

"A POOR ARGUMENT FOR CONVICT LABOR:"

STATE PENITENTIARY PRISONERS AND
THE GOOD ROADS MOVEMENT IN OKLAHOMA

by

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"Tear down our prison walls and rear no more for they are festering places for our fellow human beings. What better thing than to employ those temporarily withdrawn from society in the building of good roads everywhere?" With evangelistic fervor Charles Henry Davis, president of the National Highway Association, succinctly enunciated the cause of good roads enthusiasts and prison reformers. This dual approach to two important aspects of the Progressive Movement attracted national attention and resulted in the adoption of convict labor for highway construction in several states. Oklahoma, admitted to the union in 1907 in the midst of the Progressive Era, enacted legislation permitting the use of state penitentiary prisoners to build public roads. The state's initial experience with this particular reform, however, produced less than desirable results.¹

During the last decade of the nineteenth century bicycle clubs and farmers' organizations in many states worked to obtain an effective system of highway construction and maintenance. As early as 1893, a national good roads convention assembled in Washington, D.C., and from this meeting emerged the National Good Roads Association. Headquartered in St. Louis, Missouri, the National Good Roads Association promoted the cause for better highways and enjoyed the support of farm groups, railroads, businessmen's organizations, and the press. In 1908, the question of good roads gained national political attention when the Democratic Party made the issue a part of its platform. Concerned about local conditions and aware of national trends, many Oklahomans joined the campaign to get traffic out of the mud.²

Good roads associations in Oklahoma began at the local level, developing into territorial and later statewide organizations. Soon after a disastrous flood in May of 1902 washed out bridges and obliterated roadways across Oklahoma Territory, A.C. Titus, a fruit grower from Crescent, founded the Sand Valley Good Roads Association, the first in the territory. Titus and other enthusiasts encouraged the formation of more county associations, and newspapers promoted their plan as essential for development of the region. In April of 1904, the first territorial good roads convention assembled at Guthrie, the territorial capital. Officers from the National Good Roads Association addressed the delegates, including representatives from Indian Territory, and the membership adopted resolutions in the form of proposed legislation to submit to territorial lawmakers. One of these measures called for the use of convict labor for building highways. Before departing, participants elected a slate of officers and named their organization the Oklahoma-Indian

Territory Good Roads Association. During succeeding years the influence of the territorial association increased. The number of county organizations multiplied, and some extensive construction projects got underway. Perhaps the most important and long-range achievement of the Oklahoma-Indian Territory Good Roads Association involved securing a provision in the state constitution for a highway department.³

Renamed the Oklahoma Good Roads Association in 1906, the organization gained even greater prominence by the zealous activities of its new president, Sidney Suggs. A newspaper publisher from Ardmore, Oklahoma, he became a vibrant, visible, and vocal proponent of good roads. Suggs eagerly accepted invitations to speak at meetings across the state, he traveled throughout the South to address conventions, and he effectively lobbied members of the Oklahoma State Legislature to gain support of good roads measures. In 1910, Governor Charles N. Haskell appointed the newspaperman Inspector of Public Roads, a semi-official position with no legal authority. As a result, when the issue of using state convicts as laborers on public highways arose, Oklahoma possessed a well organized, effectively led, and politically astute good roads movement to support the cause.⁴

Rooted in a genuine need to change conditions of confinement as well as idealistic principles, the prison reform movement of the Progressive Era confronted problems that reflected sectional differences. About 1890, southern reformers launched a concerted and sustained attack against the convict lease system. During Reconstruction every state of the former Confederacy enacted legislation that provided for leasing state prisoners as laborers to private businessmen. This system developed into a significant source of revenue for the states and expanded quickly. As the practice grew, it acquired sinister overtones from accounts of abuse, cruelty, and inhumane conditions in which convicts lived and worked.⁵

In the North during the last half of the nineteenth century many state penal systems opened prison factories or workhouses that competed directly with employers of free labor. Labor leaders condemned this development, claiming it helped to keep wages low. Social reformers contended the factories dulled the minds of convicts and reduced their chances of staying out of prison once released. Additionally, northern and western state prison systems faced extensive overcrowding as the number of persons sentenced to penitentiaries increased dramatically. To free the leased convicts from their purgatory, to end the competition with free labor, to reduce overcrowding, but yet to use inmates constructively, reformers advocated assigning them to perform much needed work on the public roads.⁶

