

CONFLICTING THEORIES IN THE
EMPLOYMENT OF PRISON LABOR AND
RESOURCES

Thesis for the Degree of M. A.
MICHIGAN STATE COLLEGE
James Lawson Britton
1950

THESIS

This is to certify that the

thesis entitled

Conflicting Theories in the
Employment of Prison Labor
presented by

James Lawson Britton

has been accepted towards fulfillment
of the requirements for

M.A. degree in Economics

William H. Knowles

Major professor

Date Sept 9, 1950

**CONFLICTING THEORIES IN THE
EMPLOYMENT OF PRISON LABOR AND
RESOURCES**

By

James Lawson Britton

A THESIS

**Submitted to the School of Graduate Studies of Michigan
State College of Agriculture and Applied Science
in partial fulfillment of the requirements
for the degree of**

MASTER OF ARTS

Department of Economics

1950

Table of Contents

Chapter		Page
I	History and Theory of Prison Labor	1
II	Public Interests versus Private Interests	14
III	Conclusions	48
IV	Recommendations	59
App. I	State Laws Regulating Prison Labor and Prison Products	62
App. II	Hawes-Cooper Act, the Ashurst-Sumners Act	115

11/25/2013

Acknowledgments

My thanks to Dr. William H. Knowles of the Department of Economics, Michigan State College, for reading this paper and for his helpful suggestions and comments.

PART I

HISTORY AND THEORY
OF
PRISON LABOR

One of the earlier recordings of the use of prison labor that we have is in the Book of Judges. Telling the story of Samson it states, "but the Philistines took him...and bound him with fetters of brass; and he did grind in the prison house".¹ Since this early day, the treatment of men judged guilty of crime by society has been varied. If space permitted, other methods could be described such as lex talion, the dunking stool, the stock and other forms of torture, public humiliation and personal degradation. However, we are primarily concerned in a device that has been gaining favor since about the middle of the 18th century, that of manual labor for prisoners of the state.

Not that labor for prisoners was a 18th century discovery. As was indicated above, it was used in the case of Samson in the days before Christ. Later, a different type of labor was popular in England and other seafaring nations during the Middle Ages. Prisoners guilty of the more serious crimes were sent to sea on galley ships, chained six by six to 50 foot oars. As a rule, the only times these men ever left their benches was to go to the hospital or the grave.² The trials of these men at their posts seems even more inhuman when we remember that when engaged in battle, the oars were shot at first and sorry was the plight of these poor devils when cannon ball tore out the oars. The final salvation for these men came when sails took the place of oars at the end of the 16th century.

¹Book of Judges, Ch. 16, verse 21.

²H. A. Barnes, New Horizons in Criminology, (New York, 1943), p. 437.

Another early method of prison labor was the English workhouse. This was used to house those guilty of crimes not serious enough to warrant the galley ship. Their theory was to keep the prisoners from a life of "idleness and wantonness by forced work at hard and disagreeable tasks".³ Such tasks were the treadmill that could physically cripple a man, the crank which was the height of boredom and picking oakum or sorting horsehair. Of course, some of the workhouses did fill an economic need, they put the unemployed to work, the inmates sometimes made various articles needed by society (shoes, shoe repairing etc.), and provided some revenue for the state.

Transportation was also used by many countries as a means of putting the guilty to work and getting them out of the sight of society. This device was especially popular during the 1700's although it is still practiced today. For instance, Australia was settled by convicts shipped over on prison ships from England. Approximately 135,000 were shipped before the practice was stopped. These people cleared the land, started farming and engaged in lumbering and eventually, were freed to live as they chose. However, the lot of these people was not easy as often they were sold to farmers who had been convicts themselves and took revenge for their poor food and hard labor on the new hapless arrivals. England also used convict labor on Gibraltar for dredging and road building.

The French had a more notorious record with transportation to New Caledonia for road work and sugar refinery work, and to

³Ibid., p. 476.

French Guiana for road building and timber cutting. Either place meant almost certain death from the steaming jungle, fever or unsuccessful attempts to escape.

Russia has used transportation extensively by sending prisoners to work in the mines of Siberia where the men work in leg fetters for 10 hours a day with picks, crowbars and wheelbarrows.

The first form of prison labor in the New World was probably in the form of the indentured servant plan. Debtors and paupers from the old countries were sold to New World farmers for a period of years, after which they were free to colonize. Both the indentured servants and the galley slaves met an economic need of the countries involved as this work was either too hard or too distasteful for free men.⁴

The modern thought of reformation as a part of imprisonment probably started in Rome in 1704. Pope Clement XI established an institution at San Michele for bad boys with the purpose of reforming through hard work and silence as a disciplinary device.⁵ The same principle was followed in Ghent, Flanders in 1773 when Villan introduced the idea of reformation by means of hard work and trade-training to give a person a means of earning a living after he was released.⁶

In America, the Quakers of Pennsylvania deserve the credit for advancing the idea of constructive prison labor. The Penal Code of William Penn of 1682 required that "all prisons be work-

⁴Ibid., p. 480.

⁵Ibid., p. 475.

⁶Ibid., p. 479.

houses".⁷ However, it wasn't until 1740 that the prison system in the United States got its start when the old Walnut Street Jail of Philadelphia was converted into a prison. For the next five decades, the Quakers introduced a new concept into the field of penology. There was a change from public punishment such as the stocks and useless tasks like the treadmill, to solitary and reformatory and productive labor. These new concepts were applied when the Quakers forced the reform of the Walnut Street Jail. The hours were shortened and a part of the receipts from the sale of the products (nails, cloth, shoes etc.) on the open market, was credited to the account of the men. Not only were present day concepts introduced such as wages for work done, but also the importance of classification and segregation was noted as in the statute requiring that, "convicts shall be kept as far as consistent with age and sex...at labor of the hardest and most servile kind in which work is least liable to be spoiled by ignorance and neglect....."⁸

By 1800, the Walnut Jail system of labor was failing due to overcrowding. Only about 10% of the inmates were busy and the total product of their labor was paying only 8% of the cost of maintenance. Consequently, we are led from the congregate type prison at Walnut to the second stage of American prison development, the penitentiary stage. The most famous "monuments" to this second period (1820-1870) are the Eastern and Western Prisons in Pennsylvania, and the Auburn Prison in New York. The

⁷W. D. Pigeon and others, Principles and Methods in Dealing with Offenders, (Philadelphia, 1949), p. 107.

⁸The Statutes at Large of Pennsylvania, Vol. XII, pp. 280-1.

two states represented two systems of prison labor and penology and for years, students of this science argued the merits of each.

Auburn was opened in 1821 with a system of congregate labor during the day under a strict rule of silence, and lock-up at night in solitary. The chief industries were farming and nail and wagon making. While this system was cheaper for the taxpayer than the Pennsylvania system because the inmate's production helped pay for his keep, it left much to be desired.

Less humane was the Pennsylvania system. Eastern was opened in 1829 near Philadelphia, Western was opened in 1826 in Pittsburg. By 1829 both prisons had adopted the principle of solitary confinement at hard labor as opposed to the Auburn principle of congregate labor with solitary at night. The Pennsylvania system was the less humane because of the complete solitary. The inmates never saw each other and had only occasional contacts with the guards and the chaplain. Of course, large scale industry was impossible at Eastern because of the size of the cells, consequently the system was more expensive and returns from labor meager. Such tasks as shoemaking, wool carding and weaving were common.

Of these two systems, the Auburn system was adopted by most of the states except Pennsylvania.

There are two main objectives behind prison industries. The first is simply that idleness is one of the cruellest wrongs inflicted by society on its captives. Isolation and solitary confinement only serve to increase a man's maladjustment. Most come to prison because they can't conform to the ways of the group.

they are social isolates. Idle solitary only deepens this separation from society and gives a man no chance to do a useful job, and years of idleness may force him into a state of insanity. Attitudes are formed by social contact with one's fellowmen, not from solitary idleness which is but a reflection of the old public philosophy of punishment that is slowly being replaced by a philosophy of reformation.

The second objective of prison industries is to train a man for employment after his release. Through the years the stress has been on trade-training, however, because of the relatively few real trades in the mechanized world of today, leading authorities have changed their course. The stress today is on vocational education based on individual needs and existing employment conditions.⁹ Instead of a specific trade or skill, the inmate is taught general industrial skills, good work habits, how to turn in high grade performance through care and diligence, to get a bigger kick out of a job well done than from a career of crime and how to get along with fellow workers and supervisors. This is better than trade-training for a job that may not be opened to the paroled man because of crowded labor markets, union hostility or the hostility of a particular segment of society. Besides courses conducted by the education departments in conjunction with the industrial training, there are additional opportunities for training in connection with prison maintenance such as baking, cooking, electricity and tailoring.

⁹H. E. Barnes, New Horizons in Criminology, (New York, 1943), p. 722.

Prison industries are handicapped somewhat by the fact that they are usually required to be at least partly self-supporting as a group, and this may limit the fields and facilities available to the inmate. However, when the public becomes sufficiently sold on the principle of reformation, they won't object to a very legitimate use of their taxes to broaden the opportunities available for prison labor, when emphasis will shift from making a monetary profit on prison products to making a social profit from the reclaiming of human beings.

Of course there are other reasons for letting the inmates work. It helps pay the costs of maintenance, in some states the inmates can send money home to their families and it provides a cheaper source of supplies for the state. However, normal decency demands that these be subordinated to the reclamation of human resources.

Before concluding this brief historical and theoretical outline of prison labor, a few words should be said regarding the various systems of prison labor. (There are six principle plans for the employment of state prisoners, the first is the contract system. Under this plan the state feeds, clothes, houses and guards the prisoner in an institution. The state then contracts with a private manufacturer to make goods according to his specifications, the manufacturer in turn furnishes all of the raw materials and may supervise the actual work in or near the state institution. When the manufacturer has control over the discipline and sets the production schedules, great abuses may arise from this system through long hours, severe discipline and tough production schedules.

However, the inmates have a better chance of receiving proper food, clothing and shelter under contract labor than under the second system, the lease system. Under this system, the men are leased to work in private mines, on farms, on road construction and in factories for private owners. The lessor assumes the responsibility for feeding, clothing, punishing, guarding and housing the prisoner and in return, he pays the state for this labor. The advantages to the state are obvious, no institution is required, no maintenance costs for equipment and inmates, it is simple to administer and the state is assured of a good income. On the other hand, the disadvantages to the inmate are equally obvious. They may be poorly fed, housed and clothed, and abused in an effort to cut costs and extract more work from them. Actually, the lessor obtains what may amount to slave labor, even the method of placing the inmates suggests slavery. As an example, in 1883 the Secretary of State of Tennessee advertised in a newspaper, offering to lease Tennessee prison property and inmates for six years to the highest bidder, the terms were to be not less than \$100,000 a year "clear of all expense to the state on any account except the salaries of the superintendent, warden, assistant warden, surgeon and chaplain", who were to be paid by the state.¹⁰ This form of labor has been almost entirely abandoned in favor of one or another of the remaining four types.

The third system is the piece-price system. Under this plan the state maintains an institution, handles discipline and

¹⁰Prison Industries in Tennessee, Survey by the Prison Industries Reorganization Administration, (Washington, 1937), p. 4.

production schedules, while the contractor furnishes the raw materials and pays the state so much per unit. This takes the discipline and maintenance of the inmate out of private hands, and given a good prison administration, the inmates won't suffer undue hardships.

The fourth plan is the state-account system. Here the state handles the entire process, keeps the prisoners, handles discipline, rates and maintenance, decides what to produce, buys the raw material and assumes the risk of profit or loss. In short, it goes into the manufacturing process on its own and sells the product on the open market. As far as the men are concerned, it is no different than the lease system, but the state's position is different inasmuch as it works for itself and not a private party.

The fifth system is the public works and way system under which the inmates are employed in the construction of public buildings, bridges and the construction and maintenance of public roads. The state usually has control over the men although they may work with private contractors in putting the men to work.

