacking the necessary winter clothing. Their report stated that the prison was "Cheerless, forbidding, and absolutely uncomfortable."[13] Holding only 150 convicts, the temporary structure was full in 1866. The tremendous increase in the state prison populations was a phenomenon experienced around the country after the Civil War. Former soldiers increased the prison population 100 percent within six months of the war's end.[14]

Flory and Caldwell began construction November 30, 1866. A good source of building stone lay along the banks of Seven Mile Creek, and, after constructing a dam, the convicts began quarrying. A long standing practice of convict quarrying was fostered because of the abundant Blue Limestone on prison property.[15]

The construction company employed all of the prisoners in a modified lease system. Flory and Caldwell paid the state sixty cents per day for the labor of each convict, and the state paid the company seventy-five cents a day to room and board each prisoner. Instead of making money from the lease of convict labor as it hoped, Kansas lost fifteen cents per day on each prisoner.[16]

Under the lease system, a prison leased any number of convicts to an individual, group, or business. Although the state lost all control of the convicts in a lease agreement,

it was not responsible for the convicts' welfare or behavior. Food, clothing, medical care, and discipline were all the responsibility of the lessee.

This system was notoriously brutal as the "purchaser" of convict labor had little concern for the welfare of the prisoners and great concern for the amount of work performed. In 1889, a member of the American Prison Association said

> The lease system violates a sacred principle of civil government, outrages human nature in the person of its victims, and exposes those who administer it to temptations to which the best of men should not be subjected. In Dante's inferno, there was one horror not included--the Devil did not farm out the punishment of hell to sub-Devils for profit.[17]

Particularly well suited to agriculture, the lease system was widely used in southern states. The former Confederate states were unable to finance prisons after the Civil War, and eagerly disposed of convicts by leasing. Many states tried the lease system, which did not completely disappear from the South until the early twentieth century. In Kansas, directors terminated the unprofitable lease agreement with Flory and Caldwell less than a year after making the agreement.[18]

Convicts continued work under the direction of architect Carr, but inadequate equipment hindered progress. Convicts needed tools and implements to work on the prison, but the directors reported "there was not a hoe, shovel,

spade, axe, or wheel barrow belonging to the state."[19] Purchasing these objects entailed a considerable outlay, and the legislature had not figured the cost into the original appropriations. The problem of unexpected expenses occurred constantly for many years, only to be solved by the later creation of a special revolving fund. In 1866, the prison had $17,000 but needed $75,000 total to finish the job.[20]

Inmates continued to perform most of the work after the termination of the Flory and Caldwell contract, but the directors also hired skilled workers to oversee or lead the convicts in their work. In 1866, a sudden nation-wide increase in the demand for stone cutters, due probably to the rebuilding after the war, drove up the wages of such craftsmen well above the state's ability to pay. Cutters from Leavenworth and surrounding areas found it not worth the effort to travel to the penitentiary when bigger profits could be had elsewhere. The directors proposed, therefore, that a large number of convicts learn the stone cutting trade. In addition to convicts acquiring a skill, an element of reform, the state could avoid paying high wages demanded by the free workers.[21]

The 1867 directors' report complained bitterly about Carr's construction strategy: "The undertaking is a great one, and had its practicability, . . . been submitted to this board, we should have decided against the prosecution of an object that required so large an outlay."[22] Five years

later, the directors stated, "The practice of using the penitentiary as it is being built is now causing lots of trouble."[23]

The original prison plan called for 344 cells, each seven feet long by four feet wide. With little regard for the future or architect Carr's advice, the directors adjusted the number down to 100 cells to finish faster. With the completion of the outer walls and a cell house in 1867, the prison officially opened. Although the state saved large amounts of money by using convict labor for the majority of construction, the legislature expressed great concern in 1867 that the penitentiary was not making money. The legislature desired the penitentiary to not only be self sustaining, which was difficult in itself, but that it add great sums of money to the state treasury. Legislative clamoring for prison generated revenue was habitual, yet convicts had already performed $3,840 worth of labor for the state before the prison even officially opened.[24]

In 1865, Governor Samuel Crawford appointed George Keller as the first warden of the prison. Henry Hopkins assumed the post of deputy warden. In November of 1868, Governor Crawford resigned to fight Indians with General George Custer. The next governor, Nehemiah Green, dismissed Keller and appointed J. L. Philbrick as warden. Philbrick's appointment in 1868 was merely a patronage move, and hinted at things to come.

To play the patronage game, each incoming governor found

some fault in the conduct of incumbent prison officers, fired them, and replaced them with supposedly competent men of the correct political affiliation. In the case of Warden Keller, Green had found the work on the prison going much too slow. Accused of keeping spotty records, the clerk was also ousted from the prison. As soon as Philbrick was in office, work miraculously advanced at an approved rate and the financial records became accurate.[25]

During Philbrick's time as warden, construction continued on new workshops for prison industries and extant industries were enlarged. The more shops and facilities that were created, the greater the opportunity for the state to make additional income. In addition to stone cutting, inmates began work in the shoe, carpentry and blacksmith shops that opened up in late 1867. The carpentry, tailor, and shoe shops each employed a small number of men.[26]

After dropping the lease practice, early prison industries operated both on the public account and state use systems. The public account method allowed far more state control of the convicts than the lease system. Under this scheme, the state retained all responsibility for convicts' housing, food, clothing, discipline, and medical attention. The prison purchased raw materials and supervised the convict manufacture of products that were sold on the open market. Although simple enough on the surface, this system had three major drawbacks. It required the state to make large initial

cash outlays for materials and machinery. Second, the plan required that the warden be well versed in the advertising and selling of goods. Last, the public account system placed the state in direct competition with free labor, but this was not initially a concern in agrarian Kansas. The prison retained the public account system for almost forty years.[27]

The state use system was similar to public account. In state use, however, only state institutions received convict produced goods. This system involved less competition with free labor and retained prison control over the convicts. Initially shunned because of its weak profit making potential, state use was the sole system of convict labor remaining at the penitentiary by 1909.[28]

The Kansas contract system of convict labor first came into use in 1869 when businessman G. C. Haas contracted out twenty convicts to cut stone and paid the state one dollar a day for each. The relatively high price paid by Haas can be attributed to the need for stone cutters during that period.[29]

Most early prison authorities favored the contract method. Convicts could be kept busy, the state could earn money through the sale of their labor, and, unlike the public account system, the state did not have the expense of a large outlay for material. The state remained responsible for convicts under the contract system, while a private manufacturer set up shop inside the prison, hired an agreed

upon number of convicts for a specified period, and paid the state a certain daily rate per prisoner. A common complaint against the contract system was the amount of control the contractor had over the convicts. Contractors often utilized bribery and threats of punishment to coerce excessive work out of the convicts, thereby undermining the authority of the warden and other officers. Entrenched contractors exerted appreciable influence. They might stay at a prison for many years, whereas the warden, guards, and other officers were fired and hired according to the whims of the governor.[30]

Free labor also fought against the contract system, complaining of unfair convict labor competition. Despite its disadvantages, the contract system offered the most important benefit to the prison, which was to make money for the state.[31]

In the late 1860s, the prison experimented once briefly with the piece-price system of labor, whereby a manufacturer delivered raw materials to the prison and paid the state a negotiated price for each finished product. The contractor never entered the prison. This might have solved the problem of convict control, but free labor complained of the competition from piece-price. Harness manufacturer B. S. Richards had the only piece-price agreement with the prison. After approximately a year, the company transferred to the contract system. Possibly the logistics of delivering materials and picking up finished goods from the prison led the parties to adopt the contract system over piece-price.[32]

Instability due to patronage ended when Governor James Harvey promoted Deputy Warden Henry Hopkins to warden in 1869. A conscientious officer, Hopkins added elements of stability and reform to the prison. In annual reports, Hopkins exhibited a concern for the prisoners and constantly agitated for better treatment. Hopkins deserves at least partial credit for implementing the parole system, and the law allowing prisoners to keep five percent of the earnings they made for the state. Summarizing his two-fold philosophy, Hopkins conceived of prison as "a protection to society," that should "correct the wrong." According to Hopkins, the first required "impartial justice" and the second "time for due reflection."[33] In 1871, the directors stated that due to "unwavering firmness, tempered with kindness . . . Henry Hopkins has wrought . . . this institution to a very high standard of excellence."[34]

The prison had eliminated all its debt by the end of 1869, but was far from attaining self-sufficiency. Favoring the contract system, Hopkins set about building numerous large shops to house various industries. Although the new shops enabled 200 convicts of the total prison population of 234 to be contracted, only fifty-six prisoners worked for contractors in 1869. Contractors paid the state eighty cents a day for each prisoner contracted. All other shops operated on the state use system.[35]

To facilitate prison construction, Hopkins began a brick

plant, which employed a large number of inmates and operated on the state account system. Bricks sold for ten dollars per thousand, and lime used in brick making sold for thirty-five cents a bushel. In 1870, the prison sold 3,018 bushels of lime and 32,100 bricks.[36]

Manufacture of wagons and farm implements had been a special interest of Hopkins since his first involvement with the prison. He wasted little time after his promotion to warden in opening shops to make wagons and farm implements and work began in these industries in December of 1870.[37]

Scrambling for profits, the prison added federal prisoners to its population. In 1870, the US Department of War declared Kansas State Penitentiary a military prison, where court-martialled men, mainly from western districts, could be sent. Because the prison was recompensed, these new convicts were welcomed at the prison, at least by the legislature. So profitable was holding non-state convicts that Kansas later actively sought out agreements with other states and territories.[38]

Despite the income earned from new industries and housing military prisoners, the continuous increase of the Lansing population proved to be a considerable drain on the prison finances. The state legislature was not providing enough appropriations to provide the needed food, clothing, and other necessities. For example, the prison directors asked for $46,973.50 and received $34,973 for the 1871 fiscal

year. Inadequate appropriations by the legislature fostered a vicious circle that proved hard to break. The penitentiary could not construct work shops or purchase tools without money, and the prison found it difficult to attract sufficient contractors without the shops and tools. Consequently, the directors asked for larger appropriations that the legislature denied, so around it went.[39]

Without enough funding, the prison suffered from a lack of indoor shops. Many industries were thus forced to stop operating in the winter leaving between forty or fifty convicts idle. Prison authorities considered this seasonal idleness harmful to convict health and prison discipline as well as the prison finances.[40]

The severe 1873 depression compounded the already serious money problem. It hurt penitentiary industries generally, and one company in particular. The Kansas Wagon Company of Leavenworth entered into a contract with the penitentiary in March 1873. Because agriculture was especially hit hard by the economic slump, the company exercised a clause in its contract after six months to end its connection with the prison. The state could not afford between $37,000 and $47,000 for tools and raw materials to start a plant or buy the company's equipment. The possibility of many idle convicts led to a series of arguments and negotiation between the company and the prison.[41]

In a supposed gesture of good will, the company agreed to continue work at the prison for six months, but only at a greatly reduced daily price of twenty-two cents per convict. Eager to keep convicts busy, the directors accepted the offer. After the six months, the company presented a long list of demands that the directors had to meet to keep the company at Lansing. The list included everything from changing the name of the company to construction of a railroad spur into the prison and providing bigger shops and boilers. When the prison rejected the demands, the company decided to close up shop in ninety days.[42]

The directors immediately advertised for a replacement contractor. Owing to the severity of the depression, the two bids were below that of the Kansas Wagon Company and unacceptable to the prison. The company then agreed to continue its contract at twenty-two cents a day per convict for six months to use up its remaining supplies.[43]

Given this new deadline, the directors of the prison began advertising for contractors in April of 1874. The ad below appeared in Kansas and large city newspapers in Pittsburgh, Chicago, and St. Louis.