Other less tangible reasons surfaced to support the use of prisoners as road builders. Many good roads enthusiasts believed convict labor would be cheaper than free labor and thus a major expense of road construction could be contained. Prisoners who labored on the roadways gained an opportunity to repay their debt to society in a meaningful way, and the work they accomplished benefited the general public rather than

leaseholders or other special interests. Finally, the opportunity to work outdoors away from the stifling confines of the penitentiary or workhouse offered a healthy environment--both physically and mentally--that would accelerate rehabilitation and reduce the number of recidivists.⁷

Due to overcrowding and the effort of reformers, several states bordering Oklahoma began employing convicts as road construction and maintenance crews. By 1900, sixty-five counties in Texas were using a total of 672 county jail detainees for road work, while approximately one-fourth of the counties in Arkansas followed the same practice. In 1903, New Mexico Territory initiated an honor system at the territorial prison and assigned a selected group of inmates to build a road from Santa Fe to Las Vegas, New Mexico Territory. Five years later, Colorado also instituted an honor system and a road building program for state penitentiary prisoners. Aware of national trends as well as the activities of a neighboring territory and states, officials in Oklahoma followed a similar course of action to alleviate problems in the state penal system.⁸

The dual difficulties of overcrowding and of improving conditions of confinement erupted in 1908 and overwhelmed state officials. Throughout the territorial period Oklahoma maintained an agreement with the state of Kansas to incarcerate convicts at the Kansas State Penitentiary at Lansing. There many inmates from Oklahoma were leased to operators of nearby coal mines. In May of 1908, state lawmakers enacted legislation to terminate the contract, but no immediate action was taken to bring the prisoners back to Oklahoma. In August, Kate Bernard, the newly elected Commissioner of the Oklahoma State Department of Charities and Corrections, conducted a surprise inspection of the penitentiary and coal mines. Barnard, born in 1874 at Geneva, Nebraska, moved to Oklahoma Territory with her father, a lawyer who staked a claim near Oklahoma City. Well-educated and a devout Catholic, she became genuinely, almost obsessively, concerned about the poor and unfortunate. She joined the Democratic Party, and during the constitutional convention aggressively lobbied members on behalf of issues related to social justice. In the first state election of 1907, she filed for the post of Commissioner of Charities and Corrections and won, out polling all other candidates on the ballot.⁹

Her report of the inspection of the Kansas State Penitentiary prompted the removal of Oklahoma's prisoners. Barnard graphically detailed the torture, disease, and debilitating working conditions the inmates endured. Furthermore, she discovered the state of Kansas profited from the 575 prisoners by as much as \$200 a day from the per capita paid by Oklahoma and from the fees of the leaseholders. In October of 1908, the first contingent of convicts arrived by train at McAlester, Oklahoma, site of the yet-to-be constructed Oklahoma State Penitentiary. Although legislators had appropriated funds and secured land for the prison, no construction had taken place and no facility capable of accommodating the prisoners existed. About 350 men and women

were incarcerated at the former federal jail at McAlester, a structure designed for less than half that number. The balance of the convicts from Kansas and persons recently sentenced to the nonexistent penitentiary were housed in a hastily constructed wooden barracks surrounded with a multiple strand barbed wire fence charged with 400 volts of electricity known as "the stockade."¹⁰

By sending the convicts to McAlester, authorities anticipated a readily available labor force to construct the penitentiary. However, by June of 1910, the prison population exceeded 1,100 inmates of which 900 were employed in construction and related activities. To reduce the overcrowding and to make effective use of the convicts, road building and maintenance became a viable option. The general road law of 1909 made possible the use of penitentiary convicts on the highways. For several years the Oklahoma Good Roads Association and its predecessors had advocated such a measure, and Sidney Suggs aggressively publicized the issue. Kate Barnard, a personal acquaintance of Suggs, supported the use of convicts as road builders. In 1908, prior to the arrival of the prisoners from Kansas, she proposed the construction by state convict labor of a planned system of intrastate roadways. Subsequently, in March of 1909, a bill became law authorizing at state expense transportation, stockades, guards, and equipment necessary for working penitentiary prisoners on public highways. This piece of legislation paved the way for an extensive road improvement project in Washita County in western Oklahoma.¹¹