The sixth and most important system in use today, is the state-use system. In this case, the state only employs prison labor in production destined for use by its own institutions or those of its political subdivisions, there are no open market sales unless specifically allowed by law. The disadvantages of this plan as far as the prison system is concerned are that it is difficult and costly to administer. A number of small shops are needed rather than one large shop because the market is too small for any one product. A trained foreman is necessary in each shop. The goods must be well made if

they are to be attractive to the state buyers and well made goods may call for a long and expensive training program for the men, or a number of skilled men in the prison population. However, a sample of the prison population indicates that there may be a shortage of such personnel.

Pre-prison occupations

Common laborer	236	30%
Miner	45	6%
Farm laborer	106	13%
Skilled	39	5%
Semi-skilled	209	25%
Own business	20	2%
Own farm	14	2%
Clerk, sales	49	6%
Unemployed	88	11%
	<u>800</u>	<u>100%</u>

(At least 50% are in the lower occupational branches doing very menial work).¹¹

Another disadvantage is that the state may not have a market large enough to employ all the men in state-use production, consequently, a large number may be subjected to the curse of idleness. A solution to this last objection is the states-use (states not state) plan where prison products can be sold to the institutions of other states. With cooperation, each state can cut intrastate prison diversification of industries and agree to concentrate on a few products. These products will be exchanged with other states for the products they will specialize in. Thus a large market is provided and year round full employment may easily be the result. However, the disadvantages of the states-use system are that diversification is cut and from the inmate standpoint this is wrong. It doesn't allow for the flexibility in

¹¹Donald Clemmer, The Prison Community, (Boston, 1940), p. 52.

in placing a man in the type of job he is best qualified for, while the state-use plan does permit flexibility due to the greater number of industries. If you are producing shoes for yourself and other states, a man will learn the shoe trade or nothing, even though his abilities may be in the field of machine shop work. Of course, another obvious disadvantage of the states-use plan is the difficulty in coordinating the actions of the various states.

Summing up, first we find that the contract, lease, piece-price and states-use systems, may be committed to a relatively few industries or products, while the state-use and the public ways systems will be inclined to be more diversified. The public account plan may be in either class depending on the state prison policy.

Second, in the contract, lease, public account and piece-price systems, the goods are sold on the open market either by the state or by private producers. Of this group, the lease, contract and the piece-price plans are privately controlled in the sense that the private producer takes the profit or risk of loss. Although it may be a coincidence, we usually find that the pressure on and abuse of the prisoners is greatest in these systems.

It is also against the three systems that the opposition of free labor and management has been the greatest. The two groups contend that with contract, lease, piece-price and public accounts systems, even though the prison labor may be less efficient than free labor, can usually sell goods cheaper on the open market and undercut private labor and management. As a result, prices [&] wages are affected. They further contend that state-use and public works and ways, are preferable because

while they do offer competition, it is less direct.

Starting about 1830, the efforts of both labor and management have been directed toward restricting prison labor and products. Beginning with the end of the 1820's, the unfortunate decline of the industrial prison started due to a large extent, from the efforts of free labor and management, a topic to be discussed in Part II of this paper.

Part II

Public Interests Versus Private Interests

In this section of the paper, we will attempt to discover what the general labor view is regarding prison labor, which industries are the most active in the struggle, what has been done by the states and the Federal government to alleviate this conflict and finally, we shall look more closely at the specific objections to prison labor by private labor and management.

Prison labor is one of the most controversial problems in the field of prison management. Probably nowhere else in the field of public administration do public and private interests clash more severely. One of the earlier instances of this clash was in 1913 when the cabinet makers of New York rose to protest against the sale of products from the prison workshops. However, the real resistance of organized labor began about 1890 and became progressively stronger until 1929 when the Hawes-Cooper Act was signed by President Coolidge. In the earlier years, the zeal of organized labor to limit the market for prison products caused much injustice to the convicts. For instance, in 1898 Pennsylvania passed a law whereby no labor saving machinery could be used in prisons.¹² This robbed the inmates of a chance to learn the mechanical trades and upon release, they frequently found it difficult to get a job in the expanding mass production industries.

In the early 1900's, the contract system was the main target for reformers and unions. In 1913 Jane Addams contended that the state prisons were showing an annual deficit of \$300,000 because profits were all going to the contractors and the state was helping to make

¹²New Republic, X (February 3, 1917), 9-10.

these profits because of inadequate charges for plant, labor and overhead. She thought that any state with two million population could employ all prisoners in state-use production.¹³ State-use has been upheld by almost all labor leaders although at times, as we shall see, self-interest has made state-use impossible.

John Mitchell, President of the UMW, remarked in 1913 that organized labor was the strongest and most persistent advocate of employment of convicts in the production of those commodities that are needed by the state and its sub-divisions. He said that the price of a surplus of a commodity in a market, determined the price of the entire stock and that prison products are surplus, consequently, the prices of free products come down and workers are discharged because free industry can't compete. "There is no doubt that convicts should be made to work...if their products don't enter into competition with free labor. There is a kind of work they can do that interferes least with free labor. They can crush rock in the prison yards and this stone can be used on public roads....."¹⁴

It might well be questioned whether John Mitchell had heard the latest theory of penology, however, few would argue today that rock crushing is at all conducive to reformation if that is to be the public policy in regard to the prisons. The theory is not work as such, but constructive, moral building work that will tend to rehabilitate rather than degrade.

Sam Gompers wrote much on the prison labor problem. In one instance he said, "what organized labor has been fighting in prisons is the contract prison labor system....The convicts receive

¹³Jane Addams, Ladies Home Journal, XXX(April 1913), 27.

¹⁴John Mitchell, Annals of the American Academy of Political and Social Science, XLVI (March 1913), 8-16.

no wages and are forced to toil long hours at an inhuman speed secured by speeding-up devices". "With the low price for convict labor, the manufacturers who employ free labor are hopelessly unable to compete. Free workers are thrown out of employment. They and their families suffer hunger and all manner of privation because of the contract system. Free competition of prison made goods with the products of free labor does not increase the number of commodities furnished to the community because protected and favored by special conditions and privileges, it has forced fair firms out of fields of production".¹⁵ What Gompers is saying is simply that even though prison products are sold on the open market cheaper than free products and even though one might think that because of this more people could buy more goods, it isn't really so. The prison competition forces private industry to lay off men and hence, even though prices on prison goods may be lower, effective demand is also lower and consumption does not increase. Later we shall attempt to discover how severe this competition is and whether the number of men put out of work by prison labor is as important a factor as Gompers implies. He goes on to say that labor has always maintained that prisoners should work and not be exploited. They should work at such tasks as not to cause competition with free labor. "The right to work can bring men back into the right relation to life, but prison slavery only buttresses the barriers that separate the individual from society and intensifies the antagonism to the social organization".¹⁶

¹⁵Samuel Gompers, Ramparts Weekly, LVIII (April 18, 1914), 28.

¹⁶Ibid., p. 29.

The Executive Council of the AFL adopted in 1924 a report that reflected Gompers's ideas on prison labor. They recommended: 1. state-use; 2. the development of prison industries on a high plane of efficiency with safe conditions and expert management; 3. rehabilitation of prisoners through payment for work done on a fair basis.¹⁷ The above points fairly well express the labor view down to the present day as we shall later discover. Certainly Gompers was correct in stating that prisoners can not be expected to become better men in a system where exploitation, long hours and no rewards are the rule. As in private industry, there must be incentives and rewards and decent working conditions.

By the time William Green became president of the AFL, the brutal forms of the contract system had about disappeared. However, prison product competition had not. In 1930 he stated that the AFL had opposed prison labor from the first because it gives special privileges to the users that enables them to profit from the misfortunes of the prisoners and reduces the costs so they can undersell the products of free labor. He said that selling prison products below costs of the private industries disorganizes the market, then later, the prices of prison products will be raised when private industry has been driven out of the market. Selling below costs is "industrial piracy" and a crime against economic ethics. However, work is a creative and uplifting force and should be provided for the prisoners without injury to free workers. He also pointed out that the AFL was active in getting the prohibition against importing convict made goods into the Smoot-Hawley Tariff.¹⁸ Green goes

¹⁷New York Times, March 2, 1924, p. 12.
¹⁸New York Times, August 15, 1930, p. 3.

on to say, "the AFL is not in favor of public buildings being erected by convict labor. We favor the employment of convict labor for the purpose of manufacturing goods and materials for state-use...but we contend that in the erection of public buildings our skilled free workmen shall be employed..."¹⁹ Just how a distinction can be made between goods and materials used by the state and a building used by the state may be open to question. However, in 1930 when this statement was made, times were getting to be a little tough, so the lack of logic can be excused. Green said in 1930 that with such a lot of unemployment, the products of prison labor should not be allowed to add to the burden. This is very characteristic of the prison labor problem in general. A vast amount of material can be found on ^{the} subject in times of depression and very little in times of prosperity when most free labor is employed. During the years before the First World War a considerable amount of agitation over prison labor was present. During the war, free labor was relatively happy, then 1920 came, and prison labor competition became a problem again as it did in 1929, and up until the National Defense program got under way, as is to be expected. When the members are employed, the labor organizations have less cause to crusade against prison products. However, when unemployment is prevalent and hungry men see prison labor making products that they could be making, the pressure for a crusade becomes great. The primary note in this conflict is always the extent to which each group of workers or manufacturers is being injured by prison competition. If the competition is harmful to

¹⁹ Louis W. Robinson, Should Prisoners Work?, (Philadelphia, Penn., 1931), p. 66.

them, then it's damned, if not, nothing is done about it. Of course, generally speaking, the unions are more interested in ending all prison competition than is industry. Private manufacturers are only interested in the particular shoe that pinches.

We will now look at some of the groups that have done the most complaining about prison labor competition.

One of the most persistent foes of prison labor is the American Brush Manufacturers' Association which was supposed to represent 80% of the brush production. It protested ^{against} the installation of automatic machinery at Leavenworth for making brushes. They contended that the Federal government had overstepped the purpose of prison labor (to provide rehabilitative work for the prisoners) and had caused gross injustice to be done to free labor. Criminals were assured employment while employees of legitimate brush manufacturers were thrown out of work. Leavenworth was supposed to be trying to monopolize the brush market in the government departments. The ABMA asked for legislation making hand labor compulsory and that would assure the "honest" worker preference over criminals even if all prison industries would have to be cut out. The spokesman for the Empire Brush works contended that the brush makers had been deprived of a tremendous volume of government business they had previously enjoyed.²⁰ Here we see that even state-use may not be the answer when toes are being stepped on by the prison industries. At the annual meeting of the ABMA in 1939, the Representative from Missouri told the group that the government had to go into the brush business at Leavenworth because the brush

²⁰New York Times, September 14, 1932, p. 5.

monopoly asked any price they chose and the government had to pay. At the same meeting the president of the association estimated that one-tenth of the brush market had been destroyed by the government and a bill was suggested asking that no public money be spent on prison products if they could be bought from private companies, unless the prison bid against the private firms and considered all reasonable costs in so doing.²¹

The brush monopoly had apparently attained the same position as the binder twine trust of the middle west. In Minnesota the prison went into the binder twine business to break the trust and give the twine to the farmers at reasonable prices.

The brush interests were still fighting in 1947 when the state Federation of Labor criticized Governor Dewey for vetoing a bill that would have outlawed the sale of brushes made in the State Prison at Sing-Sing. One other interesting sidelight was that the National Broom Manufacturers' Association contended that not only was its industry facing bankruptcy but that blind broom makers were being injured by the prison products. A great many of the blind broom makers were probably in state institutions and their product was competing with free labor and enterprise just as much as the prison labor, but it was a good argument that appealed to the emotions.

The extent of the competition is indicated in the following table. Except in 1932 when private industries products fell to \$33 million while the prison products remained about the same as before, the competition does not seem to be too severe. It is

²¹New York Times, March 24, 1939, p. 41.

difficult to draw any definite conclusions without knowledge of the distribution of the prison goods, the employment situation in the industry etc. It is only an indication of the extent of competition.