> Sealed bids will be received for the labor of two hundred convicts . . . until two o'clock p.m., June 1 1874. Three hundred and forty convicts now in the prison. Wagon and carriage making now carried on. Contracts will be made for five or ten years. Ten hours will be a days labor. All shops new and principally brick. A new 65-horsepower engine and boiler now set. State will furnish fixed machinery, line shafting, blower and pipes. Ordinary branches of

> manufacturing will be allowed. Coal for fuel had from twelve to eighteen cents per bushel.
>
> A. J. Angell, Chairman, Board of Directors.[44]

On June 1, 1874, the directors met to consider four bids. At the contractor's request, the directors merged the three separate bids, those of North, Caldwell and Waterman, into one. They were the owners of the Kansas Wagon Company and this move was merely to renew their original agreement. A later investigation of this incident by the Kansas Bureau of Labor and Industry revealed that North, Caldwell and Waterman had conspired to reduce labor prices through the false appearance of competing bids.[45]

In 1875, the prison received $40,811.68 from contract labor, boarding US prisoners, and the sale of goods. Despite this income, the prison was in debt for the first time in four years. Most of the debt came from expenses incurred in building extra shops and cells. Contractors employed 180 convicts at an average rate of fifty cents a day per person. With the daily cost of fifty-two cents to sustain a prisoner, the prison virtually broke even.[46]

Inadequate transportation was a main problem of the prison industries. Warden Philbrick had complained as early as 1868 about the location. According to him, the prison "is close enough to Leavenworth that we go there for all of our supplies and yet it is too far away to actually sell any of

our finished products there."[47] As prison industries multiplied so did complaints about transportation. The Kansas Wagon Company, for example, even demanded a railroad spur be built to the prison. Unable to afford and unwilling to admit the need for a rail spur, Warden Hopkins began to improve the five mile road between Lansing and Leavenworth. The crude dirt road was often too muddy to travel and was completely impassable in winter. The road was eventually macadamized, and resulting year round travel significantly boosted the profitability of the prison industries (that road today is a part of state highway 5).[48]

By 1876, Hopkins realized the advantages of a rail spur and began to agitate for its construction. Early the next year, a deal was struck whereby the Kansas Manufacturing Company agreed to provide wood, the Leavenworth, Lawrence, Galveston Railroad agreed to furnish and lay the iron rails, and the prison agreed to furnish and make all improvements on the land for the spur. The prison soon had a rail outlet within its walls, but the collaboration turned slightly sour when the prison could not to meet its end of the bargain and the directors had to borrow money from the Kansas Wagon Company to finish the job.[49]

The Kansas Wagon Company had provided the big impetus for the rail spur. Since its shaky start, the company had grown both in size and reputation. In 1876, the company employed 200 convicts and sold its products throughout the country. The directors effused about the wagon company in

their report that year, but they also admitted to facts that would have a tremendous future impact upon the prison.

> The Kansas Manufacturing Company of Leavenworth is now working two hundred prisoners . . . and are making very superior wagons and are selling them at from ten to twenty dollars below the price other wagons were selling for before they put theirs in the market, thus compelling other manufacturing companies to reduce their prices also, and making a net saving to the people of the state of at least ten dollars on every wagon sold within its borders; and upon careful inquiry we are satisfied that there are sold annually to our own people, at the very least, five thousand wagons, making a clear saving to the tax-payers of the state of not less than fifty thousand dollars, besides the hundreds of thousands of dollars sent here in payment for wagons and carriages from other states and territories.[50]

Besides the wagon trade, contractors employed convicts for furniture manufacturing, quarrying and manufacturing marble ornaments, and harness making. The prison contracted out a total of 314 convicts in 1876. Earnings for the prison were $56,996.00, which equalled sixty eight percent of the prison's total operating cost.[51]

Earning that amount of the operating cost of the prison was impressive. Even the best managed, long established prisons struggled to achieve what the Kansas prison had accomplished in twelve years. Such success could be attributed mainly to Warden Henry Hopkins. He was able to successfully combine high prison productivity with concern

for convict reform. That reality, however, was temporary as by 1879 the profit drive eliminated any room for rehabilitation. The state was unwilling to pay the remaining thirty-two percent of operating costs; it wanted profits. An industry had to be found at the institution to make money.[52]

It turned out to be coal. The prison property contained a promising coal deposit, and, on November 25, 1879, work began on a shaft to reach the underlying veins. With the beginning of the mine, the prison adopted an all out emphasis on profits. Although in charge of the initial industrial development and the mine, Hopkins resigned when profits and political power began to override concern for the welfare of the prisoners. Thus, political games, patronage, and a long period of instability began at the Kansas penitentiary.[53]

Endnotes

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[3]Ibid.

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[8]Annual Report, KSP, 1862, 93.

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[10]Annual Report, KSP, 1863, 3.

[11]Gable, "The Kansas Penitentiary," 384.

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[24]Annual Report, KSP, 1868.

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[27]Gildemeister, *Prison Labor,* 33.

[28]Carroll D. Wright, *Second Annual Report of the Commissioner of Labor* (Washington DC: Government Printing Office, 1887), 372.

[29]Annual Report, KSP, 1869.

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[32]Annual Report, KSP, 1872.

[33]Annual Report, KSP, 1870.

[34]Annual Report, KSP 1871. 3.

[35]Annual Report, KSP 1869.

[36]Ibid.

[37]Annual Report, KSP 1871.

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[41]Annual Report, KSP, 1873.

[42]Ibid.

[43]Ibid.

[44]Annual Report, KSP, 1874.

[45]Ibid.

[46]Ibid.

[47]Annual Report, KSP, 1869.

[48]Annual Report, KSP, 1875.

[49]Annual Report, KSP, 1876. See also Biennial Report, KSP, 1879-1880.

[50]Annual Report, KSP, 1876.

[51]Biennial Report,KSP 1879-1880.

[52]Ibid.

[53]Ibid.

Chapter Three

The Search For Profits

With the exception of a few cells and a solitary confinement section, the prison was completed in 1882. Warden Hopkins had not only supervised the majority of the prison's construction, but also promoted reform. Throughout his thirteen year tenure, Hopkins exhibited constant concern for the welfare and rehabilitation of the prisoners. In the next two decades, however, the prison environment was transformed into one of greed and personal gain with little concern for reform. The constant state push for profits led to questionable financial practices, and power struggles between the Populists and Republicans severely disrupted management of the prison.

From its beginning, the prison was never fully funded by legislative appropriations. The legislature expected the prison to defray the cost of operation through either the sale of prison made goods or the contracting of labor. Profit was always an important goal for the prison, and the ability to make money became the standard for judging those in charge. The emphasis of profits over reform led to deceit and financial trickery.

In the 1880-1881 prison report, Warden Hopkins stated "There is no doubt but that the long looked for time has arrived, when we can say that the prison is on a self

sustaining basis."[1] To justify this claim Hopkins found it necessary to alter the way the prison reported income. Hopkins, therefore, counted the value of all coal removed from the mine as income whether it was sold or not. Most of this "income" was money saved by the state, but not income received by the prison. State institutions, which received the bulk of the coal, made no payment to the prison. The motivation behind Hopkin's change cannot be documented but is clear. Reported income of the prison was thus bolstered for the next twenty years. Each successive wave of officers adopted this ruse to show their ability to make a profit.[2]

When Hopkins retired in 1883, W. C. Jones was appointed. During his relatively short term as warden, he revealed how consuming the profit motive had become. The prison used gas as its main source of illumination up to 1883. Jones advocated the installation of electric lights, but not just for the improved lighting. Through some unknown calculations, Jones estimated that the prison would save money and, far more important, the convicts could work one additional hour each day.[3]

Appointed in 1889, Warden George Case added even more money to the earnings column of the prison. His 1889 statement of earnings included the value of all work performed in the prison and the value of products used in daily activities at the prison. His accounting system was

never fully explained and the report omitted the procedure used to arrive at the final figures. Presented below is the summary of income in the 1889 report.

Prison Expenditures	164,843.91
Prison Earnings	103,867.49
	-60,976.42
Plus value of labor and products used at the prison and value of all coal mined.	Not given
Profit earned by the prison.	22,922.20[4]

Agricultural discontent in the Plains states rose to incredible proportions in the late 1880's. Through groups such as the Farmer's Alliances, farmers and those sympathetic to their cause formed the Populist party. Although Kansas had been primarily Republican, the Populists were strong enough in 1890 to capture control of the state House of Representatives. By 1892, the Populists controlled not only the Senate, but installed a Populist governor. In the same year, the House of Representatives became the scene of violent disorder as Populists and Republicans battled for control.[5]

The turmoil from the intense bickering and political infighting reached the prison level. Prison officers were appointed on the patronage basis by each incoming governor. The struggle between Populists and Republicans and the

frequent change of administrations led to the appointment of eight different wardens in rapid succession. As each warden realized that his term might be rather brief, long term goals of reform were ignored. Wardens exploited the labor of the convicts to make quick money in any way possible. Embezzlement and numerous other crimes stemming from the presence and abuse of the patronage system added to the instability. The patronage game reached its peak in the late 1890's, and slowly died out in the early twentieth century.[6]

In January 1893, Populist Governor Lorenzo Lewelling appointed Seth Chase as warden. The Populist party claimed to be the party of the people, yet it seems Chase did less for the people than any warden previously in charge. Poor business practices and various scandals threw the prison into a state of chaos during Chase's tenure.[7]

In 1893, the country experienced another severe depression. The prison was still able to produce a profit, however, due to the manner of reporting income. Chase reported in 1894 that the earnings from convict labor included "solely the labor of convicts and of the teams, mules and traction engine laid out on permanent improvements. The labor of convicts is computed at fifty cents a day and the labor of the team and mules at the lowest rate paid outside parties."[8] On this basis the prison reported a "surplus" of $10,610.51 for 1894.