Through the influence of Richard A. Billups, an Oklahoma state senator who represented Washita County, Governor Haskell agreed to send the first available prisoners to his district. Moreover, Billups enlisted the aid of Thomas P. Gore, one of Oklahoma's United States senators, to expedite obtaining the services of a professional engineer. The Office of Public Roads, an agency within the United States Department of Agriculture, had initiated a program of assigning civil engineers to municipalities willing to pay the expenses of the engineer and to provide all necessary labor, materials, and machinery for building roads. Gore contacted Vernon M. Peirce, acting director of the Office of Public Roads, and he forwarded an application for engineering assistance to the Washita County commissioners. Upon completion of the paper work Peirce assigned a staff member to Cordell, Oklahoma, the county seat of Washita County.¹²

The road through Washita County comprised part of a grand scheme to connect the region with Oklahoma City, approximately ninety miles to the east. As a result, local officials were anxious for the work to begin. On July 31, 1910, the first convicts, fifty blacks, from the penitentiary at McAlester arrived at Cordell. They spent the night in the opera house, and the next morning authorities moved them several miles east of town, where they erected tents for the road camp. Selection of the black inmates may have been predicated upon the contemporary concept that Negroes were well suited for this type of work.¹³

Two weeks later, Walter J. Ward, an Office of Public Roads engineer, reached Cordell. Because the survey of the right-of-way had been completed prior to his arrival, Ward began work almost immediately. The county commissioners provided adequately for the project. They purchased tools, machinery, and fifty head of mules, but at first the work progressed slowly. The terrain consisted of low rocky hills through which the convicts blasted cuts, but a drought of several months had turned the soil as hard as concrete, making it difficult to excavate. Reinforced by fifty more prisoners, also blacks, the workers built cement culverts to facilitate drainage, filled gullies with rocks, and applied a sand-clay surface to the road bed. By mid-January of 1911, they had completed fourteen miles of roadway east of Cordell. Authorities then moved the camp to commence the western segment of the road, but bad weather disrupted the daily routine. Winter rains turned construction sites into mud holes, and cold temperatures kept convicts in camp for several days. When the weather cleared, work resumed, and in May officials declared the road finished.¹⁴

This first experience with state convicts as highway builders in Oklahoma produced numerous difficulties. On a per mile basis, portions of the road constructed by prisoners cost more than sections of a highway built over similar terrain at Watonga, Oklahoma, where workers received wages. Administrative expenses absorbed fifty to sixty percent of the cost of the project. Such non-productive items as salaries for the warden and guards as well as the time and money involved in moving the camp became major disbursements. Additionally, caring for the men remained a constant expense. Allowances for the prisoners were hardly lavish. The state furnished eighteen cents a day per man for food (the county provided forty-two cents a day for the mules), but during periods of inactivity the men still had to be fed and guarded.¹⁵

Camp activities sometimes disrupted the work schedule. At least five prisoners tried to flee. Authorities captured two men at Cherokee, Oklahoma, several days after they ran away, and another died from gunshot wounds after assaulting a guard in a failed escape attempt. A dice game between two convicts erupted into a fight, and one stabbed the other to death. Prisoners had to break to harness mules purchased by the county commissioners, and, because of sickness, disease, or other unspecified reasons, the labor force varied from thirty to eighty men.¹⁶

Construction supervision by the Office of Public Roads engineers often conflicted with the administration of the prison camp. The project operated on the honor system, with civilian foremen hired to oversee the road work. William Banks, the warden, and a full complement of guards seldom accompanied the convicts to the work site. Sometimes as few as two guards were posted to watch as many as eighty prisoners. This practice made discipline difficult to enforce and reduced the effectiveness of the men. Foremen reported infractions of the rules to guards who in turn informed the warden at the end of the day. Punishment often consisted of tying the misdemeanant's hands to a pole above his head for

the night, which rendered the prisoner unfit for work the following day. As a result of these shortcomings, Walter Ward suggested Oklahoma officials contact other states with greater experience with prison labor to get information for improving the system. However, George D. Marshall, Ward's successor, bluntly declared the project "a poor argument [sic] for convict labor."¹⁷

Despite its problems, the project enjoyed considerable public support. County revenues provided much of the money for the first months of work, but, when funds became scarce, residents of the townships along the right-of-way raised money for mule fodder. As the state allocation of \$11,000 was depleted, township officials borrowed against anticipated tax revenues to feed the convicts. Finally, in March of 1911, members of the Cordell Commercial Club formed the Washita County Good Roads Association and assumed the entire expense of the project, thus avoiding a work stoppage.¹⁸