Brushes, Brooms and Mops

	Value of product in private indus. (no mops)	Value of product in prison indus.
1923	\$76,773,000 (1)	\$1,818,585 (4)
1932	33,649,000 (2)	1,175,838 (5)
1940	60,309,000 (3)	1,157,469 (6)

-
- (1) Statistical Abstract of the U.S., 1934.
 (2) Statistical Abstract of the U.S., 1935.
 (3) Statistical Abstract of the U.S., 1941.
 (4) Monthly Labor Review, XXXVII (July 1933), P. 7.
 (5) Monthly Labor Review, LIII (Sept. 1941), P. 599-600.
 (6) Monthly Labor Review, LIII (Sept. 1941), P. 599-600.

The International Photo Engravers' Union has also opposed the use of prison labor. It bases its argument on the fact that the use of prison labor in the photo engraving shops in the prisons would provide the men with training that would lead to counterfeiting when they were released.²²

The National School Supply Association was alarmed at the increased use of state-use. They accepted the principle as long as prison made equipment was used in hospitals, prisons and poorhouses. However, they did not want the prisons to make school supplies because they happened to be school suppliers, not hospital or poorhouse suppliers.²³ During debate on the Hawes-Cooper Bill regulating the shipment of prison products, the president of the School

²²New York Times, August 17, 1936, p. 32.

²³Literary Digest, LX XVI (July 4, 1925), 69.

Supply Co. of South Carolina wrote to Hawes approving the bill as there was quite a concentration of school desks being made in the state prisons.²⁴

In 1938 the National Hardwood Lumber Association estimated that the sale of prison products cost private industry \$200,000,000 a year. The National Association of Furniture Manufacturers condemned the use of prison labor in the manufacturing of furniture for use by anyone but the state. In the same field, in 1936 the manufacturers of model ships were up in arms because the prisoners in Pennsylvania were making wooden models and selling them at prices cheaper than those made by free labor. One spokesman said his models of the Santa Maria laid on the shelves while the prison models moved fast, consequently, he had to lay off 18 men.²⁵ The extent of competition in the furniture industry is indicated by the following table, and it seems very negligible.

Wood and Metal Furniture

	<u>Value of private products.</u>	<u>Value of prison products.</u>
1923	\$776,494,839 (1)	\$3,038,038 (4)
1932	297,730,000 (2)	2,615,682 (5)
1940	666,552,000 (3)	2,203,797 (6)
	(1939 figures)	

(1) Congressional Record, Vol. 69, p. 8649.

(2) Statistical Abstract of the U.S., 1935.

(3) Same, 1941.

(4) Monthly Labor Review, (July 1933), p. 7.

(5) Monthly Labor Review, (Sept. 1941), p. 599-600.

(6) Ibid.

²⁴Congressional Record, LXIX, p. 8492.

²⁵New York Times, February 28, 1936, p. 34.

The domestic tobacco growers of New England, Georgia and Florida protested the importation of Sumatra tobacco in 1931 because it was grown by what they contended was convict labor, hence, a violation of the Hawley-Smoot Tariff.²⁶

The National Luggage and Leather Goods Manufacturers also started a drive against prison made luggage. They believed if the retailers were given the "facts" about prison products they would refrain from selling them. About 57% who had been selling prison goods were supposed to be unaware of the conditions.²⁷

In 1940, a letter from the United Shoe Workers of America was read on the floor of the House in which a complaint was voiced against the awarding of a contract for 300,000 pairs of shoes to the Federal prisons by the Quartermaster Corps.²⁸ The prison shoes were generally sold for about \$3.35 while free labor shoes would be about \$12.00.

In 1944, prison labor was pressed into service in Philadelphia to assure an adequate water supply after the AFL union of State, County and Municipal Workers struck and this aroused the union's ire. Their wrath was understandable if the danger to the city was not great as such a move could set an undesirable precedent. Few would even consider permitting the use of prison labor as strike breakers except when the danger to the public health and safety is extreme. The extent of the danger in this case is not known.

The clothing industry has been especially active in fighting prison labor. The clothing and cotton industries, the ERA codes

²⁶New York Times, February 13, 1931, p. 11.

²⁷Ibid, August 2, 1931, Sec. II, p. 15.

²⁸Congressional Record, LXXVI, p. 10775.

and prison labor are more or less a part of the same discussion and each will be given some attention.

During a cotton industry strike in 1908, one of the chief points of contention was that the prison industries making clothing and cloth, were running full blast with the prisoners receiving only a pittance for their work (about 6¢ per day) thus providing unfair competition for free labor. They pictured the husky, ex-bricklayer making aprons, and prisoners feeling like cheats and liars when they sewed the contractor's label in the garments because they appreciated the harm their forced labor was causing. When the Governor of Florida contracted for the labor of 250 men to make work shirts, the International Association of Garment Manufacturers contended that the wages per dozen of prison made shirts were 72½¢ while for free labor they were \$2.50 per dozen.²⁹ Further, they said that of the 5,000,000 work shirts made in American prisons in the year ending June 30, 1923, the prisons only received \$800,000 while they were valued at \$10,000,000 thus indicating a vast profit for the contractors if they were contracted shirts or an extremely low price if they were sold directly on the market. Even if they were contracted shirts, a cost of only \$800,000 per \$10,000,000 of value would allow the contractor to sell them far below the market price. This association also contended that many of the retailers didn't know that their goods came from prisons and that nobody would buy prison products anyway except because of the extremely low price.

²⁹New York Times, June 22, 1924, Sec. II, p. 11.

The Cotton Duck Association also had an inning. It pointed out that the production of wide sail and narrow duck in Atlanta (Federal Prison) was 12,670, 740⁵ as compared with 81,724,873³⁰ by free labor, which constituted a burden on free labor and industry. The 18% of total production produced by prison labor does seem to be high and probably did give good reason for the complaint as this was during the depths of the depression.

There is probably a great deal of truth to these contentions. In 1923 about 40.4% of the productively employed prisoners were employed in clothing manufacture, in 1932 about the same, in 1936 only 20.6. When the depressions come, of course, the objections of the industry become stronger. Some even went so far as to blame the sweat-shops on the necessity to keep costs low in order to meet the prison labor competition. Any manufacturer that tried to pay decent wages couldn't compete because when his product was mixed with the cheap prison product, the low price on the latter drove down the price on his goods. An attempt to meet this problem was made under the NRA. The Prison Labor Authority was created thereunder and set up a Prison Labor Compact. Under this Compact the prison industries were allowed to use the Blue Eagle if they observed a 40 hour week, employed nobody under 16 and did not sell below a current fair price in the market. The same allowances for labor and overhead were to be used as those in private industry and contractors had to pay an amount equal to the unit cost of free producers. "We do our part" was to be replaced by "Compact", no other labeling was to be required.

³⁰New York Times, March 24, 1933, p. 26.

The clothing industry was somewhat overextended during the depression due to the demand for cheap clothes, consequently the infringement on their field by prison products was felt especially strong and conflict with the code inevitable since in practice, the Prison Code seemed to be protecting prison labor. Because the Code couldn't be enforced, and because it was nothing more than a gentlemen's agreement, prison products from some prisons not subscribing to the Code, continued to compete with free labor's product. When the Clothing Code Authority decided in December 1934, to cut hours 10% in the industry without a wage cut, the clothing manufacturers objected because they would be still harder pressed to meet the prison competition if their wages went up while hours fell. They also threatened to withdraw from the Code if the rule was enforced. Thirty-one manufacturers went so far as to seek an injunction so they would not be threatened with prosecution or boycott if they did withdraw. They said they couldn't comply with the 10% cut and still meet competition.³¹ Of course all of the industry objected to the Blue Eagle on prison products and asked for its abolishment. The court refused to enjoin the use of the Blue Eagle by the prisons because they said: 1. it wasn't clear that the use of the Eagle was a violation of the fair competition code; 2. prison competition was less severe than before the code; 3. prison competition was decreasing in the clothing industry. In 1932 13,948 prisoners were employed, in 1934 only 3098 were employed.³²

³¹New York Times, November 29, 1934, p. 20.

³²Alabama Textile Products Co et al. v Homer S. Cummings, the Attorney General et al., 63 Washington Law Rep. 58.

In any event, it appears that competition did decrease and the Hawes-Cooper Act shortly to be discussed, helped end this competition (in effect 1934). However, not much credit can be given to the N.R.A. Code which was declared unconstitutional a little later. The failure of the Prison Labor Compact seems to have been due to three reasons: 1. the aims of labor are incompatible with the code, that is, labor will never accept the open market sale of prison products for any reason; 2. the cotton garment industry considered the code unworkable, hence, since cooperation was the basis for the codes, it was unworkable; 3. other industries were fearful lest the Blue Eagle would strengthen the position of prison products in other fields as it did in the clothing industry. consequently, other industries fought it even though the competition wasn't especially severe in their fields yet.

Later a committee was appointed to study the problem of the cotton industry and it recommended that competition be ended between free products and prison products in all fields. They suggested that the FWA help the states reorganize their prison industries so as to be non-competitive and that the FWA give the states money to replace funds lost by the decline of the profitable industries. The FERA was to purchase the food and clothes from the prisons during the reorganization.³³ However, the Hawes-Cooper Act quite effectively ended interstate competition of prison products and labor soon became strong enough to help itself so no great progress was made after the report was issued.

³³New York Times, November 29, 1934, p. 20.

Some indication may be seen in the following table as to the extent of competition in the clothing industry.

Clothing

	<u>Value of free industries product</u>	<u>Value of prison industries product</u>
1923	\$3,796,539,496 (1)	\$29,156,675 (4)
1932	1,797,548,000 (2)	21,842,273 (5)
1940	3,325,015,000 (3)	7,511,552 (6)

-
- (1) Congressional Record, Vol. 69, p. 8649.
(2) Statistical Abstract of the U.S., 1935.
(3) Same, 1941.
(4) Monthly Labor Review, (July 1933), p. 7.
(5) Monthly Labor Review, (Sept. 1941), p. 599-600.
(6) Ibid.

In 1923, prison industries produced less than 1% of the total clothing output. In 1932 slightly over 1% and by 1940, the amount was very slight. However, the clothing industry is highly concentrated and it is quite possible that the prison goods flowing into these concentrated markets would disorganize the market, especially in the depression. The competition is very slight now and we find very little to indicate that the conflict is severe at present. The prohibition of interstate commerce in prison products in violation of a state law, ended the shipping of the goods into the clothing centers and this helped solve the problem plus war production, which provided work for both prison and free labor.

Now we turn to a previously mentioned piece of legislation, the Hawes-Cooper Act.³⁴ Before the act was passed, a state could prevent prison products from being sold on the open market if they were made in the state. However, because of the interstate commerce clause in the Constitution, they could not prevent prison products from other states from being shipped in and sold. In 1928 there

³⁴ See Appendix II for text of Act.

was considerable discussion over whether or not one state could and should be able to prohibit goods from another state from being sold contrary to the laws of the state. The Senate Committee of Interstate Commerce after hearings, decided it should be able to so regulate. Consequently, the Hawes-Cooper Act was passed in 1929 (to take effect in 1934) to divest prison products of their interstate character upon arrival at their destination. It did not forbid their movement in interstate commerce, and an enabling act was necessary by each state desiring to regulate the sale of such goods.