Chase's tenure as warden was full of allegations and

scandal. Being the first Populist warden, it was only natural that the Republicans would be guilty of some mud slinging and bitterness, however, Chase needed no help in creating trouble. In his two and a half years as warden, Chase was accused of embezzlement, nepotism, accepting kickbacks, neglecting safety precautions, brutality, inhumane treatment of prisoners, and immoral conduct. These charges against Chase were filed by prison clerk John Yarroll along with several other employees and former employees of the prison. When attorney J. F. McDonald confronted Chase with the charges, Chase severely beat-up the attorney. Chase's defense was that this was a private matter, and he offered previous examples of other state officials committing physical assaults.[9]

These problems were compounded when Attorney J. Dawes from Topeka charged the president of the Board of Directors, W. J. Hurd, with neglect and incompetence. Governor Edmund Morrill, who assumed office in January of 1895, fired Hurd and appointed a legislative committee to investigate Chase. The investigation revealed that most of the charges were accurate. Chase had at least three family members on the payroll, and inmates were tortured during his term. The woman Chase hired as matron for the female prisoners was widely believed to be a prostitute, and "Chase's relationship with her was of an intimacy as to be subversive to the discipline of the female ward."[10]

Chase's conduct during the investigation did not improve his image. Aided by his son and guards, Chase verbally and physically assaulted James Stonehocker, a former prison employee and participant in the action to remove the warden. Chase's oldest son also was accused of threatening several prosecution witnesses with a gun. Morrill suspended Chase during the investigation, ultimately replacing him. When dismissed, he refused to leave the prison for a month.[11]

Chase's actions proved detrimental to convict labor. He removed long time mine superintendent Oscar Lamm and appointed Seth Chase, Jr., in his place. The mine was seriously neglected. Many prison uniforms were found burned and buried in the tunnels, which left the inmates with little or no winter clothing. Convicts could not perform outside work and, therefore, the number of inmates contracted fell to an extremely low level.[12]

Warden J. B. Lynch succeeded Chase in 1895. Although achieving little in the way of prison improvement, Lynch was probably saved from trouble only by his Republican affiliation.[13]

When the new governor John Leedy appointed W. H. S. Landis as warden in January of 1897, prison practices radically changed for the better. Prison clothing was an example of this. Landis obtained funds to issue two prisoner uniforms, a light weight summer garment and

heavier winter clothing. In July 1897, he also abolished the standard issue striped uniform. "I doubt whether anything has ever been done in this prison," Landis exclaimed, "that exercised so salutary and so lasting an influence on the discipline and voluntary good behavior."[14] Despite the humanistic motive, money was the main reason for the uniform change. Because of the good behavior attributed to new uniforms, the number of prisoners in solitary confinement decreased and the prison gained many more days of labor. Better inmate care of the new uniforms also cut clothing costs.[15]

Misleading prison financial statements continued until 1901. Warden E. B. Jewett admitted that year that the prison had probably not been self supporting since at least 1890, and indicated a positive balance could have been achieved even before then only by reporting the value of all coal mined not just sold. After Jewett's first two years as warden, he reported the prison was $17.070.13 in debt. Jewett set the record straight in his biennial report with the statement, "It has been the impression that this institution is not only self-supporting but a profit making enterprise, actually it is not . . . and cannot be made so without a radical change of conditions."[16]

Although Jewett was intent on stopping the fraudulent accounting, he did continue the decade old practice of keeping out-of-state prisoners in Kansas. To earn income,

prisoners from New Mexico were kept for a few years, but the bulk of so-called "foreign prisoners" came from Oklahoma. Warden Seth Chase first kept Oklahoma prisoners at Kansas State Penitentiary. The first transfer of Oklahoma convicts to Kansas in 1890 involved eighteen men, and even this small number added $1642.50 to the prison income for the first year of the agreement. The territorial governor of Oklahoma agreed to pay Kansas twenty-five cents per prisoner per day. Each Oklahoma prisoner received $20.00 and a new suit upon release. As part of the contract, Oklahoma refunded the $20.00 and the cost of the suit.[17]

Housing of the Oklahoma convicts was initially a source of great prison income. In addition to the fee paid by Oklahoma, those prisoners could be contracted out for work in prison industries. Despite the financial benefits brought by Oklahoma convicts, their presence in the Kansas prison system eventually proved to be a detriment.

When the original agreement expired in 1897, over 130 Oklahoma convicts were in the prison, and the income they provided was increasing at a fast rate. Warden W. H. S. Landis renegotiated the contract with Oklahoma thereby raising the charge per day for each convict to thirty-five cents. By also decreasing the amount paid each convict upon release to $15.00 from the original $20.00, he purportedly added $6,000 to the yearly intake from Oklahoma.[18]

In 1900, Oklahoma prisoners made up one fifth of the total prison population and netted the prison $22,000 a year. Due to a five cent per day convict charge increase in 1903, and an increase in their numbers at Lansing, the prison earned $47,425.35 from the Oklahoma account in 1904.[19]

By 1905, convicts from Oklahoma made up more than half of the total population of the prison without any sign of decreasing. The large numbers represented a great amount of money for the state, but drawbacks were beginning to be noticed. One mentioned by Warden Jewett in his 1905 report was "whether the state should maintain a large number of convicts of another state, many of whom, when released remain in our own state, and in some cases perhaps do not make the most desirable of citizens."[20]

Despite Jewett's doubts, there were 536 Oklahoma convicts in the prison by 1908, and Kansas received $59,287.60, an amount that was probably hard to reject regardless of any negative side effects. Changes in the system were soon to occur, however.[21]

Private contractors in the prison also represented a chief source of annual income. Between 1881 and 1909, contractors produced wagons, farm implements, bricks, shoes, furniture, and horse collars. Between 1880 and 1882, the total number of contracted convicts was 325. The wagon works was the largest employer, and its work force

increased from 200 to 270 convicts in 1882. John Sorrinson employed twenty-five men to make furniture. H. S. Burr and Company employed thirty-six men in the shoe business, and B. S. Richard contracted out seven convicts to manufacture horse collars. Fifty cents was the average price per day paid for the labor, and the prison received almost $50,000 from contractors in 1882. An increase in the price charged per day for convict labor added even more to the prison income in the next few years.[22]

Of the various contractors, the Kansas Wagon Company had the longest association with the prison. Employing convict labor for almost twenty years, the company was the largest private employer in the prison. By 1884, the company was experiencing a decline in sales, and three of the owners consequently sold their shares to Alexander Caldwell. Caldwell renegotiated a ten year agreement with the prison for the labor of 250 convicts at eighty-four cents per day for each. Attempting to boost business, Caldwell added railroad cars to his product line, but failed at that and ended his contract in 1886. The firm opened up again the next year and employed a much smaller force of eighty convicts under the name of the Kansas Manufacturing Company.[23]

Caldwell's renegotiations left 170 prisoners idle. To rapidly recontract these men, the directors were forced to drop the contracting price to sixty cents a day. John

Sorrinson added twenty-five men to his furniture business, and approximately forty men worked for the shoe and boot industry. For the next four years, labor contracting ran without much trouble. All private contractors renewed their contracts, and either increased or maintained their work force.[24]

In 1891, the directors renewed only one contract and accepted three new contractors. John Gaffey reintroduced brick making to the prison and employed an unknown number of convicts for seventy cents a day each. Midland Brick and Tile Company later took over the Gaffey brick making operation. L. Kiper and Sons acquired the horse collar trade with fifty convicts, each earned the state sixty-seven cents a day. Helmers Manufacturing Company assumed the furniture business from the earlier contractor and employed sixty-five men for sixty-six cents a day. H. S. Burr and Company renewed their contract to employ fifty convicts for shoe making at sixty-five cents a day.[25]

The difference each contractor paid in the wages resulted from the manner in which the prison accepted bids. Prior to hiring out convicts, prospective contractors submitted sealed bids to the directors. This method hopefully prevented the contractors from collusion to submit the same bid. As already shown, the sealed bid approach was not always successful.

In February 1892, the continuing saga of the Kansas Manufacturing Company finally came to an unpleasant end.

When the company closed its prison operations, the state of Kansas had an obligation to buy all tools and machinery at a price set by a neutral appraiser. The prison directors, however, refused to pay the set price on the grounds that Kansas law did not compel it. Neither did the prison return the company property.[26]

This incident revealed a serious drawback for businesses that had contracts with the prison. As was the case with Kansas Manufacturing, current directors would have no knowledge of what had been said or understood about agreements often made many years in the past. Their misinterpretation of state laws and violations of oral agreements led to bitterness and confusion on both sides.

In 1894, all of the above contractors were still involved with the prison, but they contracted only 131 convicts by 1897. The decrease reflected the 1893 Depression that was trying the businesses, and, increased agitation against contract labor in Kansas.[27]

By 1902, only two contractors remained at the prison. Helmers Company was still making furniture and the Atchison Saddelry Company was manufacturing shoes. The two businesses contracted 125 convicts and the total income earned from the two businesses in 1902 was $18,239.16. The shoe business pulled out before 1905 and the Helmers Company stayed until 1909, when a joint agreement between the governor and the directors terminated all contracts.[28]

Opening the coal mine and the departure of Warden Hopkins began an era of turmoil at the prison. Subsequently, political bickering and mismanagement became common features of the prison. Ironically, the Oklahoma contract and prison industries, two features initially regarded as beneficial for the prison, would be responsible for drastically altering prison operations.

Endnotes

[1]Biennial Report, KSP, 1881-1882.

[2]Ibid.,

[3]Biennial Report, KSP, 1883-1884.

[4]Biennial Report, KSP, 1889-1890.

[5]Robert Richmond, *Kansas, A Land of Contrasts* (Arlington Heights, Illinois: Forum Press, Inc. 1989), 190-198.

[6]Biennial Reports, KSP, 1893-1901.

[7]Biennial Report, KSP, 1893-1894.

[8]Ibid.

[9]Ibid.

[10]Ibid.

[11] Governor Edmund Morrill Papers, Box 2, Folder 20. Archives Division of the Kansas State Historical Society, Topeka.

[12]Biennial Report, KSP, 1895-1896.

[13]Biennial Report, KSP, 1895-1896. See also BR 1897-1898.

[14]Biennial Report, KSP, 1897-1898.

[15]Biennial Report, KSP, 1897-1898.

[16]Biennial Report, KSP, 1901-1902.

[17]Biennial Report, KSP, 1897-1898

[18]Ibid.

[19]Biennial Report, KSP, 1903-1904.

[20]Biennial Report, KSP, 1903-1904.

[21]Biennial Report, KSP, 1907-1908.

[22]Biennial Reports, KSP 1881-1909.

[23]Biennial Report, KSP, 1883-1884. See also BR 1887-1888.

[24]Biennial Report, KSP, 1887-1888.

[25]Biennial Report, KSP, 1901-1902.

[26]Biennial Report, KSP, 1891-1892.

[27]Biennial Report, KSP, 1893-1894. See also BR 1897-1898.

[28]Biennial Report, KSP, 1901-1902. See also BR 1909-1910.

Chapter Four

Mine, Twine and Bricks

Three industries dominated labor at the prison from 1881 to the early twentieth century. The coal mine, brick plant, and twine factory operated under either the public account or state use system. The coal mine opened in 1881 and was the largest employer of prison labor in Kansas. The brick and twine factories both started in 1899, and, although utilizing smaller numbers of convicts, both proved to be of great benefit to the state.