Also, the presence of the black convicts in Washita County produced a reflection of the racial verities of that time and place. Because "colored folks were not allowed to live in Washita County" the prisoners became a curiosity. This circumstance was particularly the case for E.C. Boothe, who as a boy of twelve lived on a nearby farm. Accompanied by friends of the same age, Boothe visited the camp on Sunday afternoons, and some of the inmates would perform for them. A harsher aspect of racial feelings appeared in a description of an escapee printed in the Cordell Beacon:

A couple of Negro convicts escaped from the camp east of town Monday night. Dave Taylor, No. 1568, age 20, 5' 7 3/4", 140 to 150 lbs., black, bowlegs, big nose, thick lips, long head, very round eyes stuck out

The curiosity of some of the residents of Washita County combined with the stereotypical newspaper description perhaps reasonably mirrored the reaction of many people in the area to the black convicts.¹⁹

Prior to the arrival of the convicts, the highway west of Cordell was a rough rocky trail passable only on horseback or by empty wagons. Much of the road east of town was routed through the often soggy bottomland of the Washita River. As a result of the exertions of the convicts, the determination of local citizens, and the expertise of the Office of Public Roads engineers, the residents of Washita County obtained a wide, even surfaced, centrally located, all-weather highway. Perhaps the local newspaper best described the significance of the road to the community: "What has been predicted as impossible has been made possible."²⁰

However, the cost, organization, and administration of the project failed to meet the expectations of state officials. In 1912, Governor Lee Curce, Haskell's successor, pointedly and publicly opposed the use of penitentiary prisoners for road gangs. He objected because of the expense and rash of escapes that plagued a Payne County work camp.

Thus Oklahoma's first experience with state convicts as road builders failed and the practice was discontinued.

NOTES

1. "Good Roads and Convict Labor," Proceedings of the American Academy of Political Science, 4, No. 2 (January 1914):5.

2. Mark H. Rose, Interstate: Express Highway Politics, 1941-1956 (Lawrence, KS: Regents Press of Kansas, 1979), 7; Carl F. Woolbright, "The Federal-Aid Road Policy from 1916 to 1930." Master's thesis, Oklahoma Agricultural and Mechanical College, 1949, 3.

3. U.S. Congress, House Document 5, 58th Congress, 3rd Sess., 517-518, 199-200; Dora Ann Stewart, "The Government and Development of Oklahoma Territory, 1899-1907." Ph.D. diss., University of Oklahoma, 1930, 625; A. C. Titus to W. Logan Page, 25 January 1909, General Correspondence, Bureau of Public Roads, Record Group 30, National Archives and Records Center, Washington, D.C.; General Statutes of Oklahoma, 1908 (Kansas City, MO: Pipes-Reed Book Company, 1908), 129; Muskogee Daily Phoenix (Muskogee Indian Territory), May 1902, 5, 31 May 1902, 2, 1 April 1904, 5, 2 April 1904, 5; Daily Oklanoman (Oklahoma City, Oklahoma Territory), 30 May 1902, 1, 31 May 1902, 1, 30 March 1904, 2, 28 October 1904, 5, 7 December 1906, 1, 8 December 1906, 1, 18 December 1906, 16.

4. Ibid., 4 December 1906, 1; Fred S. Barde, "Job for Player of Accordion," Roads Folder, Fred S. Barde Collection, Oklahoma Historical Society, Oklahoma City, OK; J. H. Snyder, "Colonel Sidney Suggs," Chronicles of Oklahoma, 13, No. 1 (March 1935):101-104.

5. C. Vann Woodward, Origins of the New South (Baton Rouge: Louisiana State University Press, 1951), 212-215, 424-425, 234.

6. United States Department of Agriculture, Yearbook of the United States Department of Agriculture, 1901 (Washington, D.C.: United States Government Printing Office, 1902), 412; See also Department of Agriculture, Bulletin No. 414 (1916), 4, 7, 9-11, 13; U.S. House of Representatives, 64th Congress, 1st Sess., Hearings before the Committee on the Judiciary on H. R. 5772, 5, 8, 12, 16.

7. Ibid., 5, 18; United States Department of Agriculture, Bulletin No. 414, 6, 11, 14, 19; United States Department of Agriculture, Yearbook of the United States Department of Agriculture, 1901, 319, 321.

8. Ibid., 320; United States Department of Agriculture, Bulletin No. 414, 58; "Good Roads and Convict Labor," 23; Thomas J. Tynan, "Prison Labor on Public Roads," American Academy of Political and Social Science Annals, 46 (March 1913):58-59.