The law was tested several times, mainly on the grounds that it violated the Constitution by depriving the plaintiffs of property without due process, impaired the obligation of contracts and delegated legislative power to regulate interstate commerce. Alabama, which sold shirts and cotton goods to certain other states, sought to have these states enjoined from prohibiting the sale of the products of Alabama prisons. The state contended it had \$300,000 invested in its plant and would cost an additional \$1,000,000 to convert to state-use. The Supreme Court refused to enjoin the states that prohibited the sale of Alabama goods on the grounds that no contract existed and no property was in danger of being lost.³⁵

The final case came in 1935.³⁶ Whitfield sold shirts in Ohio that had been made in Alabama. He argued that Congress couldn't divest itself of control over interstate commerce and further,

³⁵Alabama v. Arizona, et al., 54 Sup. Ct. 399 (1934).
³⁶State v. Whitfield, 257 U.S., 601 (1935).

that states couldn't prohibit shipment of goods not harmful. The court replied that Ohio apparently considered the sale of prison products as evil and was supported by other states having passed similar laws. Free labor could not compete with underpaid and forced prison labor and the state can consequently legislate against this evil.

Who was in favor of the Hawes-Cooper Act? Generally speaking, five elements of society supported it: 1. labor; 2. certain manufacturers who were being injured by it; 3. general federation of women's clubs; 4. blind organizations (broom makers etc.); 5. prison reformers who sought to end the evils of contracting and forced labor. The main theme was the inability of labor and industry to compete and reform was also advanced by groups three and five especially. On one particular day the Congressional Record records the endorsement of the act by the following groups: International Association of Garment Manufacturers, New York Photo Engravers' Union, United Textiles Workers of America, American Meat Cutters Local #95, Boot and Shoe Workers Union, Journeymen Stone Cutters' Association, Consolidated Machine Tool Corporation of America, Bakers' Union #14.³⁷ Interestingly enough, most of these groups have already been mentioned above as being especially hostile toward prison labor.

The opponents of the act were mainly prison officials, i.e., Virginia State Prison Board, Missouri Penitentiary, President of the American Prison Association, Wardens' Association of America, and the Indiana Truck Corporation. The main arguments were, the

³⁷Congressional Record, LXIX, p. 4373.

additional burden on the taxpayers because the prisons would be less self-sustaining, idleness of prisoners would result, the industries would be expensive to diversify for state-use and the gain to labor and management would be very slight as prison products only constituted about $1/12$ - $1/20$ of 1% which is close to our figures for the clothing industry above. Representative Hawes replied to this by saying that the comparison of total prison products to total free production is not relevant because the concentration of prison products in a small area or in one industry can depress that whole industry.³⁸ This seems to have been a fact as we have seen that certain industries are the persistent objectors, it is not industry in general that fights prison labor. Also, Minnesota protested strongly fearing that the sale of twine and farm machinery would be prohibited, thus ending the relief that the prison industries in that state had been giving the farmers from the trusts. (These products were exempt in the act.) Mainly it was congressmen from the farming states that tried to have exemptions made such as the above mentioned plus seed and other like products being sold to farmers at lower than market prices.

Obviously, this act practically ended the contract system because it became too difficult for contractors to get rid of the prison products. The trend in prison employment after the act was passed, can be noted in the following table.

³⁸Congressional Record, LXIX, p. 10573.

Percent of
prisoners productively
employed

	<u>1885</u>	<u>1898</u>	<u>1906</u>	<u>1914</u>	<u>1923</u>	<u>1932</u>	<u>1940</u>
State-use*	-	-	18%	23%	38%	42%	59%
Public works	26%	33%	8	11	19	23	29
State Account	-	-	21	31	26	19	13
Piece-price	8	14	8	6	7	11	1
Contract	40	34	36	26	12	8	-
Lease	26	19	9	4	-	-	-

Percent of all
prisoners
engaged in
productive
labor.....

75 72 65 ** 61 52 41

*State-use and Public Works are combined for 1885 and 1898.

**Not reported.

Note: Table includes state and Federal prisoners. Taken from
Monthly Labor Review, (Sept. 1941), p. 582.

It will be noted that state-use increases from about 0 in 1885 to 59% in 1940 while contracting decreases from 40% in 1885 to 0 in 1940. In view of the fact that we found several states that still have laws permitting contracting, we must apparently assume that they are not so used in view of this table taken from the Monthly Labor Review. It is also worth noting that the total number of prisoners productively employed has fallen from 75% in 1885 to 41% in 1940. Some of this is undoubtedly due to such laws as the Hanes Act, however, we should remember that the prison population has increased so free labor and management can't be blamed entirely for this fall of productive employment.

Average Prison Population

1923..... 84,761
1932..... 158,947
1940..... 191,776

The following table shows the relative rise in the population and the fall in the employment.

Value of Commodities Produced (State and Federal)			
	1923	1932	1940
1.	\$76,096,960	\$76,369,471	\$56,731,654
2. Average number of prisoners..	84,761	158,947	191,776
3. Average no. productively employed.....	51,799	82,276	83,515
<u>Indexes</u>			
1.	100.0	99.0	74.6
2.	100.0	187.5	226.3
3.	100.0	158.8	161.2

From Monthly Labor Review, (Sept. 1941), p. 585-86.

It will be noted here that there has been a decline in the value of prison production and a decline in the number employed. While the population increased from 100.0 in 1923 to 187.5 in 1932 and 226.3 in 1940, the average number productively employed only increased from 100.0 in 1923 to 158.8 in 1932 and 161.2 in 1940. So there has been a decline in the number employed in productive labor due in part to the anti-prison labor pressure that reached a climax in the passage of the Haves Act.

The above facts are also pointed out in the following table.³⁹

	<u>Status of Prisoners</u>									
	Prod. employed		Maintenance		Sick		Idle		School	
1932	1432	40	33	40	32	40	33	40	32	40
State	53.1%	43%	32	38	4	8	9.8	6	1.5	8
Federal	37.0%	36%	52	47	5.8	1	5	3	-	13

39Monthly Labor Review, (July 1933), p. 10 and (Sept. 1941), p. 587.

It will be noted that there is a drop in prisoners productively employed and a rise in maintenance and those in school. The latter is laudable, the former not. It is estimated that no more than 25% should be engaged in maintenance. However, because productive employment is not available, maintenance duties must be overassigned.

The tables on pages 35 and 36 are presented as further evidence of the extent of competition. Not much will be said about these tables. In the first place, the absolute comparability between the figures can't be vouched for, although, it is believed that the same items are included in the classifications for both the prisons and private valuations. In the second place, the differences between the prison and private valuations are so huge and the resulting percentages of prison production as compared to total production so minute, that many conclusions would not be valid. It will be pointed out that the manufacturers that have done the most complaining are those in which the prison production comes closest to being 1% of the total production (brushes, cloth, cordage, furniture etc.).

As far as labor is concerned, the reason that the objections became so strong in the 1930's is seen. In 1932, the percentage of prison production for every quoted item except clay products rose above the 1923 figures. This indicates the increased demand for cheap goods during the depression and shows how prison industries usually continue to produce and may increase their production during such periods at the same time as organized labor is protesting the loudest.

The Value of Free Industry's Production

<u>Industry</u>	<u>1923</u>	<u>1932 (1)</u>	<u>1940 (2)</u>
Ag. Implements and parts.	\$151,286,248*	\$30,539,000	\$167,895,000
Brushes, Brooms and Mops.	76,773,000**	33,649,000	60,309,000
Clay, Cement and stone products.	312,812,459*	383,835,000	421,139,000
Clothing	3,796,523,496*	1,797,548,000	3,325,015,000
Construction	not comparable	1,255,700,000	4,004,000,000
Cordage	86,309,404*	38,714,000	56,686,000
Farming	16,634,000,000**	8,398,700,000	15,206,000,000
Furniture (wood and metal).	776,494,839*	297,730,000	666,552,000
Metal Products.	974,841,000**	not comparable due to further breakdowns in item.	
Printing and binding.	2,299,496,000**	1,581,001,000	2,481,055,000
Quarrying and rock crushing.	-----	-----	-----
Soap and other detergents.	276,403,000**	200,128,000	302,634,000
Textiles and products.	5,463,724,000**	2,634,501,000	3,873,994,000

*Statistical Abstract of the U.S., 1924.

**Congressional Record, LXIX, p. 8649.

(1) Statistical Abstract of the U.S., 1935.

(2) Statistical Abstract of the U.S., 1941. (1939 figures)

The Value of Prison Industry's Production
(Industries over \$500,000)

<u>Industry</u>	<u>1923 (1)</u>	<u>1932 (2)</u>	<u>1940 (3)</u>
Ag. Implements and parts.	\$236,765	\$572,666	\$777,571
Brushes, Brooms and Mops.	1,818,585	1,175,838	1,157,469
Clay, Cement and stone products.	1,537,160	722,029	1,02,069
Clothing	29,156,675	21,842,273	7,511,552
Construction	15,425,077	25,159,153	13,448,838
Cordage	5,588,472	4,368,901	3,634,779
Farming	5,831,569	6,120,652	10,417,465
Furniture (wood and metal).	3,038,038	2,615,682	2,203,797
Metal Products.	2,146,230	3,273,611	4,381,950
Printing and binding.	330,623	727,800	746,828
Quarrying and rock crushing.	-----	887,435	573,237
Soap and other detergents.	115,601	135,666	536,785
Textiles and products.	9,816,490	4,908,259	5,524,627

(1) Monthly Labor Review, (July, 1933), p. 7.

(2) Monthly Labor Review, (Sept. 1941), p. 599-600.

(3) Ibid.

Table A

**Prison Production as a
Percentage of Total Production***

	<u>1923</u>	<u>1932</u>	<u>1940</u>
Ag. Implements and parts.	.15%	1.8%	.46%
Brushes, Brooms and Mops.	2.4%	3.3%	1.8%
Clay, Cement and Stone products.	.48%	.18%	.095%
Clothing	.52%	1.1%	.22%
Construction	—	1.9%	.33%
Cordage	6.0%	11.0%	6.0%
Farming	.037%	.072%	.065%
Furniture (wood and metal).	.38%	.87%	.32%
Metal products.	.21%	—	—
Printing and binding.	.0014%	.046%	.030%
Quarrying and rock crushing.	—	—	—
Soap and other detergents.	.041%	.067%	.017%
Textiles and products.	.17%	.18%	.14%
TOTAL:	10.3894	20.5150	9.4770
AVERAGE:	.9445%	1.8650%	.8615%

*From the tables on pages 35-36.

Also note that in every case, the 1940 percentages are lower than in 1932, before the Hanes Act was passed. This gives strong evidence that there was an increase in the number of idle prisoners as chances for productive labor were ended by the restrictions on open market sales. Naturally, many were shifted to other activities such as maintenance and the school programs.

The averages for each year also indicated the trend. In 1933 prison production constituted 9/10 of 1% of the total production. In 1932 it rose to 1.6% of total output, but by 1940, it had fallen below both 1931 and 1932 to 8/10 of 1%.

There are two necessary supplements to the discussion of the Hanes-Cooper Act. One is the Ashurst-Sumners Act,⁴⁰ the other the attempts by the states to legislate against prison products. The Ashurst Act was in effect, an amendment to the Hanes Act and prohibited the transportation of prison products into a state in violation of its laws, and also required the labeling of all prison products moving in interstate commerce. It tended to hit the traffic at its source by making carriers and agents responsible. (Curiously enough, the AFL and the clothing industry were opposed to a later amendment to the act required that every piece of merchandise be labeled, not just the outside cartons. They apparently felt that such a law would in effect legalize the sale of such products as far as the Federal government was concerned. The amendment passed anyway, the backers assuring that nobody would buy prison products if they knew the source.)⁴¹

⁴⁰For text of act see Appendix I.

⁴¹Congressional Record, LXX, p. 8660.

The act was upheld in 1936 in the Kentucky Whip Case.⁴² The Whip Company tried to force the Illinois Railroad to carry a shipment into a state forbidding the sale of prison products on the open market. The court maintained that Congress could supplement the Hawes Act and that the Ashurst Act bore the same relation to the Hawes Act as the Webb-Kenyon Act⁴³ bore to the Wilson Act. The latter sought to prevent the interstate selling of intoxicating liquors and was a proper delegation of Federal power to the states. The Webb Act prohibited the interstate transportation of liquors into a state in violation of its laws and was upheld.⁴⁴ So the Ashurst Act added one more bar to the sale of prison products and of course further loss of markets.