After one year of digging, convicts hit a thick band of coal 720 feet beneath the prison grounds on January 18, 1881. The discovery came as little surprise to the prison officials as the Leavenworth Coal Company, located a few miles away from the prison, had mined the same vein of coal for years. Based on the estimate that twenty-five acres of land could be mined in a year, the prison owned and leased the mineral rights on enough land to last twenty-five years.[1]

Coal excavation began immediately and the mine quickly developed an extensive system of tunnels. Operations halted, however, when it became apparent that a second air shaft was necessary for ventilation. Working around the clock, prison crews completed the second shaft in six months. Both shafts had wood timbering and hoisting

engines set above the ground between the two shafts. The second shaft was also an entry and exit point for coal and men.[2]

In March of 1881, the first rail cars of coal went out to various state institutions. The prison also began to use the coal from the mine. Although the mine could employ up to 200 convicts at this time, only 114 were used because of labor demands elsewhere in the prison.[3]

Mining at the prison was conducted on both the state use and public account systems. Early attempts of the prison to sell coal were disappointing. Poor business practices and an apparent lack of common sense resulted in prison coal sales far short of Hopkins' expectations. The table below indicates the cost of prison coal versus coal from other sources in various locations. Hopkins was quick to point out that attempting to sell prison coal in locations where it could be bought for less from other suppliers would ensure failure of the prison mine.

Price per bushel of coal at various locations from prison

Prison--------	.12 1/4	.06
Wyandotte--------	.12 1/2	.10 5/6
Osawatomie--------	.12 1/2	.15 1/2
Topeka--------	.16	.13 5/8
Lawrence-------	.18 2/5	.12 1/2

Market problems existed in addition to price. Even those

locations able to purchase coal from the prison for a slightly cheaper price were initially reluctant to do so. Still in the infant stages of coal mining, the prison had not yet proven itself as a reliable constant source of coal.[4]

Excess coal was not stored in the early years of the mine operation. Working convicts continuously accumulated a greater amount of coal than that needed by the state. The directors solved this problem by selling coal to individuals through an auction process. The highest bidder had the rights to the coal for a year. Extra coal was also shipped at various times to financially burdened farmers in western Kansas and to citizens of the state whose coal supply was interrupted by strikes.[5]

Running the mining operation was complex. Large elevator cars in the shafts descended at a rapid rate of about thirty miles per hour until they slowed near the bottom. Once on the floor of the mine, the entry (a large hallway) extended into the earth. Smaller tunnels branched off the entry leading to the rooms situated along the coal face. Each room had an opening two feet high and four feet wide that widened to ten or fifteen feet after several feet, but did not increase in height.[6]

A convict extracted coal by laying on his side, propped up by an inverted shovel to free his lower shoulder and arm, and digging the clay from beneath the band of coal. A section of clay about ten feet in length was

excavated as deep as a convict could reach with his pick. Iron wedges were driven in above the seam of coal to break it off from the ceiling of the room. This process required great skill to avoid death or injury. As a section of coal was wedged off, it produced different sounds. A solid thudding sound meant that the coal was still solidly attached, whereas a hollow drum sound meant the coal was loose and ready to fall.

Another method of loosening the coal involved sprags or supports. After the underlying clay had been removed, wooden props were left under the coal layer for a day. Over a twenty-four-hour period, the layers of dirt in the mine shifted enough that the coal fell from its own weight when the supports were removed. An accident was inevitable if miners misjudged the stability of the coal.[7]

Once a coal slab was broken off the ceiling, convicts smashed it into smaller pieces to be loaded on a small sled. A full sled was pushed out of the room and emptied into a mine car. The large mine or gondola cars were propelled on a small track. In the early years of the mine, prisoners pushed the cars throughout the network of tunnels. When the distance between the elevator and the coal face increased, mules were employed in longer tunnels.[8]

Using mules in the mine began in the early 1890's. Starting with just a few mules, the prison eventually had

seventeen working simultaneously in the mine. The only use of the mules was to pull both empty and full cars throughout the mine and they quickly adapted to the work. Some mules specialized in only pulling a certain number of cars or only working for one convict.[9]

Especially valued were the hill mules. There were steep hills in some of the tunnels. Pulling empty cars up the hills was easy, but coming down with several fully loaded cars was treacherous. A line of cars, each approximately one ton, was pulled to the brink of a hill, where it was stopped and a hill mule hooked to the lead. Once the hill was crested, the mule began running down the hill with the cars. A convict riding on the front car kicked a release pin at the critical time, and mule and man jumped into a specially excavated notch in the wall to allow the speeding cars to pass. A miscalculation or slip meant serious injury or death to both mule and convict.[10]

Elderly mules usually retired to the prison farm either to roam free or pull light loads. Some mules served for twenty years, and a life in the mines left some unprepared for outside living. One retired mule ran frantically around the farm yard whenever it rained. The mule apparently associated the rain falling on its back with the small pieces of slate that always fell before a cave in.[11]

Besides the possibility of being crushed by coal or

the cars, there was always the danger of coal gas. Gas seeped out of the ground and accumulated in pockets along the ceiling. Every morning before work, the fire boss walked the mine checking for gas. Gas was detected by the amount of blue in the mining lamp flame, the more gas the bluer the flame. Several rules were enforced to minimize the danger from gas. Convicts were always required to wear heavy shirts. If a pocket of gas ignited, the miner hoped to escape injury by dropping to the floor and allowing the fire to pass over him. Trying to out-run a gas fire was forbidden. Miners created a current of air by running that pulled the fire and gas along behind them.

To eliminate accumulation of gas, an intricate ventilation system was necessary. Large fans on the surface pushed or pulled air through the mine. Heavy wooden doors within the mine were opened or closed to direct air currents to working areas. The mules were trained to push doors open, and some could even open them by pulling straps placed on the door for that purpose.[12]

Miners worked in an extremely harsh environment. Cramped and dark, the mine was infested with rats and insects. The presence of vermin was an accepted hindrance, but also aided the miners in their tasks. Miners noticing a large migration of pests out of a room believed that this warned of a cave in. Convicts credited such vermin evacuations with saving many lives.[13]

Several sections of the mine extended under the

Missouri River. Although they were continuously pumped, not all of the water could be removed. Convicts in these areas had to lay in pools of water, sometimes six inches to a foot deep, to accomplish their tasks.[14]

Illumination in the working rooms of the mine came from small lamps attached to cloth caps worn by the miners. Early mining lamps resembled small coffee pots, with oil, a lighted wick emerged from the "spout" of the lamp. The light from these oil wick lamps was weak and ineffective.[15]

Lighting improved with the introduction of the carbide lamp. Carbide lamps resembled metal tubes five to six inches long, the top half held water, the bottom held carbide. Water dripping into the carbide produced acetylene gas, which emerged through a small opening in front and produced a small flame when ignited. A metal reflector mounted on the front of the lamp intensified and focused the light. Lanterns provided light for the main entries of the mine until the installation of electricity in 1908.[16]

From its start, the coal mine occupied an important position at the penitentiary. The mine produced a fuel supply for the state, was a source of profit, and the clay from the mine provided raw material for the brick plant. The mine employed over 500 prisoners by 1889, more prisoners than in any other industry.[17]

In 1899, the prison added brick manufacturing to its

list of industries. This was the third and final phase in the history of brick making at the institution. The first experiment in brick making began in 1869 when bricks were used in the construction of the prison. Excess bricks were sold to the public. In 1892, a private contractor, the Midland Brick and Tile Company, began manufacturing brick at the prison. When the Midland contract ended in 1895 so did the second phase of brick making at the prison.[18]

Both phases demonstrated that the convicts could successfully manufacture bricks and convinced prison officials to restart the brick industry. In 1898, Warden Landis initiated a new brick operation which would utilize the large amounts of clay coming out of the mine. Besides the standard construction uses, Landis also suggested bricks could be used in the mine to replace the flammable wooden supports.[19]

The formula for making a tough weather resistant brick was complicated. Before large scale production could begin, Warden Landis experimented with mixtures of shale and clay and eventually found a suitable one. Only bricks of a rough quality were initially produced, but with the addition of machinery and qualified supervisors, the plant was soon turning out building, paving, and fire bricks. Most brick work occurred between the spring and early fall when the coal mine demanded less men.[20]

Operated on the state use system, the prison plant

sold no bricks to the public. Kansas realized substantial savings from the use of the prison bricks. One of the first prison brick structures built, the state hospital in Parsons, supposedly saved the state between $10,000 and $15,000.[21]

In 1899, the last major industry opened in the prison. Kansas farmers had complained for many years about the price of binding twine and the illegal practices of the twine trust. To provide cheap twine to farmers and participate in some "trust busting," the directors investigated the possibilities of producing twine at the prison. The Minnesota State Penitentiary in Stillwater, Minnesota, which had successfully been producing twine for a number of years, was visited by the directors and Warden Landis in April 1899.[22]

A curious series of events occurred while on the trip. The directors apparently became upset with the behavior of Landis. They wrote Governor William Stanley that the warden unrealistically "wants more than the state will concede."[23] The directors never again mentioned the mysterious affair in their letters, but J. B. Tomlinson replaced Landis after the trip. Probably the real reason for the switch in wardens was that the newly elected governor was merely tardy in following the established tradition of patronage.

A successful trial run of the twine plant took place

in December 1899, but lack of raw material delayed its official start. When the Spanish American war erupted in 1898, the U. S. lost its largest suppliers of hemp, the main ingredient in binding twine. The prison felt the pinch of the shortage as did all twine producers. Prison Director S. A. McFarland demanded Stanley help:

> I wanted to enlist the effort of yourself and other state officers in urging upon our delegation in congress the great importance of having the war department or president raise the blockade and open the ports in the Philippines, so that the vast quantities of hemp held there can come to market . . . If they are opened we can buy raw material from three to five cents less a pound.[24]

Problems related to distribution also hindered early twine operations. There were several ways to put twine in the hands of the farmers. Initially, it was to be sold through implement dealers. By allowing a private dealer to handle sales, the prison avoided the trouble of handling individual orders. To ease farmers' worries about paying dealer commissions on top of the cost of twine, the prison shipped the twine in large quantities. Each farmer, therefore, would only have to pay a small additional amount. This method of distribution quickly proved unworkable as dealers not selected to sell twine were upset with the prison.[25]

Prison directors finally decided each farmer would sign papers indicating the amount of twine desired. When

the aggregate amount for a certain area or county was known, the twine was shipped to a central distributing point. Eventually, the directors established a system of shipping to the county seat of the principal wheat growing areas. The prison appointed an agent at each county seat one month before the harvest to receive the carloads of twine and handle the cash. The twine was sold to the farmers at the actual manufacturing cost.[26]

This exclusion of dealers caused concern to the Kansas Implement Dealers Association which petitioned Governor Stanley for a change in the policy. It seemed, however, that the dealers did not mind the state selling twine on one important condition. Dealers thought handling twine was a liability; the demand for twine lasted only a few weeks during the harvest season, and because the amount needed was never known, the dealer either lost profit from being overstocked or was short of stock with angry customers. According to dealer D. W. Blaine of Pratt, "nothing gives more headaches than the sale of binding twine . . . If Kansas State Penitentiary could promise to supply all farmers of Kansas adequately, the dealers would gladly drop the sale of binding twine."[27]

When peace solved the supply problem and the method of distribution had been figured out, the price of the twine was the only obstacle remaining. Price could be determined only after the distribution system was decided upon.