9. James R. Scales and Danney Goble, Oklahoma Politics: A History (Norman: University of Oklahoma Press, 1982), 11-13; Oklahoma Department of Charities and Corrections, First Annual Report of the Department of Charities and Corrections (Guthrie: The Leader Printing Company, 1908), 4, 16; Oklahoma Department of Charities and Corrections, Second Report of the Commissioner of Charities and Corrections from October 1, 1909 to October 1, 1910 (Oklahoma City: The Warden Printing Company, 1910), 16-17.

10. Ibid., 16-18, 26; Oklahoma Department of Charities and Corrections, First Annual Report, 16.

11. Ibid., 16-17; Oklahoma Department of Charities and Corrections, Second Report, 17, 26, 28; State of Oklahoma Session Laws of 1909 (Oklahoma City: Oklahoma Engraving and Printing Company, 1909), 498; Kate Barnard to Sidney Suggs, 18 December 1909, Sidney Suggs to Kate Barnard, 20 December 1909, Records of the Department of Charities and Corrections, Record Group 36, Archives and Records Division, Oklahoma Department of Libraries, Oklahoma City, OK; Daily Oklahoman, 2 April 1904, 1.

12. A. S. Cushman to Benjamin F. Harrison, 28 July 1909, Acting Chief Engineer to B. S. Reeves, 31 July 1909, Richard A. Billups to Thomas P. Gore, n.d., Vernon M. Peirce to Thomas P. Gore, 7 June 1910, Vernon M. Peirce to Walter J. Ward, 12 August 1910, Vernon M. Peirce to Walter J. Ward, 15 August 1910, General Correspondence, Bureau of Public Roads, Record Group 30, National Archives and Records Center, Washington, D.C.

13. Richard A. Billups to Director of Office of Public Roads, 31 August 1910; Letter, Mrs. E. P. Wilkerson to William P. Corbett, 10 September 1985; United States Department of Agriculture, Bulletin No. 414, 18; Cordell Beacon (Cordell, Oklahoma), 4 August 1910, 7.

14. Ibid., 8 September 1910, 1, 8 December 1910, 10, 26 January 1911, 9, 23 March 1911, 9, 6 April 1911, 1; Lucius O. Barrows to Vernon M. Peirce, 24 July 1909, Vernon M. Peirce to Walter J. Ward, 15 August 1910, Walter J. Ward to Vernon M. Peirce, 27 December 1910; Daily Object-Lesson Road Reports, 13, 17, 18, 20 February 1911, George D. Marshall to Vernon M. Peirce, 6 April 1911, C. C. Sherwood to Vernon M. Peirce, 7 May 1911, General Correspondence, Bureau of Public Roads, Record Group 30.

15. Progress Report, 16 August 1910-25 January 1911, Final Report of George Marshall, 25 January 1911-18 April 1911; Daily Object-Lesson Road Report, 5-8 May 1911; Good Roads Party from the States of Arkansas, Oklahoma, Louisiana, Texas, on Tour of Inspection through The Eastern States (n.p., n.d.), 138-139.

16. Cordell Beacon, 29 September 1910, 1, 8 October 1910, 11, 3 November 1910, 11, 16 February 1911, 1; Letter, Mrs. E. P. Wilkerson to William P. Corbett, 10 September 1985; Daily Object-Lesson Road Reports, 15 August 1910-13 May 1911, General Correspondence, Bureau of Public Roads, Record Group 30.

17. Progress Report, 16 August 1910-25 January 1911, Final Report of George Marshall, 25 January 1911-18 April 1911, Final Report of Carl C. Snerwood, 29 April 1911-2 June 1911; Daily Object-Lesson Road Reports, 5-8 May 1911; Oklahoma Department of Charities and Corrections, Fourth Report of the Commissioner of Charities and Corrections from 1 October 1911 to 1 October 1912 (Oklahoma City: Oklahoma Engraving and Printing Company, 1912), 386.

18. Ibid., 386, 391; W. B. Richards, compiler, The Oklahoma Red Book, 2 vols. (Tulsa: Press of the Tulsa Daily Democrat, 1912), 2:234; Progress Report 16 August 1910-25 January 1911, General Correspondence, Bureau of Public Roads, Record Group 30; Cordell Beacon, 16 March 1911, 1, 27 April 1911, 1, 4 May 1911, 1.

19. Ibid., 3 November 1910, 11; Letter E. C. Boothe to William P. Corbett, 8 September 1985.

20. Final Report of George Marshall, 25 January 1910-18 April 1910, General Correspondence, Bureau of Public Roads, Record Group 30; Cordell Beacon, 1 December 1910, 4.