With the war, the Attorney General (Biddle) ruled in 1942 that prison products made for the United States or the United Nations could be transported in interstate commerce legally whether made in state or Federal prisons. Private industry was working to the limit so the 135,000 prisoners working with machinery worth \$50,000,000 could not be harmful to either free labor or management.⁴⁵ The prisons performed a great service for the country. For instance, the prison production in 1942 was estimated at \$44 million and farm production at \$24 million. Such things as shirts, camouflage cloth, demolition boxes, blankets, pontoon boats, fatigue suits, mattress covers, ammo crates, furniture, submarine nets, lockers, rope and iron castings were produced. However, it may be noted that even in wartime with the prison plants running full blast and with practically

⁴² Kentucky Whip and Collar Co. v. Illinois Central Railway, U.S. 136, Oct. term, (1936).

⁴³ Webb-Kenyon Act, 27 U.S. Stat., 1, 693 (1913).

⁴⁴ Wilson Act, 26 Stat. 817.

⁴⁵ Black Distilling Co. v. Western Railway Co., 242 U.S. 311.

⁴⁶ Louis W. Robinson, Should Prisoners Work? (Philadelphia, Penn., 1931), p. 17.

no limit to the markets for the prison product, the total output from both farm and factory in 1943 was only \$66,017,473, hardly a figure that would indicate intense competition either in wartime or peacetime.

The other supplement to the discussion of the Norris Act is a review of the state laws regulating the sale of prison products. That the influence of organized labor was felt in the state legislatures can hardly be doubted when one observes that the model amendment to the prison codes as suggested by the AFL is reproduced almost word for word in the section of the state laws prohibiting the sale of prison products on the open market. We will now devote some time to the curration of these laws. For the laws themselves, see Appendix II where they are listed state by state.

Of the 48 states, half may be considered closed to open market sales¹ and 24 allow open market sales.² It must be understood that a certain degree of arbitrariness is necessary in so classifying these states. Some are closed to everything "except", others are open to everything "excluding" such a product. Generally speaking, we can conclude that free industrial labor and industry are well protected in the states forbidding open market sales. (See examples of sales that are allowed in Table B.) It will be noted that the type of products that may be sold are largely farm products and not those that would be objected to especially vigorously by organized labor or management with the exception of perhaps farm machinery, trine, or products made before 1933 in the case of West Virginia. Furthermore, in those states where exceptions are made,

¹See Table B

²See Table C

Table B

Closed to open markets except
to such products as are
exempted.

Arizona	surplus crops
California	jute, rock, hemp goods, ag. and animal products
Colorado	closed
Florida	sugar cane
Georgia	closed
Iowa	closed
Illinois	closed
Kentucky	closed
Massachusetts	closed
Maryland	vegetable, livestock, forest and ag. products
Michigan	pure livestock, twine
Mississippi	lime, cotton and cotton seed
Montana	hides, and tanning
Nebraska	farm supplies and machinery
New Hampshire	closed
New York	closed
North Carolina	cotton, corn, grain, ag. products, seed, stone
Ohio	crushed rock
Oregon	flax
Rhode Island	closed
Texas	closed
Utah	closed
West Virginia	goods made before 1939
Wisconsin	farm machinery, rope, twine

Table C

Open market sales
permitted- exceptions.

Alabama	not in mines
Arkansas	none
Connecticut	no tobacco manufacturing or anything touching the human mouth
Delaware	painting and repairing or refinishing autos
Idaho	none
Indiana	no school books or desks sold to schools
Kansas	no coal
Louisiana	none
Maine	none
Minnesota	none
Missouri	none
Nevada	none
New Jersey	none
New Mexico	none
North Dakota	none
Oklahoma	shoes to state only
Pennsylvania	coal
South Carolina	none
South Dakota	shoes to state only
Tennessee	coal
Vermont	none
Virginia	seed corn for ag. purposes, printing products to state June 1- January 1 allowed
Washington	none
West Virginia	none

labor is not strong as these states are primarily farming or dairy-
ing states. The farmers, of course, may be organized to fight the
sales of these products on the markets but they are seldom as
effectively organized as industrial labor. Also, the products that
are sold are as a rule, of direct benefit to the farmer such as
wheat, machinery, pure bred livestock and seed, so he will stand to
gain from the lower prices.

As will be noted in the table, there are 9 states that appear
to give absolute protection to free enterprise as no exceptions are
made. If one wished to be absolutely accurate, the rest would have
to be classified as giving semi-protection, but no real threat to
organized labor seems eminent from the prison labor in any of these
latter states due to the nature of the products that may be sold on
the market.

As with the states forbidding open market sales, the states
that allow it also make exceptions, but in these cases, the excep-
tions include that they not be sold on the open market. (See Table
C) It is believed that these exceptions reflect rather accurately
the strong free labor and management interests in their respective
states. For example, Alabama, Kansas and Pennsylvania forbid the
sale of coal on the market which would be expected.

Eleven states seem to allow open market sales without restric-
tions. These are states where labor is less powerful. In the rest
of the states in this group, the products that are not allowed to
be sold are those that would definitely conflict with organized labor
and not be merely with the producers of farm products.

We can conclude from the two tables that where open market sales are unlawful, the exceptions are those either favoring the farmer or at least not coming into serious conflict with free enterprise. In the states where open market sales are allowed, the goods that may not be sold are those that would conflict with free labor in a rather serious way. Of course in states making no exceptions, there are undoubtedly goods made by prison labor that conflict with free labor, but either labor is not strong enough to force these products off the market, or else the conflict is not serious enough to worry them. Only when the conflict is severe enough to constitute a serious threat to labor and when labor is strong enough to bring sufficient pressure to bear on the legislature, will these exceptions be enacted into law in the states that allow open market sales.

Only twelve states still allow the contracting or lending of convicts.⁴⁷ However, in three other states, there is no specific mention and it could be assumed that barring a law prohibiting it, it would be lawful inasmuch as the prison authorities are held responsible for "putting the prisoners to work".⁴⁸ However, these three states forbid open market sales so an individual would have no desire to contract if he couldn't sell the goods on the open market. Of the other 33 states those that prohibit contracting at times make exceptions to the no contract rule. Florida allows contracting to raise sugar cane on state lands, Massachusetts allows the piece-price system for cane seating and umbrellas and Minnesota allows the piece-price system where the men remain under prison

⁴⁷Conn., Del., Kent. (only workhouse prisoners), Maine, Nev., N.C. S.C., Tenn., Vermont, Vir., W.V.

⁴⁸Louis., Neb., Wis.

control. (Piece-price work is done in the prison as a rule with the contractor furnishing the raw materials.) It might be noted that in none of these 15 states where contr ct labor is possible, with the possible exception of Wisconsin, has organized labor ever been known to be particularly strong.

Another point regarding contracting is that where contracting is allowed, with one exception (Virginia), there are no state-use laws. (W. Virginia has a state-use law but it appears that it could be easily avoided.) Of course it is obvious that when you can contract prison labor, there will probably be no need for a state-use law because there won't be a single market for the goods as in the states where the state is the only purchaser, due to the prohibition of open market sales. Of course the states allowing contracting also are the states permitting open market sales with the exception of North Carolina. This state forbids open market sales and this tends to make the contracting clause useless except to the extent that the goods can be sold to states that allow prison products to be shipped in from other states. If a state wants to make money from prison industries by contracting, then they also have to permit the sale of these products on the market.

There appear to be only two states that specifically allow the state-account system (Indiana and Tennessee). Two allow the piece-price system as previously mentioned (Minnesota and Massachusetts.)

Oregon, Maine and Idaho seem to specifically prohibit state-use. This is not entirely in keeping with the latest theory of allowing exchange between the institutions of the various states in

order to reduce idleness by concentrating on one product for a large market, thereby eliminating much idleness. California allows jute and crushed rock to be sold to other states, Colorado allows plates, signs and badges, and Kentucky, Michigan, Nebraska, Nevada, and Wisconsin permit states-use dealings if desired. As explained elsewhere, the states-use type of provision is one method of dealing with the restricted markets for prison products by allowing each state through cooperation with the others, to produce one product that the others need. All of the states that specifically allow states-use, also forbid open market sales. In these cases there is a desirable attempt to expand the market in ways that are the least harmful to free labor. Of the three states that forbid states-use, both Idaho and Maine allow open market sales, apparently this is an attempt to give their own citizens the full advantage of any benefit that may accrue from the purchase of prison products.

Labeling is required in 10 states.⁴⁹ Not much need be said about this, if there are no open market sales and the only purchases are by state institutions, there is no need for the labels. If open market sales are allowed, labeling gives the buyer a chance to discriminate against prison products if he so wishes.

Four states forbid the use of prison labor on bridges and like structures where the use of skilled labor is required.⁵⁰ While three of these states are very active in highway development and construction, there seems to be no reason why prison labor should not be allowed to work on these public projects. Because of the great activity in this field, there would undoubtedly be competition with free

⁴⁹Calif., Iowa, Maine, Miss., Minn., N.J., N.H., Oregon, Texas, Utah. ⁵⁰Idch., Calif., Penn., Kan.

labor but this is one of the fields of a public nature where the prisoners could be given a chance to perform skilled work. Also, this is a field of training that would prepare a man for a job that might be available to him when released.

While you would expect to find limits on the number of men employed in any one prison industry in the states permitting open market sales, only two of these so limit,⁵¹ while three of the closed states place limits on the industries.⁵² When a state forbids open market sales, a limit is automatically placed on the size of the industry by the amount of supplies the state itself can use. On the other hand, some limit seems desirable in open states so as to prevent undue concentration in one line of production thereby placing too heavy a burden on private labor and industry. However, such limits depend on the extent of free industry in the state producing the kind of goods that is being made by the prisons. Also, if state-use was widely practiced, concentration in one field would be permissible.

Public ways and works are allowed in some form or another in all states. Of course this is another answer to the prison labor problem, however, it is rather inadequate especially in the states where outdoor work isn't possible the year round.

Of the 34 states that prohibit open market sales in all but a few specified items, only 14 have what could be called compulsory state-use laws.⁵³ Some of the other 10 have compulsory laws but only for specific items such as auto tags, road signs, clothing, brick or crops, while the rest have no compulsory use law at all.⁵⁴

Del., Calif., Colo., Ill., Mass., N.Y., Mich., Neb., N.H., N.Y., Ohio, R.I., Texas, W.V.

54
S.C., Geo., Iowa, Kent., Miss., Mont., N.C., Oregon, Utah, Wis.

Some of the above 14 states have such clauses as "shall prefer prison products", "shall buy when economical", "if they meet requirements and as far as practicable", any of which could be ignored if desired. If a state forbids open market sales, it must provide for compulsory state purchases of the prison goods, and the prisons in turn, will make those goods needed by the state. While this takes some discretion away from the purchasing officers, it seems that this is insignificant as compared to the idleness occurring because there are no markets for prison goods. It might be pointed out that six of the ten states having no iron bound state-use laws are Flor., Geo., Kent., Miss., N.C., and Oregon, all of which are located in areas where road work and other public ways and works projects could be continued through the winter. This may allow relatively full employment of the inmates the year around, if so, perhaps the lack of a state-use law is less important than in those states that must depend on the state market to absorb the industrial products that are produced within the prisons.

Such evidence as has been presented in this chapter, leads one to the conclusion that competition between prison labor and free labor is not as serious as sometimes believed. No one will refute the idea that concentration of the competition is undesirable and undoubtedly harmful to free labor and industry. However, this concentration does not appear to be widespread. Just where one draws the line between undue concentration and concentration that is just right can't readily be determined. The only instance that appears to be excessive from the figures that were presented on pages 35-6 is in the cordage industry but even here you can't draw

a line unless you know the composition of the industry, the skills required, the labor supply etc.

However, the rejection of prison products by organized labor and management is here to stay, so the desirable course of action seems to be to turn prison industries into lines of production where competition will be the least. More will be said regarding this point in the following chapters.