During the first year of twine production, Governor Stanley's delay in setting a price lost the prison many thousands of dollars in sales. Farmers refused to contract in March without knowing the price of prison twine, and independent producers took every opportunity to unload twine before a state price was set.[28]

The effort made by the prison to offer quality twine was extremely successful. Installed at the cost of $42,446, the prison plant was receiving more orders within several years than it could fill, and regularly selling several hundred thousand pounds a year. By 1909, the prison was selling close to two million pounds a year. Finally set at ten and a half cents a pound, the state price undercut the private industries by approximately five cents a pound. When the plant at the prison achieved greater efficiency, the price dropped to seven and a half cents a pound. Despite the state competition, independent dealers registered few complaints. Invention of the combine eventually eliminated the demand for binding twine, but the prison provided a valuable service to the farmers of Kansas while the need existed. Warden E. B. Jewett summed up the contribution of the twine plant, "I shall always insist that the fight made against . . . one of the very strongest monopolies in the U.S., is a very great achievement."[29]

The coal mine, brick plant and twine factory were

successes for the penitentiary that employed hundreds of convicts. Despite this success, industry at the prison was the cause of concern for some Kansans. While the brick and twine factories offered no real threat of competition to free labor, the prison mine did raise alarm among the Kansas coal miners. Prisoner production and manufacture of products under the contract system also caught the attention of many Kansans. In the United States, organized free labor had opposed convict competition since the 1830's. The fight in Kansas against convict competition began in 1872 and lasted thirty-seven years. Organized labor in Kansas grew slowly but persistently and became strong enough to enact some anti-convict competition reforms by the turn of the century.[30]

Endnotes

[1]Biennial Reports, KSP, 1891-1892.

[2]Special Report, KSP, 1884-1885.

[3]Biennial Report, KSP, 1881-1882.

[4]Ibid.

[5]Ibid.

[6]Flave J. Weaver, *Six Years in Bondage and Freedom at Last* (Kansas City, Mo.: The Charles E. Brown Ptg. Co. 1896), pp. 58-59.

[7]John N. Reynolds, *Twin Hells*, (Chicago: M.A. Donohue and Co., 1906), pp. 55-59.

[8]Weaver, *Six Years*. 59.

[9]Lester Douglas Johnson, *The Devil's Front Porch* (Lawrence: University of Kansas Press, 1970), pp.64-67.

[10]Ibid., Ch. four.

[11]Ibid.

[12]Reynolds, *Twin Hells*, 62.

[13]Johnson, *Devil's Front Porch*, 43.

[14]John N. Reynolds, *Twin Hells*, (Chicago: M.A. Donohue and Co., 1906), pp. 87-88.

[15]Ibid., See also, Johnson, *Devil's Front Porch* and Carl Arnold, *The Kansas Inferno* (Wichita, Kansas: Wonderland Publishing Company, 1906), Ch's. two, three and six.

[16]Ibid.

[17]Biennial Report, KSP, 1887-1888.

[18]Annual Reports, KSP, 1869-1876 and Biennial Reports, KSP, 1877-1878 through 1899-1900.

[19]Biennnial Report, KSP, 1897-1898.

[20]Biennial Report, KSP, 1899-1900.

[21]Biennial Report, KSP, 1901-1902.

[22]Ibid.

[23]Prison Directors Gilman and McFarland to Governor Stanley, April 1899. Governor William E. Stanley Papers, Box Two, Folder Five. Archives Division of the Kansas State Historical Society, Topeka.

[24]Ibid.

[25]Ibid.

[26]Warden Tomlinson to Governor Stanley, January 26, 1900. Governor William E. Stanley Papers, Box Two, Folder Fifteen. Archives Division of the Kansas State Historical Society, Topeka.

[27]Ibid.

[28]Ibid.

[29]Warden E. B. Jewett to Governor William Stanley June 23, 1901. Governor William E. Stanley Papers, Box Two, Folder Six. Archives Division of the Kansas State Historical Society, Topeka.

[30]See McKelvey, *American Prisons* and Gildemeister, *Prison Labor*.

Chapter Five

Organized Labor Versus The Prison

Until well into the nineteenth century, prison authorities and the public generally believed that convict labor was beneficial. Working convicts avoided idleness, learned trades, and made money both for the state and private contractors. By the late 1880's, prison labor had undergone drastic change. Largely gone were the days of the small hand powered workshops when a prisoner actually learned an entire craft. Prison industries utilized the power of large steam engines and convicts often performed simple repetitive assembly line work. Not exclusive to prisons, the change affected all labor as the industrial revolution gathered force. With the rise in prison production, however, competition with free labor became an issue. Groups of organized free workers began to agitate against the increasing competition from prison labor.[1]

Organized action to end convict labor began as early as the 1830's. Small eastern workingmen's parties and associations included anti-convict labor resolutions in their platforms. These early groups initially concerned themselves with local politics and had little influence on prison policy. New York state was an exception. Because of the strength of labor and the high prison output, New York became the focus in the fight between organized labor and the

prisons. By 1834, meetings protesting convict labor attracted hundreds of participants, and workers formed committees and circulated petitions. Labor's solution to the problem was not to stop convicts from working, but change the work they performed. The typical labor recommendation was to have the prisoners serve out their time building and repairing roads.[2]

The New York legislature's solution in 1835 was to stipulate that no convict could be taught a new trade. This law really provided no solution as convicts instead were taught bits and pieces of a trade. Many states later followed New York's lead in making minor amendments to convict labor laws, but without really satisfying free workers.[3]

Of all the types of convict labor, organized labor viewed the contract system as the most harmful and it was the focus of attacks. Labor's standard complaint was that contract labor decreased wages. Consequently, labor argued, with pointed irony, that the decline in wages often forced workers to supplement their incomes through crime. Free workers in a particular field lost their jobs, according to labor, when a prison entered a certain line of production. The fewer private enterprise jobs that were available went to immigrants, women, and children, which enabled private employers to pay low wages. Labor stressed the paradox that workers, the majority of the population in a democratic

society, were being harmed by the same public officials they elected.[3]

Labor protests failed for several reasons. Many state officials believed that workers would be satisfied only with the complete eradication of prison labor, and that was an unacceptable alternative. Completely eradicating all prison labor would leave convicts idle or engaged in non-productive labor with little chance of reform. Probably their biggest reason, however, against stopping contracts was the resulting loss of income. A policy originated to keep convicts busy had evolved into a major money making project. Inadequately funded state prisons depended on income from contracts to operate.[4]

Consequently, several strong groups supported contract labor, including public officials and prison administrators desperately trying to keep convicts busy, reformed, and profitable. Pro-contract forces had three advantages: they were not asking for any change in the system, merely the continuance of status quo, they generally had great political clout, and could count on influential businessmen with much at stake.[5]

By the 1880's, the competition between free and prison labor reached its peak in the eastern United States. With prison output at an all time high, the Knights of Labor were ushering in a well organized protest against contract labor. Labor was hindered, however, by its inability to devise

suitable substitutions to replace the contract system.[6]

In 1886, US Commissioner of Labor Carroll Wright devoted almost his entire annual report to the issue of contract labor and alternative solutions. Wright found the public account system, advocated by most labor groups at the time, too costly. Prisons could earn sixty-five percent of their operating costs with contract labor, and only twenty-three percent with public account. Abolishing convict labor worked well in theory, yet, was found to be detrimental to the welfare of the inmates.[7]

The report seemingly addressed all possible solutions to the contract problem, yet rejected all. One popular idea to establish a giant penal colony, probably in Alaska, was rejected, as it would only concentrate all of the problems in one place. The suggestion that prisons produce only goods that were imported into the United States was attempted in New York, but lack of suitable products forced the experiment to be abandoned.[8]

In 1887, pressure against the contract system in New York was so intense as to warrant a public referendum. The public voted two to one to end all prison contracts and switch to public account, leaving the citizens paying for almost seventy percent of the prison's expenses. New York had taken the first step in ushering in totally tax supported prisons.[9]

Other states followed New York's lead, and, by 1890, Massachusetts, Ohio, New Jersey, Indiana, Illinois,

Wisconsin, and even Pennsylvania, still operating under separate handicraft labor, had banned contract labor. Some states without a great amount of labor strife switched to the piece price system for a while longer. Piece price removed contractors from inside the prison, yet achieved little in the way of ending competition.[10]

After 1887, labor agitation slowed. The Knights of Labor were in rapid decline and the newly organized American Federation of Labor was not ready to take over the fight. Also, states that had not already addressed the prison labor problem saw no reason to do so. Mainly western states, experiencing little labor-prison conflict, chose to ignore the situation. In the 1880's, both Kansas and Missouri opened coal mines in direct conflict with free industry with little opposition.[11]

The stage was set, however, for agitation in Kansas along the lines of what had occurred earlier in states like New York. Although individual labor groups might not have accomplished much on their own at any time, each small effort contributed to a significant final result. Despite being rural, Kansas knew the influence of organized labor as early as the 1850's. In 1859, the Leavenworth and Lecompton Typographical Unions were formed in Kansas. Three years later, workers founded the Journeymen Cordwainers of Leavenworth. These early groups were concerned more with civic reform than with strictly labor issues.[12]

Not until the National Labor Union arrived in 1866 was the convict labor issue seriously addressed. Its 1868 platform demanded

> the abolishment of the system of convict labor in our prisons and penitentiaries, that the labor performed by convicts shall be that which will least conflict with the honest industry outside of the prisons, and that the wares manufactured by the convict shall not be put upon the market at less than the current market rates.

Known locally as the Topeka Workingmen's League, this NLU Kansas branch made little progress against convict labor before the union folded in 1872.[13]

The Industrial Brotherhood next emerged. It established a network of local deputies throughout the country to organize workers and further its goals. Deputy Charles Messinger, a labor activist who had formed the Leavenworth Workingmen's Council in 1872, had the task of organizing Kansas. The Industrial Brotherhood in Kansas agitated against convict labor, but it accomplished little as the influence of labor declined in the Depression of 1873.[14]

In the late 1870's, the contract labor issue was resurrected when the Knights of Labor entered Kansas. Although never directly attacking the issue, the Knights of Labor was essentially responsible for the 1884 legislation establishing the Kansas Bureau of Labor and Industry (KBLI). Kansas was only the fourteenth state to have such an bureau. Kansas City Knight F. H. Betton was the state's first labor

commissioner. The KBLI provided an excellent platform from which to address labor problems.[15]

Deeply interested in convict labor, the Bureau publicized the issue from the beginning. Betton's first annual report found the amount of prison output small in comparison to the country's total production, but still damaging to the worker. He wrote

> that prison labor is felt by the trades brought into competition with it, is plainly indicated by returns received at this office; and still greater complaint is made of the competition of prison labor from other states. This bureau is informed that harness and cooperage from the Illinois and Wisconsin penitentiaries, and brooms and wagons from those of Nebraska, Michigan and Missouri are shipped into the state in large quantity and that the trades last mentioned are injured very materially by the competition.[16]

Betton also sent out 1,000 questionaires asking worker's opinions on convict labor and labor conditions. All responses were kept anonymous for reasons of job security. The attitude of free Kansas labor is clearly indicated in three typical responses below.

> The convict labor system . . . is a curse. Its effect on free labor is an unmixed evil. To the honest mechanic vainly seeking for work, it virtually says that if he does not wish to starve he can steal, and then he will find plenty of work inside the prison.

> Convict labor is very injurious to the shoe making business, and I consider it a burning disgrace to the State that honest labor is put into competition with that of prisoners who are not safe to be at large.
>
> What injures wood workers most is prison contract labor. They come mostly in competition with wagon makers, which throws that trade onto car works, gluts that trade and reduces wages.[17]

At the time of the first report there were only three contractors at the prison; the Kansas Manufacturing Company employed 227 men manufacturing wagons and farm implements, twenty-seven convicts made shoes and boots, and twenty-five worked in the furniture trade. Despite the small number of contractors at the prison, the strong feelings revealed by the questionaires and the amount of space devoted to the issue in KBLI reports indicates that prison labor was perceived as a significant problem in Kansas.[18]

In an 1886 study of prison industries, US Commissioner of Labor Carroll Wright found interesting differences between those industries at KSP and similar industries worked by free labor. According to Wright, the Kansas Manufacturing Company paid $398.02 less per day for convict labor than a company employing an equal number of free workers. The much smaller shoe industry at the prison saved approximately $47.32 a day using convict labor. The lower wages paid by prison contractors saved many thousands of dollars in wages, and Kansas Manufacturing alone saved over $120,000 annually. These great savings allowed prison contractors to charge far

less for their products. That the Kansas Manufacturing Company caused an overall reduction in wagon prices was even a boast by the prison directors.[19]

There were several ways a contractor could use the cheap convict labor to his advantage. A prison contractor could merely pass his savings on to the customer as done by the Kansas Manufacturing Company. The loss leader option could be used if a prison contractor was not eager to make prison connections public. A shoe manufacturer, for example, might sell prison made low quality work shoes at the current free labor market rate. The contractor would simultaneously then employ free labor to produce high quality dress shoes to sell far below standard prices, recouping his losses and netting an ample profit from the prison shoes.[20]

Although contract labor at the Kansas State Penitentiary was the main target of state labor forces, the public account system was also creating enemies, especially among Kansas coal miners. After supplying state institutions, the penitentiary sold off excess coal to the highest bidder. It required time to build up a large scale prison mine operation, but free miners were adversely affected within five years of the mines opening.

In 1886, Kansas coal miners had an average annual income of $304.00 a year. Each penitentiary coal miner annually brought in $369.00 for the state. Convict miners were earning a larger annual income (albeit for the state) than

free miners. For workingmen this was the cause of much anger and Labor Commissioner Betton received over 270 monthly complaints from Kansas coal miners during 1886 against the sale of prison coal on the open market.[21]

In 1891, the miners around Osage City went on strike for higher wages. They found the strike impeded by prison coal distribution. The Kansas State Mine Inspector's annual report for that year noted that striking miners spent much of their time watching coal trains coming from the Kansas and Missouri prison mines, which weakened the strike and caused bitterness among the miners. The object of the miner's frustration was evident in their communication below to Commissioner Betton. The Osage City Citizen's Alliance grumbled that convict mined coal

> is sold to contractors at a price away below its actual value, and is sold in competition with coal mined by free, honest labor of men who are compelled out of the proceeds of their labor to provide for their families, educate their children, and pay taxes.[22]

According to the Alliance, the market determined the jobs available to free miners. If no coal could be sold, the miner did not work. Regardless of the market, the convict miner worked at least 310 days a year, glutting the coal market and reducing wages. To compound problems, the state repeatedly requested appropriations to increase the amount of coal mined by improving the method of underground haulage, a

move that the Alliance calls "little short of criminal."[23]

The Alliance pointed to an apparent contradiction in the prison mine operation,

> if it be the object of the plant to provide work for the convicts, and prevent them from spending their days in idleness, then there is a plain inconsistency in the demand for more and better labor saving machinery. It looks like an attempt to ease the toil of the convict, and at the same time place an additional burden upon the free miner.[25]

The Citizen's Alliance and the mine inspector persuaded the state legislature to appoint a committee consisting of coal company owners and miners to inspect the state mine. They reported that the well-equipped prison mine was in excellent shape. Acknowledging the free miners' plight, and also of the opinion that the penitentiary's large coal deposit should not be allowed to go to waste, the committee recommended that no appropriations be made to increase the efficiency of moving coal cars from the working sites within the prison mine to the shaft. Endorsing the position of organized labor, the committee also recommended that the mine operate strictly on the state use system and sell no coal on the open market.[26]

The governor disregarded the recommendations, however, and the state legislature allocated appropriations to improve the transporting of coal. The prison mine continued to sell coal on the open market until 1899.

The Kansas Bureau of Labor and Industry devoted the majority of its 1894 report to the topic of convict labor. It was the most detailed report on convict labor in Kansas to that time. Besides pondering philosophical questions of the right and wrong methods of prison reform, the bureau also investigated questionable business practices at the prison.

As indicated in the 1874 prison report, the Kansas Manufacturing Company was challenged for its contract by two other parties. The bids of all three, however, offered exactly twenty-four cents less than the previous contract. The labor bureau found that the wagon company was actually cooperating with the two "competitors" to reduce wages. After its contract was renewed, Kansas Manufacturing announced it was going into partnership with the other two parties. The investigation revealed not only was prison labor causing a reduction in free wages and employment, but unethical practices gave added advantages for prison contractors.[27]

Besides revealing the unethical tactics of the company, the report described the profitability of Kansas Manufacturing. By hiring convicts rather than free labor, company savings amounted to $65,520.00 a year. In addition to the wage savings, the company had its power, water, heat, and shop cleaners supplied by the state, as did all contractors at the prison.[28]

Contractors typically argued that convicts accounted for

too small amount of the country's total production to have any significant influence on the broad economy. The report thoroughly rejected that argument on the grounds that improved transportation and communication transformed the entire country into one marketplace. Business was no longer restricted to one locale. The report also claimed it was not the maker of the largest number of products who determined the price, but those who made them the cheapest. Kansas Manufacturing company made only a small percentage of the total wagons, but, they sold at a low price, thereby affecting all wagon makers. The report deemed this a "suicidal policy" that will "give rise to a policy of hostility toward this evil and powerful oppressor . . . dissension, strife, and crime will be the logical outcome." The 1894 report was one of the most persuasive cases made in Kansas against the use of convict labor in anything except a state use capacity.[29]

When the Knights of Labor began to decline, the Kansas State Federation of Labor (KSFL) filled the void. In 1890, the KSFL held its first state convention in Topeka and identified convict labor as one of its main concerns. In subsequent annual conventions, first hand accounts revealed how convict labor damaged free workers. The KSFL solution was to allow convicts only to build and repair roads. The 1893 Depression severely reduced the power of the KSFL, and only ten districts attended the 1894 meeting. Although

extinct by 1896, the KSFL clearly stated labor's attitude towards contract labor.[30]

The decade after 1896 was one of a drought of sorts for labor. The failure of Populism and a series of small depressions undercut much of labor's power. Although the state legislature had not seen fit to tackle the convict problem during the decade, the penitentiary apparently noticed agitation against contract labor.[31]

Prior to 1893, the attitude of the prison wardens had been one of ambivalence toward the welfare of Kansas free workers, but Warden Chase revealed a changing attitude in his 1893 report. He claimed that the number of men contracted out was diminishing each year, and it would only be a matter of time before contractors could not be found. Clearly showing the pressure of reform influences, Chase contended that switching to state use "would be a good way to teach a trade and avoid complaints from free labor."[32]

Warden Landis claimed four years later,

> There is no reason why the work of the wards of the state should result in profit to a single individual, nor is there any reason why this labor cannot be directed into channels that will result in profit to the state at large, nor, at the same time be detrimental in the way of competition to a single free worker, organized or unorganized, in the state.[33]

Organized labor's effort was rewarded by an 1899 state law forbidding the sale of prison coal on the open market.[34]

In 1899, only two contractors were left at the prison; Helmers Manufacturing Company employed seventy-nine prisoners and Atchison Saddelry Company employed forty-five. Warden Thomson was not as implacable as Landis against convict competition, but did recommend that "no new enterprises be started to sell goods on the open market."[35]

The US Commissioner of Labor's 1905 report dealt exclusively with the issue of contract labor. Like earlier reports, it verified the impact of convict competition on free labor. One case study documented the vast unemployment and severe wage cuts caused by prison shoe manufacturing. A second one concluded that the increased use of machinery by contractors in prison furniture works had stymied private competition. Also contributing to the elimination of competition between the furniture makers was the fact that one contractor controlled the entire furniture output of seven prisons in five states.[36]

By 1905, one furniture manufacturer was the only contractor of convict labor at the Kansas State Penitentiary. The twine factory was the only public account industry, and all other industries operated strictly on a state use basis. Of states utilizing the state use system, Kansas ranked third in the value of products produced.[37]

Perhaps motivated more by principle than actual competition, organized labor once again tackled the problem of convict labor early in the twentieth century. The

American Federation of Labor took the first step when an AFL representative spoke in Topeka and formed the second Kansas State Federation of Labor (KSFL). At its first state meeting in 1907, the KSFL agreed to "use our united efforts to oppose the use of convicts in any manner that interferes with free labor and to abolish the use of convict labor in such employment."[38] The group wanted convict labor limited to furnishing items for the state and working on roads.[39]

The second KSFL could complain little about contract labor. Only one contractor was operating in the penitentiary, and ninety-two percent of his goods were sold outside of the state. Contract labor was slowly fading out of Kansas prisons, and the attention of the KSFL soon focused on other matters.[40]

The slow but persistent growth of organized labor in Kansas and its constant attacks on convict competition had cleared the way for a change in the convict labor systems at Kansas State Penitentiary. It was not labor agiatation alone, however, that eventually ended convict competition. Contract labor was foremost terminated by humanitarian reformers promoting beneficial treatment to prisoners.

In addition to action against convict competition, concern for the welfare of prisoners in Kansas grew in the early 1900's. Several Kansas groups attempted to improve conditions at the prison, but it was Oklahomans that provided the impetus for change. They were aided in their efforts by

a general shift towards progressivism and reform in Kansas politics. A series of prison investigations would result in the removal of Oklahoma prisoners from Kansas and subsequently the end of the contract system.

Endnotes

[1]See McKelvey, *American Prisons* and Gildemeister, *Prison Labor*.

[2]Ibid.

[3]Gildemeister, *Prison Labor*, pp. 132-138.

[4]Ibid.

[5]Ibid.

[6]Ibid.

[7]Wright, *Second Annual Commissioner of Labor Report*.

[8]Ibid., 383-388.