Part III

Conclusions

Mr. Paul Garrett stated in the Proceedings of the New York Crime Commission on November 22, 1939, that, "organized minorities will oppose opposition to prison industries the same year that business interests oppose increases in the tariff on their own products because such increases are contrary to the public welfare".⁷⁵ We can not doubt that organized labor and some industries will always oppose prison labor, especially in times of depression. Consequently, we must try to keep this competition at a minimum by some means. In this chapter, a few more of the prison labor problems will be mentioned and some conclusions drawn in regards to this competition and its minimization.

We have already mentioned that concentration in one area and one field of production is undesirable and no doubt harmful to free enterprise. It has also been mentioned that state-use production is one means of ending competition. However, just how good is this solution? Anyone can see that this method is more apparent than real. If a real system of state-use was set up, the withdrawal of all the government units from open market purchasing would have a decided effect on the industries selling to the government because the goods would be purchased from the prisons rather than from private sellers. Very soon one might expect a hand from private interests whose markets had been reduced in size. Further, anything that a prisoner does provides potential competition with free labor. If he cleans his own cell, he is depriving a "free" janitor of a job, if he works in the kitchen, he is taking the place of free labor.

⁷⁵Thomas M. Robinson, Shackles and Prisoners, (Philadelphia, Penn.), 73.

It must not be implied from anything that has been said in this paper regarding state-use, that the author believes that the adoption of this plan will be the perfect answer for the competitive problem. The governments today are one of the largest buyers of supplies and labor. Consequently, any movement away from free products to products made by prison labor will be felt by free industry. Years ago, the governments were smaller and more isolated units and whether or not they bought on the market or from the prisons was relatively unimportant. Today, anything they buy from the prisons will cause an inroad on free industry. However, it is still maintained that some items must be reserved for prison production.

We must conclude that some competition is inevitable unless we revert to solitary confinement for each man. The problem is simply to minimize competition and state-use or states-use seems to be the best methods yet devised. State-use makes for diversification of jobs and provides different opportunities for training, also, it prevents concentration in one industry. As was pointed out before, states-use tends to concentrate in one industry and restricts job training opportunities to a few industries. In this case you are producing a single or a few products for all the states and each state is in turn concentrating on a single product. This is especially helpful to those states that may not be large enough or populated enough to absorb all the prison products in state-use, even if it was mandatory to buy only prison products.

Also, if states-use was adopted, a national prison labor policy would be needed. If a man was trained in one state and the

particular industry for which he was fitted was concentrated elsewhere, a national parole program or some similar device would be needed so he could go to the area where his skill was needed.⁵⁶ However, until an effective means of obtaining the cooperation of all 48 states is found, state-use seems to be the most practical answer. The Committee on Allocation of Prison Industries accepted two points in 1924 that are still applicable. One, selection of industries whose production will find a ready, stable and adequate market among the states and local agencies within or without the state for which adequate natural materials are obtainable at reasonable prices. Two, select industries in which the prisoners can be effectively and constructively employed.⁵⁷ In other words, where there can be some vocational training that will later help the parolee to find a job. However, even with the best of intentions, the broadmindedness and cooperation of organized labor and management is needed, otherwise there can be no end to the conflict. There must be a sense of social responsibility instilled in both management and labor.

Further, both labor and management have to shake loose some of the old economic theories that still persist. In the brush industry for example (see page 21) we get the idea that the manufacturers believe there is a certain limited market and that the free industry can just take care of that market. Consequently, any infringement by prison labor will cause resources in the brush industry to become unemployed. Labor also views this aspect in a similar way. They believe that there is a "lump" of labor, each part of which is

⁵⁶ National Committee on Prisons and Prison Labor, Prison Labor and Industry, 1924, 10.

⁵⁷ Prison Labor Review, III (Sept. 1924), 203.

employed at certain pursuits, so when prison labor infringes on their field, unemployment will result.

Modern economic theory tends to refute this. According to certain modern economists such as Abba Learner, society will be benefited by any increase in production and output that increases the national product and the national income. Society will benefit from the increased output and cheaper prices, and more will be available for more people. Consequently, when prison production takes the place of free production in the areas reserved for it, the unemployed free resources will be shifted to other fields of production. Temporarily when prison labor begins turning out the products formerly made by free labor and resources, this labor and the resources will become relatively less scarce, and will be unemployed. Because they are less scarce and perhaps lower in price, they will now be employed in other lines of production not reserved for prison labor. This employment will cause a greater output in the non-prison fields and consequently, cause the total national product to rise. So if our goal is more products for more people, perhaps the releasing of resources from items that can be logically made by prison labor and resources is a good thing.

Another view of this problem is supplied by the classical economist, J. B. Say. In the so-called Say's Law, supply will create its own demand. In other words, a person sells simply so that he can buy. If \$1 is earned, then demand is stimulated by \$1. This law cannot be applied in a strict sense in the case of prison labor, however, it has some relevance. If in this case, prison products temporarily displace free products, entrepreneurs will simply shift

resources into another line of production. Total output will probably be raised by the amount of the prison output and nobody will be unemployed. Of course the supplying of auto tags or signs to the state by the prisons does not affect demand directly inasmuch as the prisoners aren't paid, so they can't buy. However, the prison labor and resources release free labor and resources that can be shifted to other fields of production, hence, no unemployed factors need result.

This problem is most important in times of depression when there is much unemployment of the factors of production. In this case, barring government spending or any other means of increasing the opportunities for the employment of the factors, probably total employment might be slightly increased and a few more units of the other factors employed if prison production was suspended.

However, in normal times, it is believed that the markets are not as limited or labor as immobile as between industries as is commonly supposed and much shifting of the factors of production possible. If so, it may be possible to increase total product and income by allowing prison labor to perform the jobs best suited to it. But, as in the field of tariffs, it may be difficult to convince the particular entrepreneur who is being temporarily injured by prison competition, or the laborer who is unemployed, that labor or resources can and will be shifted in some theoretical, automatic manner. So, actually, this is no logically, common man solution either. These private interests will prefer to have the prisoner remain a "leisure class", consuming but not producing. However, as we have already suggested, this is contrary to public policy if this policy is to be the rehabilitation of the rejects of society.

Prison officials must also forget about profits and turn their attention to the educative and rehabilitative aspects of prison employment. Prison officials have been known in the past to try to cover all production costs plus all penal costs with the prison industries. The public must accept the idea that prisons can't be self-supporting while at the same time protecting organized labor, and rehabilitating the prisoners. The prisons will require appropriations from the state, some of which can be offset by state-use sales, but this is a secondary purpose of such sales. The proponents of prison labor for profit have used the taxpayer argument often. They say that if as much as prison products constitute only 1/12 of 1% of the total production, we should forget the special interests and give the taxpayer a break and let the prisoners pay for their keep. Manufacturers also consider it unfair to allow taxes to support the prisons while the prison products are cutting in on their markets and for the benefit of contractors. While the taxpayer cannot be relieved of the burden of keeping the prisoner, it is unfair to private enterprise to have to compete against taxpayer supported prison production.

There are other objections that private interests raise along this same line. The state can borrow capital cheaper than private corporations so this gives the prison industries an advantage. The land used by the prison industries may be free to the state, so no need to provide for rent. Labor has been discussed, it can't bargain and the state pays its own price. Consequently, inaccurate cost accounting results where no provision is made for rent, selling costs, labor, overhead and for workmen's compensation or social

security. All of these things tend to give prison industry an advantage over private industry.

The question of wages for the prisoners is an often discussed subject. Organized labor usually suggests that prison labor be paid a wage commensurate with its efficiency as free labor is supposed to be. Generally there is no basis of payment for prison labor, they may be given so much a piece, or may be paid according to the class of prisoner. The payment of an adequate wage is supposed to bring up the incentives of the prisoners so the quality of work will be more like free labor, gives the man better morale, perhaps will leave enough to help support his family, raise the general efficiency and put prison products and free products on a more even footing in any market.

Before such wages can be considered, it must be remembered that to pay a going wage, a prison industry must be financially successful unless you plan on hitting the taxpayer for the wages. As long as the prison market is restricted, the payment of a high wage would be difficult. Certainly this is not to say that incentives are not needed or are not as important as in the free world. Wages should be paid or rewards of some type given such as time off. Furthermore, the lower efficiency may not be due altogether to lack of incentives. Overassignment to jobs and a limited market tend to make for less efficiency of labor.

While on the subject of efficiency of labor, a few additional points should be noted. There seems to be two points of view regarding the prisoner. One contends that he is of average efficiency at the job, the other contends that efficient, well trained men

don't go to prison. Certainly, neither of these contentions are wholly true. It is believed, however, that there are more feeble-minded, insane, indigent and other defectives in the prisons. Consequently this would tend to lower the general efficiency of prison labor and labor organizations usually take account of this as they suggest that prison labor be paid on the basis of efficiency as compared to the efficiency of free labor. However, as has already been mentioned, high wages for prisoners are not practical because of the additional strain on the taxpayers and with state-use, the competitive element of prison labor is largely removed as the equal wage idea for prison labor and free labor has dried up. The main basis for paying on the basis of efficiency was to raise the cost of prison products on the market.

A word should be said regarding this matter of idleness of the prisoners. While the legislation that has been passed has no doubt restricted the employment of prisoners, before any hasty conclusions are drawn we should first know exactly how many of these men are actually employable. As mentioned above, many men in prison are defectives, feeble-minded etc., and incapable of learning a trade or skill. When we say that 50% of the men at a certain prison or system are idle, let us ask how many of these men are capable of being employed, and how high a level of skill can they be expected to reach. No doubt many of the so-called "prison idles" are men incapable of employment in the prison industries except perhaps as floor sweepers. Let us ask, how many of these men can actually be taught a trade, or how many will be able to work in a modern prison plant, not simply assume that if 50% are idle, that means that all

50% are awaiting a place on a prison industry's production line. Of the 35-40% engaged in maintenance duties, probably some are capable of productive industrial work. However, the only way we can expect to reduce this number engaged in maintenance to the required 25%, is through expanding the markets and until this is accomplished, just talking will not solve the problem.

Other countries have also faced the prison labor problem and have tried plans that might well be workable here. For instance, in Mexico, the prison labor program was set up in a way similar to the plan of organized labor. Minimum wages were adopted, union privileges and organizations were allowed and the prisoners paid for their food, clothing and "room" out of their wages. About 40% is deducted from their remaining wages for the benefit of the party that they injured by their crime, 30% to the family and 30% into a savings account.⁵⁸ Of course, here too you will need a market for the prison products if you are to pay wages, however, there seems to be no objections to the union organizations and privileges. In France in the Fresnes and Poissy prisons, the industries are administered by a committee composed of a representative of the government, the chamber of commerce and labor.⁵⁹ Such a plan seems highly commendable and a possible solution to our problem.

To repeat, the real solution will be found in the cooperation of labor, management and the public. Prisoners must work in order to prepare for jobs when they are paroled and to prevent

⁵⁸New York Times, May 16, 1937, p. 18.

⁵⁹Louis H. Robinson, Should Prisoners Work?, (Philadelphia, Penn. 1931), p. 301.

those who can work, from sitting around in idleness causing further maladjustment of the men that society has removed from its midst.

Part IV

Recommendations

1. Continual effort to develop a state-use agreement in some fields of production. While it is deemed undesirable to allow state-use production to go so far as to restrict the training opportunities too greatly, a certain amount will expand the markets and cause greater employment of prisoners while still leaving several different types of industries for training purposes.

2. Adopt compulsory state-use laws. If the open market is closed to prison products, then it becomes the duty of the state to provide a market for the products. Of course the products should be of such quality as will meet the genuine needs of the state.

3. Develop uniform specification for all state agencies so that prison production can turn out like items for all agencies, and not have to produce slightly different goods for each agency. Also, the prison industries should make known to the agencies the items it can produce and make an attempt to really sell their products.

4. Reserve such jobs as reforestation, conservation, fish hatchery maintenance, public works and ways etc. for prison labor.