[9]Gildemeister, *Prison Labor*, Ch. ten.

[10]Ibid.

[11]McKelvey, *American Prisons*, pp. 95-103.

[12]John D. Bright ed., *Kansas the First Century V. II* (New York: Lewis Historical Pub. Company, Inc. 1956), pp. 285-287.

[13]Ibid.

[14]Terrence V. Powderly, *Thirty Years of Labor* (New York: Augustus M. Kelley Publishers, 1890), 64-69.

[15]Ibid., 162.

[16]Frank Betton, *First Annual Report of the Kansas Bureau of Labor and Industry* (Topeka: Press of the Hamilton Printing Company, Edwin H. Snow State Printer, 1886). 130.

[17]Ibid., 102-104.

[18]Biennial Report, KSP, 1885-1886.

[19]Wright, *Second Annual Commissioner of Labor Report.*

[20]Charles P. Neill, *Twentieth Annual Report of the Commissioner of Labor* (Washington DC: Government Printing Office 1906). pp. 51-53.

[21]Betton, *Second Annual Report Kansas Bureau of Labor.*

[22]J. F. Todd, *Tenth Annual Report of the Bureau of Labor and Industry,* (Topeka: Press of the Hamilton Printing Company, Edwin H. Snow, State Printer. 1895), 23.

[23]Ibid.

[24]Ibid.

[25]Ibid.

[26]Ibid., 24.

[27]Ibid., 5-6.

[28]Ibid.

[29]Ibid., 12.

[30]Bright, *Kansas the First Century V. II*, pp. 285-287.

[31]Ibid.

[32]Biennial Report, KSP, 1893-1894 p.10.

[33]Biennial Report, KSP, 1897-1898 p.16.

[34]Biennial Report, KSP, 1899-1900.

[35]Ibid.

[36]Neill, *Twentieth Annual Commissioner of Labor Report.*

[37]Ibid.

[38]*Report of the First Annual Convention of the Kansas State Federation of Labor 1907*. p.28.

[39]Ibid., See also Bright, *Kansas the First Century*, Ch. thirty four.

[40]Neill, *Twentieth Annual Commissioner of Labor Report*.

Chapter Six

The Prison Scandal

The Kansas State Penitentiary attracted little negative attention for nearly a quarter of a century after its opening. In the 1890's, however, pressure for changes at the prison came from various sources, including writings by convicts, lawsuits, and progressive Republican enactment of more charitable and humane legislation. Although the reforms dealt largely with the physical environment of the prison, they also had a drastic effect on convict labor in Kansas.

Three books on Kansas prison life appeared between 1890 and 1906. *Twin Hells,* the title of the first prison book, was a detailed account by John Reynolds of everyday life as a Kansas convict. The most chilling parts were his accounts of the grueling work in the coal mine and the punishment inflicted if the work did not meet with the satisfaction of the authorities. Convict miners unable to fill the daily quota of three mine cars experienced a variety of tortures. The dark cell or "dungeon" punishment consisted of confining prisoners to an unlit cell without their shoes, coat, and cap. Fed bread and water once a day, the convicts slept on the floor of the unfurnished cell. According to Reynolds, the typical dark cell sentence lasted eight to ten days. Prisoners immediately resumed work upon release from the cell and either filled his quota or received more punishment.[1]

A convict experienced the water punishment for more severe breaches of discipline. Described by Reynolds as "exceedingly wicked and barbarous," the water punishment involved spraying a powerful stream of water over a naked and restrained convict. This method of punishment reportedly resulted in great bodily harm, and occasionally death.[2]

Released from prison after serving sixteen months, Reynolds exited the prison a self proclaimed reformed man and briefly accounts his first few days of freedom. Reynolds book ends with a plea to all Kansans to aid the released convict in his effort to live an honest life and to "Help the fallen in his struggles to rise again."[3]

Flave J. Weaver's book, *Six Years in Bondage and Freedom at Last,* was published in 1896. Weaver provides excellent descriptions of prison working conditions, especially in the coal mine. He not only gives a good account of the daily prison routines, but also attempts to relay the feeling of guilt and the moral quandaries experienced by a typical prisoner.[4]

In 1906, a book appeared bearing the ominous title of *The Kansas Inferno.* Anonymous authorship was credited to "A Life Prisoner." Carl "Cork" Arnold later claimed to be the author. *The Kansas Inferno* was by far the most vicious in its descriptions. While the earlier two works describe prison life in a matter-of-fact manner, Arnold launches an all out attack on the penitentiary.[5]

Arnold not only describes the harsh work and punishment, but condemns contract labor, the patronage system, the parole system, and even organized labor. Organized labor's action to stop convict competition, Arnold argued, prevented the prison from diversifying its industries and teaching useful skills. Besides the dark cell and the water punishment, Arnold introduced his readers to the new torture of the crib. A coffin like box, the crib was designed to hold convicts in a painful cramped position.[6]

By far the most intellectual and thought provoking of the three prison accounts, *The Kansas Inferno* provided possible solutions to the prison system. Arnold's suggestions included allowing prisoners to invest the small amount of money earned from prison work, increasing the opportunity for industrial training, and closing the coal mine. As *The Kansas Inferno* was making its way into the hands of the public, another convict was also informing the citizens of Kansas of questionable activities at the prison.[7]

Oklahoman Ira Terrill served a short time in the Kansas Penitentiary on a controversial manslaughter charge. He witnessed the cruel prison treatment attested to by Arnold, Reynolds, and Weaver. Due to Terrill's insubordination, Kansas transferred him to a territorial prison in Oklahoma to serve out the remainder of his sentence. Once released, Terrill began speaking out against conditions in the Kansas prison, especially the cruel treatment and hard labor

experienced by the Oklahoma convicts. Terrill spoke to Oklahomans first, but it was not until he came to Kansas that he attracted much attention.

Arriving In Topeka on August 31, 1906, Terrill spoke to large crowds for two nights on the corner of Sixth and Quincy streets. Calling the prison "the Kansas slave pen," Terrill stated that "wardens of your state care nothing about the process of commitment so long as they can get some more Oklahoma slaves to work in the mines and the factories." Oklahoma law did not require hard labor of prisoners yet, according to Terrill, Kansas forced them to work in the coal mine and in other industries. Terrill claimed he earned $6,000.00 while in the Kansas prison and was going to sue the state for the money. Terrill also announced that he was suing Kansas publisher (and future governor) Arthur Capper for a libelous editorial.[8]

The suit against the state never materialized, but Terrill sued Capper. After a lengthy litigation, the courts decided against Terrill and he received no compensation. Though defeated in court, Terrill's message on the cruelties of the Kansas prison set events in motion. Shortly after Terrill's case, another controversy increased the notoriety of the penitentiary and the pressure against the state.[9]

In early 1907, former prison physician Dr. C. E. Grigsby began circulating rumors about Warden George Haskell. According to Grigsby, the warden had forced prison employees to give five percent of their yearly salary to Republican

campaigns. The total amount reportedly donated was $3,000.00. Grigsby claimed this violated the 1905 civil service act which supposedly removed state employees from politics. In addition, Grigsby charged Haskell with subjecting convicts to torture, and Grigsby claimed to have saved the life of a convict punished with the water cure. Claiming that he was dismissed for his refusal to donate money to political campaigns, Grigsby's main grievance was that Haskell had violated the civil service act and that made his dismissal illegal.[10]

Haskell called for an investigation, and the legislature appointed a joint investigative committee. During the course of the investigation, Grigsby's case rapidly fell apart. Grigsby admitted that he had attempted to blackmail Haskell to be reinstated as physician. Further questioning revealed that Grigsby had not only known about the punishments, but frequently monitored them to assure that no loss of life occurred. Haskell admitted that the water cure existed, but denied that it was cruel. Haskell further denied that he had fired Grigsby for political reasons.[11]

With such damaging testimony against him, Grigsby stopped his case and the investigation ended. Punishment had almost been a secondary aspect of the case, but it was the item that most damaged the prison. Both Grigsby and the warden admitted the use of harsh punishments. Although Kansas quickly dismissed the claims of Ira Terrill and Dr.

Grigsby, their accusations attracted the attention of Oklahoma officials.

In addition to adverse publicity, the prison became involved in the effort to remove politics from state institutions. This fight was led primarily by Frank Blackmar, Dean of the Graduate School of Sociology and Economics at the University of Kansas.

In 1900, Blackmar gave a speech at the Twenty Seventh National Conference of Charities and Corrections. Dealing with the role of politics in state institutions, his speech gently criticized the system of political appointments in Kansas. Kansas had eight charitable institutions plus the prison. Each institution had its own board of directors. Blackmar proposed reducing the number of supervising boards of the institutions to increase efficiency. All correctional facilities in Kansas would be headed by one board, all charitable institutions headed by a second separate board.[12]

Blaming political patronage for costing the state thousands of dollars every year, Blackmar stated that "The losses of the state today from allowing partisan politics to interfere with the management of her charitable institutions can scarcely be estimated."[13] Directly attacking the penitentiary, Blackmar claimed "It is even worse when the institution must be run so as to make a favorable showing for the party in power. This is scarcely a legitimate basis for the operation of a scientific institution."[14]

Blackmar worked continuously to gain acceptance for his ideas. In 1900, he founded the Kansas Conference of Charities and Correction to increase communication between the boards of the various institutions. A non-political system for the various institutions, however, was slow in emerging. It was the gradual shift of Kansas politics towards progressivism that allowed for the success of Blackmar's efforts and helped create a favorable atmosphere for change at the penitentiary.

Reform and change at the penitentiary would not have been possible without the added influence of the progressive branch of the Republican party in Kansas. Borrowing from the Democrat, Republican, Socialist and Populist platforms, the progressives focused their program on creating a more perfect society and combatting the effects of laizzez-faire business practices.[15]

Beginning as an anti political-machine-faction, the progressive Republicans soon switched to wider reforms. After winning the 1904 election, progressive Governor Edward W. Hoch presented a list of reforms to the legislature that directly affected the Kansas penal system. Hoch asked for a modified civil service system to supply personnel to state charitable institutions (Blackmar's plan), and the establishment of juvenile courts. Hoch was also adamantly against the death penalty. In addition, he attempted to establish a convict operated oil refinery in Peru, Kansas, to break the Standard Oil grip on the state. The refinery was

unsuccessful but the other reforms were instituted over time.[16]

The progressive Republican era was congenial toward restructuring the penitentiary system. It is no coincidence that the progressive rise to power in 1904 and a major change in the penitentiary occurred at approximately the same time.

Officials in Oklahoma were also becoming increasingly concerned with Kansas prison practices, and they would be the instrument of change. In addition to the various industries and the money charged for housing out of state convicts, Lansing supplemented the prison earnings by conducting tours to anyone willing to pay the small admission price. On June 8, 1908, Kate Barnard, Oklahoma Commissioner of Charities and Corrections, took the prison tour. Her identity was unknown by officials at the prison at the time, and she utilized her anonymity to take a candid look at the inner workings of the institution. Barnard was there to investigate increasing reports of inhumane treatment of Oklahoma prisoners. She secretly spoke with prisoners while on tour and collected information. Upon exiting the prison, Barnard revealed the nature of her visit to a surprised Warden Haskell, and demanded that conditions at the penitentiary be investigated.[17]

Haskell allowed Barnard to spend two full days at the prison. Visiting every area of the prison, including the coal mine, she spoke at length with Oklahoma prisoners.

Haskell found out shortly after her visit that several Oklahoma papers were then running stories of incredible torture and horrible conditions at the prison. When informed of the newspaper articles, Governor Hoch brushed the matter aside without taking action.[18]

The 1908 incident received no further attention until December when Oklahoma released the first report of its Department of Charities and Corrections. It was a lengthy and detailed description of charges made against Haskell. Although Barnard criticized almost all aspects of the prison's handling of convicts, her main complaints were against the labor systems and physical abuse. She claimed the contract system allowed business too much control. Contractors set the amount of work to be done each day, which Barnard said was unfair as each person worked differently or had different levels of ability. She claimed the contract system worked the convicts to their physical limits with fear of horrible punishment as the only motivation.[19]

Barnard also criticized the prison coal mine as being both physically and morally unsafe. Portions of the mine were close to collapsing, and the lax supervision in the mine allowed convicts to engage in homosexual acts. As with the contract system she claimed that the work tasks assigned to prisoners in the mine were unreasonable. The remainder of Barnard's report dealt with physical punishment of prisoners. She reported explicit details of torture, and described the

use of different devices to inflict pain. The water cure and the crib received the most condemnation by Barnard.[20]

In response to Barnard's accusations, Hoch began corresponding with Oklahoma Governor William Haskell, (no relation to KSP Warden Haskell). The result was an agreement to appoint an investigative committee made up of officials from both states. The Oklahoma team delayed their investigation due to lack of preparation and unwisely allowed the Kansas half of the committee to proceed. In the absence of the Oklahomans, the Kansas team miraculously found and destroyed the crib devices, and passed a resolution to do away with the water cure. To boost prisoner morale, prison authorities allowed convicts to smash and burn the cribs. The move backfired when the prisoners' celebration turned into a small riot.[21]

On January 7, 1909, the Oklahoma and Kansas teams convened. Subjected to rigorous questioning, Warden Haskell admitted using the crib and water cure. More shocking to the Oklahomans was his frank admission that he was fully aware of widespread sexual deviance.[22]

The investigation continued until the afternoon of January 9. Throughout the hearing, the committee heard testimony from former prison inmates on abuse. Attempts by the Kansas committee members to discredit Barnard's information proved weak and ineffective. The hearing concluded with both sides unsatisfied with the results.

Barnard had proven her point, and the Kansas committee recommended a list of improvements to be made.

Warden Haskell's reputation though tarnished, was not ruined, as he was blamed for merely continuing the practices of earlier wardens. Of Warden Haskell's actions, *Emporia Gazette* editor William Allen White said "The substance of the report on the penitentiary is to the effect that the warden hasn't done anything to be ashamed of, but he shouldn't do it again."[23]

Kansans on the committee did find faults with the prison system, but stated that the penitentiary "ranks well among the other penitentiaries of the country." They found that the greatest defect of the prison lay in the profit making aspect of the labor systems. "If the conduct of the penitentiary was changed as regards the money making policy," they stated, "that institution would rapidly become what it ought to be."[24]

Organized labor in Kansas used the investigation to further its goals. Labor leaders advocated the removal of all Oklahoma convicts from Kansas. State Labor Commissioner W. J. Johnson stated

> For years the free labor of Kansas had been trying to prevent convict made goods from coming into competition with free labor products in Kansas. We have stopped most of the competition and by telling Oklahoma to look after her own prisoners, all of this competition would be stopped.[25]

Labor forces had hit upon an important factor of the Oklahoma-Kansas relationship. The presence of Oklahoma convicts had allowed the state to pursue many industrial avenues that would have been impossible prior to the contract with Oklahoma. The added pressure applied by organized labor merely increased the growing desire for changes at the penitentiary.

Despite its ambiguous conclusion, the investigation's effect on the institution was obvious, and changes in prison policy were implemented almost immediately. Both committee factions agreed that the Oklahoma convicts should be permanently removed from the prison. The contract with Oklahoma expired on January 31, 1909. On that evening, a special nine coach train left the prison loaded with the Oklahoma convicts. The convicts were distributed at various Oklahoma facilities in Vinita, Atoka, and McAlester. McAlester, the site of the Oklahoma State Penitentiary, was nearing completion at the time. The feeling among the Oklahoma prisoners was one of relief, and, according to the *Emporia Gazette*, "As the train pulled through the big gates of the prison, the passengers cheered loudly."[26]

The main improvements in working conditions made by Kansas officials at the time was to change the task system used in the mines and reduce the length of the work day from ten to eight hours. Authorities terminated use of the crib and water cure.[27]

After the decision to end the Oklahoma contract, it became apparent that the prison would experience a severe labor shortage relying on Kansas inmates alone. The combination of pressure applied by organized labor, reform groups, and the ensuing labor shortage made the next step inevitable. After a lengthy conference, the governor, warden, and prison directors decided to allow all contracts with manufacturers to expire and to permit no renewals or new contracts. Even with the increased number of men available then to be worked in state use industries, it was predicted that many state run concerns would have to be decreased in size or eliminated. The reduced number of convicts severely reduced coal production, and, for the first time in almost twenty eight years, the state prepared to begin buying coal on the open market.[28]

Julian Codding replaced Warden Haskell in July of 1909. Codding soon established himself as an expert in prison management. Under Codding, the prisoners experienced numerous improvements in their living conditions. The twine and brick plant were both refurbished, resulting in increased output. The coal mine continued to operate until 1947. Prison authorities soon discovered that under proper management, the prison could function well on the state use system. The Kansas penitentiary under Codding's guidance was soon able to enter a new era of productivity, prosperity, and, once again, reform.[29]

Endnotes

[1]Reynolds, *Twin Hells* pp 54-55, 94-96.

[2]Ibid.

[3]Ibid.

[4]Weaver, *Six Years in Bondage.*

[5]Arnold, *Kansas Inferno.*

[6]Ibid., 33-53.

[7]Ibid.

[8]*Topeka Daily Capital*, September 1, 1906.

[9]Ibid.

[10]*Topeka Daily Capital*, February 16, 1907.

[11]*Topeka Daily Capital*, February 19, 1907.

[12]Frank Blackmar, *Politics in Charitable and Correctional Affairs,* (Boston: George H. Ellis Printer, 1900). 4-9.

[13]Ibid.

[14]Ibid.

[15]Robert LaForte, *Leaders of Reform, Progressive Republicans in Kansas 1900-1916.* (Lawrence: University Press of Kansas, 1974), Ch. one.

[16]Ibid., 45-50.

[17]Governor Hoch Papers, Box Two, Folder Three. Archives Division of the Kansas State Historical Society.

[18]Ibid.

[19]Governor Hoch Papers, Box Three, Folder Three. Archives Division of the Kansas State Historical Society.

[20]Ibid.

[21]Ibid. See also *Emporia Gazette,* January 1, 1909.

[22]*Emporia Gazette,* January 7, 1909.

[23]*Emporia Gazette*, January 9. 1909.

[24]*Topeka Daily Capital*, January 9, 1909.

[25]*Emporia Gazette*, January 6, 1909.

[26]*Emporia Gazette*, January 30, 1909.

[27]Frank Blackmar, *Report on the Penitentiary to Governor Hodges*, (Topeka: Kansas State Printing Office, 1914).

[28]*Kansas City Journal*, January 31, 1909. See also Biennial Report, KSP, 1909-1910.

[29]Biennial Report, KSP, 1909-1910. See also Gable, *The Kansas Penitentiary*. 429-436.

Chapter Seven

Conclusion

The Kansas State Penitentiary was a product of the times. Profit rather than reform was a priority among the state officials at the time of the prisons conception. With profit in mind, therefore, the various methods of labor utilized at the penitentiary received a great amount of attention. Prisoners were initially used in any manner that might achieve a positive cash flow for the state. All forms of prison labor, piece price, lease, public account, contract and state use were utilized in varying degrees at the prison. Reforming prisoners became a matter of concern only with the appointment of Henry Hopkins as warden in 1869.

Hopkins managed to satisfactorily combine the dual pursuits of profit and reform for a period of thirteen years. Under Hopkins the prison had an element of reform while simultaneously utilizing prisoners as a means of profit for the state. Hopkins initiated developments such as the prison coal mine, while maintaining a high regard for prisoners' moral enlightenment. Hopkins resigned in 1883 as profits and political patronage disputes became overriding concerns of political officials. With Hopkin's resignation, the prison entered a long period of internal instability and an increased emphasis on profits.

The prison staff were all appointed based on the patronage system. Thus, as the state experienced changes in political leadership so to did the prison experience a turnover of the staff. This system and the resulting instability reached a high-point with the battles between the state Populist and Republican factions. Within a short period of time eight different persons were installed and removed as warden of the penitentiary. Needless to say, this rapid turnover accomplished little good for the prison both in terms of profit making and rehabilitation. Political turmoil kept the prison management in flux until the early twentieth century.

Since 1881, three industries at the penitentiary dominated prison labor, the coal mine, brick plant and the twine factory. Another money making prison operation was the housing of various prisoners from out of state. States, territories and even the US government paid the state of Kansas to house prisoners. Prison industries and revenue generating operations generally created little opposition. However, some groups did have concerns. Organized labor constantly berated prisons for providing seemingly unnecessary competition for jobs and income.

Although labor had some influences, humanitarianism was the impetus for greatest change at the Kansas Penitentiary. Oklahoma Commissioner of Charities and Corrections Kate Barnard took interest in the care and

treatment of Oklahoma prisoners being housed in Kansas. On a tour of the Kansas facility Barnard was outraged at the poor treatment of prisoners and the subjection of Oklahoma prisoners to what she considered to be in excess of the punishment desired by Oklahoma.

Action by Barnard eventually resulted in the removal of the Oklahoma prisoners to a newly constructed facility in MacAlester, as well as other sites around Oklahoma. Barnard's inquiries also generated demand for changes at the prison regarding humane treatment of prisoners and convict work loads. The uproar over prison labor practices along with a general shifting of penal philosophy resulted in the abandonment of all but the state use method of labor.

Barnard's attacks coincided with the progressive movement in Kansas. Persons like Frank Blackmar of the University of Kansas and Governor Edward Hoch led the way in removing politics and patronage from the state correctional facilities. Kansas progressives reflected a growing trend in the nation towards tighter governmental control over institutions such as the penitentiary and concern for inmates.

The Kansas State Penitentiary experienced several changes in goals, management and areas of emphasis from 1861 to 1909. Initially conceived as a reform facility, the prison was soon transformed by the combative

competitive nature of state politics. At the turn of the century the progressive mood of the state and nation again changed and pulled the penitentiary along with it. Kansas progressives instituted positive change to make the penitentiary once more a place of reform and rehabilitation as it had began.

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