5. Develop cooperation between free labor and prison labor so that organized labor will be willing to supply teachers and trainers in the prisons so that the proper skills and methods are taught. Also, perhaps count time in the prison industry under the training of a labor representative toward the apprenticeship requirements in the various fields of employment. Then when the man is paroled, the unions should be willing to accept him as a member and thus help him over one of his great hurdles.

6. Proper public education on the theory of prison industrial employment is needed so that the idea of profit making from the prison industries and the idea that the aims of free labor and prison labor are incompatible may be dispelled.

7. Perhaps a system such as was mentioned regarding the French prisons might be tried. Representatives of the public, labor and management might possibly do a good job on a committee for prison industries, at least it would serve as a device for rallying the support of the respective groups behind public policy for the prison industries.

APPENDIX I

Explanatory Notes

In the tabulation of the following laws, certain steps have been taken for the sake of brevity and consolidation, and these steps should be made clear before we actually examine these laws.

1. Do not assume that if only the contracting of prison labor is mentioned as being prohibited, that leasing is allowed or vis-a-vis. The usual terminology of the law is that "the contracting, hiring out or leasing of prisoners is prohibited". When we state that contracting is prohibited, we mean any form of using prison labor for the benefit of private parties.

2. Unless otherwise stated, the prohibition of open market sales means the prohibition of the sale of convict made goods whether produced in the state under discussion or those shipped in from another state onto the open market.

3. The prohibition of open market sales does not include sales to state institutions or to its subdivisions by the prisons, unless specifically stated. It means only sales to private persons, corporations or organizations. As a rule, the law makes specific exemption as applying to the state, its subdivisions, institutions and agencies.

4. Open market sales could be made by either the state prison system or by private individuals who have either bought the prison products from the system, or who have contracted or leased (where allowed) the labor or the products of prison labor. Open market sales (where allowed) may be directly made to the consumer, to retailers or to wholesalers as stated in the law. The point is that open market sales do not mean simply sales by the prison itself. Where sales are permitted, generally the law must be consulted to determine how the goods get onto the market.

5. No great effort has been made to always include "the state, its institutions, departments or agencies, or the subdivisions of the state and their institutions and departments", as per law. However, unless some statement to the contrary is observed, state institutions may be assumed to include all units of government within a state that would use the products of a prison, inasmuch as the lesser units of government are creatures of the state.

ALABAMA

Open market sales: No specific mention.

Special conditions: Unlawful to work convicts in the mines of Alabama.
45-91*

Contracts or lease: Leasing of convicts unlawful. May hire convicts out to the counties for public works. 45-92 and 45-103
Director is authorized to hire or lease convicts to any department, agency etc. of the state on terms mutually agreed on. 45-105**

Public ways and works: Director may make improvements on state land as may benefit the prisoners and provide work for them. May work on drainage projects and let prisoners out to "drainage districts". 45-101
May buy or sell land so as to provide work for the men.

(Alabama is a warm state so less need for a state-use law because the public ways and works provide year-round employment. Alabama is a mining state and the miners have taken care of themselves by getting a law passed forbidding prison labor in the mines.)

*Refers to Code of Alabama, 1940.

**Refers to Cumulative Supplement, 1947, of the Code of Alabama, 1940.

ARIZONA

Open market sales: No goods made by prison labor in Arizona or any other state may be sold on open market. 47-301-2* (However, because of the wording of another paragraph, it is believed that crops, grown on state farms, may be sold on the open market after the state has bought what it needs.) See 47-123

Contract or lease: Contracts unlawful.

State-use: The highway department must notify the prison of its needs and buy its tags, signs etc. from the prison. 47-132**

After January 1, 1946, unlawful for any state agency to buy from any source other than the prison industries. 47-134**

A canning plant was authorized and any surplus to be sold to other state institutions. 47-135**

A knitting mill was authorized and any surplus over prison needs to be sold to other state institutions, not on the open market. 47-140**

Public ways and works: May work on highways, streets etc. where it won't conflict with free labor. 47-212*

*Refers to the Arizona Code Annotated, 1939.

**Refers to the Cumulative Supplement, 1949, to the Arizona Code Annotated, 1939.

ARKANSAS

Open market sales: May sell limestone to the farmers at cost.
46-201*

Special conditions: May establish any industries or factories that seems for the best interest of the state. 46-201
Board decides on the prices and market value. 46-220

In the Houses of Correction, the product of labor is to be applied to the payment of the expenses of the persons confined. 46-615 (From these sections, it seems that open market sales are permitted although no specific wording to the effect is found.)

Convict labor may not be worked within the city of Little Rock except on public improvements, buildings etc. 46-277

Contract or lease: Hiring out or leasing forbidden. 46-229
May hire out to work on the public highways as long as they are under the management of the warden and the Board of Corrections. 46-230 May also lease to other state agencies for public activities, under same conditions.

(Private citizens and taxpayers are entitled to bring suits against the prison system to restrain them from leasing the prisoners. Green v Jones, 164 Ark. 118, 261 S.W. 43.) This refers to leasing to private persons, not to the state agencies. Under 46-229 above, they could be leased to do useful agricultural work, but apparently that may be ended by such a private suit.)

State-use: Shall be the duty of the state institutions to purchase as far as possible products grown by the state.

Public ways and works: Board may lease or rent additional land within 5 miles of an established camp or stockade for planting and cultivation of crops. 46-215

*Refers to the Arkansas Statutes Annotated, 1947.

CALIFORNIA

Open market sales: Unlawful to sell prison products in state except those permitted by law. 2876*

Hemp goods (grain bags etc) sold to consumers only, not for resale; may be sold to farm coops. 2721

May sell jute, crushed rock products to other states if they will buy.

Authorized construction of jute mill and private sale of all products not needed by the state. 2704

Products of agriculture and animal husbandry enterprises may be sold to private parties to prevent spoilage and waste or surpluses. 2704

Prices set as near market as possible.

Small handicraft products may be sold to the public at the prisons.

Special conditions: Must mark containers. 2870

Products of Federal prisons may be bought by state and subdivisions.

Shall not employ skilled labor (prison labor) for building any bridge or structure of like nature requiring it. 2768. (May employ unskilled prison labor on same bridge).

Prison enterprises with annual gross product of over \$25,000, may not be established without a public hearing. No industry with a gross of over \$225,000 shall be established except to make auto tags. 5092-3

State-use: Employ prison labor in production needed by the state and subdivisions or Federal government. 2701

Prison products used first for prison then for other institutions.

State shall buy prison products, except when not available. 2873.

Public ways and works: When 50,000 cubic yards or more is needed, the prison may operate a rock crushing plant for use on the public roads. 2740 May also work convicts on the roads.

Any agency, department etc of the state or Federal government, may use prison labor to perform necessary work.

*Refers to Penal Code of California, 1949.

COLORADO

Open market sales: Unlawful for persons or corporations to use, consume, sell or store in this state goods made by prison labor, excepting state institutions. 131-93*

Special conditions: Every able prisoner shall work where best suited to their capacity and most advantageous to the people of Colorado and with least conflict with free labor. 131-84

The goods of prison labor from other states are subject to the same regulations as are the products of the prisons of Colorado. (Taking advantage of the Hawes-Cooper Act). 131-108

Contract and lease: Hiring out of prisoners unlawful, no contracts except to State Highway Dept. 131-95

State-use: Prisoners employed to produce articles for the state and public institutions. Furnished state at the market price. Maintain quality near open market goods.

Diversified industries may be authorized after surveying the states need. 131-100

License plates, signs, markers and badges to be made in prison and sold to state, also to any other state. 399-400 Vol. 2

Mandatory for state-use, unless prison can't supply or the state could buy for 10% cheaper elsewhere. 131-97

Public ways and works: Board of county commissioners may use prison labor to build ponds for fish propagation. Keepers, with consent of the county supervisors, may work prisoners on public avenues, or in quarries or mines in county where confined upon terms agreed on by keepers and officers or persons under whose direction prisoners will be. (May indicate that some contracting may be done at the jail level). Vol. 2-528

State uses prisoners to reclaim by irrigation state and other lands. Also, to construct for use of the state, canals, reservoirs, feeders etc. Vol. 3-350

*Numbers refer to Colorado Statutes Annotated, 1935, Also, see Cumulative Supplement, 1947

CONNECTICUT

Open market sales: No mention.

Special conditions: No person confined for crime shall be employed in or about the manufacturing place of tobacco or any other article which is use, contacts the mouth of a human being, unless such employment is permitted by the Health Department. 3005*

The state industrial fund is to maintain and continue such industries as may be desirable.

Contract or lease: No contracts for labor or the products of prison labor shall be let except after public notice by advertising in different parts of the state. Sealed bids are to be used and the deal accepted most advantageous to the state. Maximum life of contract is to be four years. 3004

Public ways and works: Jail prisoners of the county and the convicts of the state may be used on the road system. The county may also use prison labor on public works, bridges etc. State may use the labor on the prison farms. 3036 & 2184

(Appear to be no holds barred in this state. It can establish and maintain any industry it desires and there is no specific restriction regarding the sale of such products on the open market. The contract system is legal so al together, free labor must get quite a run in Connecticut.)

*Refers to the General Statutes of Connecticut, revision of 1949.

DELAWARE

Open market sales: No specific mention.

Special conditions: Unlawful to employ prison labor at the New Castle County workhouse, at the task of repairing, painting, or re-finishng any auto except those owned by the state or its subdivisions. 4145*

Contract or lease: Duty of the sheriff to secure employment for all prisoners. (This implies contracting or leasing). 4140 Law goes on to say that the Board of Trustees of the New Castle County workhouse may make an agreement with any person or corporation in New Castle County for the labor of the prisoners at suitable employment for eight hours a day. (They return to the prison at night so it is more of a contract system by definition). 4147

State-use: Apparently only in the case of the auto repairing.

Public works and ways: Courts of Sussex and Kent counties, may sentence a person to hard labor on the public roads or highways in the convict gangs of said county, if the sentence doesn't exceed three months. 4127

The Board also has the power to buy additional land to increase the efficiency of the New Castle County workhouse and secure further employment of the prisoners. 4143.

*Numbers refer to the Revised Code of Delaware, 1935. Also see, Laws of Delaware for 1941, 1943, 1949.

DISTRICT OF COLUMBIA

Open market sales: May sell surplus products of workhouse and reformatory. 24-418*

Prisoners may be employed at such labor and under such regulations as may be prescribed by the Board of Public Welfare. (Presumably on public ways and works). 24-412

(It is not clear from the law whether or not the surplus may be sold on the open market or to other institutions.)

Limited information regarding the prison system is due partly to the population of the D.C. and also, to the fact that prisoners of the District may be confined in Federal prisons for certain offenses.

*Refers to District of Columbia Code, 1940 Edition.

FLORIDA

Open market sales: No crops, excepting sugar cane, shall be sold or disposed of on the open market, but shall be sold to state institutions and those of its political subdivisions. 952.10*

Special conditions: State convicts may be used as may be necessary or required for the growing of sugar cane and other crops on state owned land in Florida, if the use of the prisoners doesn't interfere with the State Highway Department's road program. 952.10

Contract or lease: Leasing of prison labor prohibited. Board of Commissioners of the State Institutions may contract with any person for the growing of sugar cane on state owned land. (Apparently prison labor may be used for this as under the above paragraph). 952.11

State use: There seems to be no compulsory law for state-use. This is due partly to the fact that most of the labor is employed on the roads, public works etc., and unlike the northern states, they can so employ the men the year round. Consequently, there appears to be few industries and less need for a state use law.

Public ways and works: The county may use its prisoners on roads, bridges and public works and may hire them out to another county or to the State Highway Department. 951.01 State convicts may be worked on state or county roads, also, on state and other public conservation or reforestation projects. 952.16 State convicts may be used at any state institution or at any state agriculture experiment station in Florida for performance of any state function. 952.23** State convicts may also be used in the development maintenance of the state park system. 952.24**

*Numbers refer to the Florida Statutes Annotated, 1941, unless otherwise noted.

**Cumulative Supplement of 1948, Florida Statutes Annotated, 1941.

GEORGIA

Open market sales: Unlawful to sell prison made goods, made either in the state or any other state, on the open market. However, it doesn't forbid sales of such goods to the state, to be in turn sold by the state to public, or any political subdivision or institution. 77-323* (Before this amendment was passed in 1937, prison goods could be sold to the best advantage of the state with the provision that prison labor would not be used in competition with skilled mechanical free labor.)

Special conditions: May establish camps for quarrying rock or gravel used on county or city roads. 77-308

Contract or lease: No contract by whose terms contractor is interested in quantity of work a prisoner may be required to do. 77-331

State-use: Authorized to sell farm products to state. Authorized to make road signs, tags etc needed by the highway department. Department must contact prison regarding these items. 77-322

Public ways and works: County misdemeanants may work on the chain gang on roads and works. 77-201 State convicts may be sent to work on county roads, or with the state highway department or lastly, to work on city roads. 77-325

*Refers to the Georgia Code, 1933.

**Refers to the Georgia Laws, 1937.

IDAHO

Open market sales: Sale on open market of all goods, wares and merchandise produced, grown etc. by any penal institution is permitted. 20-401*

Sales on open market defined: shall include sales or exchanges to or with other penal, charitable, custodial or reformatory whose maintenance is contributed to by this state. 20-403

Open market defined: all sales conducted or transacted through the medium of stores, shops, sales officers etc., retail or wholesale, to the consuming public. 20-411

Contract or leases: Unlawful to contract prison labor to private parties. 20-402

State-use: Prisons shall attempt to conduct industries that will make goods used by the state and that will result in as wide a variety of products as possible so as to diversify products and eliminate concentration of prison labor in any one or few industries. 20-408

Exchange of prison products of Idaho for the products of another state prohibited. (Direct prohibition against states-use.) 20-404

As far as possible, make tags, signs, clothes etc., that are used by the state institution.

Public ways and works: County jail prisoners may be used on public roads and projects. 20-617

State convicts may work on public works under direct control of the state. May also work on the state highways.

*Refers to the Idaho Code, 1947.

IOWA

Open market sales: Nothing specific, but apparently not allowed.

Special Conditions: Prisoners in the penitentiary or reformatory shall be employed only on the state account in the maintenance, repair etc of such institutions and in such industries as may be established by the board. 246-18*

Branding and labeling required of all prison made goods, either of Iowa or other states. 216.1

Contract or lease: Contracting and leasing of labor forbidden.
246.28

State-use: Only in an emergency can the state buy from other sources than the prison. 246-23

However, the highway department may take competitive bids for plates, containers, traffic control device etc. Also, printed supplies may be bought from the prison instead of by competitive bidding. 321.253

Public ways and works: Prisoners in county jails may be used on streets and public roads, public buildings or grounds and other places in the county. 356.17

*Refers to the Iowa Code Annotated, 1941. Also see Cumulative Supplement, 1949, to the Iowa Code Annotated of 1941.

ILLINOIS

Open market sales: Duties of the Board to see that no products of prison labor be sold on the open market except as provided; that products don't conflict with the established industries of the state and that the prison labor doesn't compete with the products of free labor. 108-75*

Special conditions: Limestone given to the farmers and may not be resold. 108-8 4a

Crushed rock furnished highway department free. 108-84

No labor employed outside the prison except in rock crushing for the state and other duties necessary for the maintenance of the prison. 108-44

Duty of the Board to distribute the labor and industries for the best service to the state and benefit to the men. 108-85

Unlawful to buy or sell prison made goods from another state. 108-83b

Contract or lease: No contract labor and apparently the only leasing allowed is to the highway department or other state agencies. 108-78

May transfer prisoners from Joliet to help build the Southern Illinois Pen. and may lease them to the contractor to aid in this building. 108-60

State-uses: Must order from the prison. 108-72

May make tile, culvert pipe, road building materials, road machinery and tools etc. for the highway department. 108-100

Public ways and works: May be used on public works. 108-103

(Note: The Sec. of State properly refused to secure auto tags through the prison in view of the purpose of prison industries to avoid competition of products of prison labor with free labor. 108-75 above. People ex rel. Bowen v Hughes, 370 Ill. 256, 18 N.E. 2d 453.)

*Refers to the Illinois Annotated Statutes, 1934. Also see Cumulative Supplement, 1949 to the above statutes.

INDIANA

Open market sales: May manufacture such items as are used by the state and its institutions and to produce such items as may be practicable and to sell surplus on the market. 13-101*

Authorized to set up a binder twine plant and product sold to the best interest of the state. 13-224

Special conditions: Work done by prison labor under the state account system, shall be hand work as far as practicable or remunerative to the state. 13-221

Ho school books or desks for the schools shall be produced and sold to the schools. 13-419

Contract or lease: Contract labor abolished. 13-417

State-uses: Required to buy goods. 13-102

Officials shall report needs to prison and buy plates, signs etc. from it only.

Public ways and works: May work prisoners on the highways, to make road material, and on the prison farms to grow produce for the needs of the institutions. 13-510

*Refers to Indiana Statutes Annotated, 1933. Also see Cumulative Supplement, 1949.

KANSAS

Open market sales: The superintendent of the Reformatory can sell or dispose of all manufactured products of the manual trade department to the best advantage of the state. 76-2330*

The labor of women prisoners may be used to produce agricultural products and produce to be used in the institutions and the surplus sold on the open market. 76-2314

No coal sold on the open market. 76-2410b (Coal mines were ordered closed by the legislature in October, 1947.) 76-2433a**

Binder twine could be sold to the best advantage of the state. 76-2454 (Twine plant closed by legislature, no demand for twine due to the use of combines).

Special conditions: Prisoners may be used to mine coal on prison land and sold to public relief agencies where agency is contributing to the relief of the families of the convicts. (Of no importance since the closing of the mines.)

Convicts may work on state roads, public buildings, etc. whether they are skilled or unskilled. However, may not use skilled labor on county bridges and like construction. 76-2443a-2448

Contract or lease: Shall not be hired or contracted to any private party. 76-2320

State-use: State required to buy brick made by the prisons. 76-2440
Also, auto tags and highway signs are made for the state.

Public ways and works: Care for the fair grounds. Also work on roads etc. as in special conditions, above.

*Refers to General Statutes of Kansas Annotated, 1935.

**Refers to Supplement 1947, to the General Statutes of Kansas, 1935.

KENTUCKY

Open market sales: Sell all products to state agencies only - no open market. 197.100*

Special conditions: Sales of products of state prison labor and other states prison labor unlawful, except to state institutions and subdivisions of the state or to any other states. (This is a states-use type of provision.) 365.240

Contract or lease: Prisoners not required to work outside prison walls except for the state on roads, bridges, public works etc. 197.130

However, may lease workhouse and prisoners therein for no longer than 1 year, lesser to have same power as if manager. (It is believed that the workhouse in Kentucky is at the local level. However, this is one of the few states where this practice continues.) 441.100

State-use: Prison labor used to make clothes and other suitable supplies for the state institution. 197-070

Contract with other state department for prison labor or inmates.

(Apparently there is no compulsory law regarding state-use, even though all products have to be sold to the state as per 197.100

*Refers to Kentucky Revised Statutes, 1948.

LOUISIANA

Open market sales: May establish state farms and sell the products on the open market (animal or agricultural products). 1441*

Special conditions: Prison may bid against private companies for the construction or maintenance of public levees, roads and works. Preference given to the prison if it can do job at the low bid price. Contract with the local unit of government doing the job. 1441.

Public ways and works: Parish jails may work prisoners on the public roads, streets etc. in the parish. 1402
District prison farms may use prison labor for farming on behalf of the district. 1402

*Refers to the Louisiana Code of Criminal Law and Procedure, Criminal Statutes Annotated, 1943. Also see Cumulative Supplement, 1949.

MAINE

Open market sales: No specific mention as to goods made in Maine.

Special conditions: No out state prison made goods allowed sold or exchanged in state. 23-18* (Taking advantage of the Hawes-Cooper Act.)

Sales of articles from the prisons and the letting of contracts to hire convicts...and all other contracts... shall be made with varden. 23-29

Articles must be labeled. 23-30

Contract or lease: Apparently contracts are allowed, see paragraph above.

State-use: Must buy plates from the prison, also road markers. 19-29

Public ways and works: May authorize the use of prison labor on public works, roads, etc. 23-22

*Refers to Revised Statutes of Maine, 1944.

MASSACHUSETTS

Open market sales: Whoever sells or offers for sale goods made by prison labor may be punished by fine, however, may sell goods for retail at the prison or to the state. (Not definite whether the goods at the prison are the articles handmade by the men in their spare time or not). 127-67A*

Special conditions: No prison labor shall work at engraving.

Road materials such as crushed stone etc. may be prepared in prison, however, no machines shall be used, only hand and foot power. 127-74 This material may be sold to the state or local units of government for the roads. 127-76

The number of employed in any one industry is limited, i.e., clothing 375, brushes 80, harness 50. No more than 30% may be employed in any one industry except cane seating, umbrellas and goods made for the state institutions. 127-62

Contract or lease: No contracts for labor of prisoners except, they may be employed in cane seating and umbrella making under the piece-price system and bids may be accepted. 127-51

Not employed outside place of imprisonment doing work for private parties. 127-50

State-use: Make articles used by the state as much as possible.

State shall purchase from the prison if the goods are available. 127-57

Public ways and works: May be used to care for public land, buildings etc. Also for reclamation of waste places, cultivating land for raising produce for the institutions and for reforestation and development of the state forests. 127-83

(Massachusetts has attempted to prohibit the sale of goods of the open market and to avoid too much competition with free labor in the state institution market by limiting the amount that can be produced in the prison.)

*Refers to the Annotated Laws of Massachusetts, 1944.

MARYLAND

Open market sales: Perishable vegetables may be sold to canneries.
27-762*

No prison made goods of Maryland or any other state shall be sold except to state institutions or its subdivisions. 27-762 (1939)*

Amended: No goods other than livestock, forest and agriculture products, or products used in agricultural production made by prison labor in Maryland shall be sold except to state institutions or to its subdivisions. May not sell to consuming public except as above. Handicraft may be sold direct to public. 27-762**

Special conditions: No prison made goods of Maryland or any other state may be sold except to state institutions or its subdivisions. 27-762 (Also amended as above).

During the war, prisoners were released on conditional terms and pardons to relieve the shortage of labor in the seafood, farm and dairy industries. 41-8813

State-use: May set up industries to produce goods needed by the state.

State and sub-divisions required to buy from prison if goods are available.

Public ways and works: Prisoners may be worked on the state farms or roads. 27-749

The county may employ convicts on the road force and may request more prisoners from the state if the county doesn't have enough. 27-799

*Refers to the Annotated Code of Maryland, 1939.

**Refers to the Cumulative Supplement, 1947 to the Annotated Code of Maryland, 1939.

MICHIGAN

Open market sales: Unlawful to sell or purchase any prison product other than for use by the state. 28.1525*

(Michigan is one of the few states where all the old systems of prison labor are still cluttering up the books. It can be noted in 28.1432 where contracting of labor was used in or around 1897. In a later section, the state account system was set up and sales on the market permitted by the state. In 1935, the state-use system was set up. 28.1521).

Special conditions: May sell or purchase pure bred livestock raised on the prison farms and sold for breeding purposes, also may sell binder twine, rope and cordage used in agricultural production. 28.1525**

Cannot print for counties or sub-divisions of the state. 28.1528

May sell personally made articles of the prisoners at the prison. 28.1535

May not use prisoners by the counties in the building of bridges or like structures requiring the use of skilled labor. 28.1513

Free labor prohibited in the House of Correction except as necessary for control and management. 28.1848

Contract or lease: Not allowed. 28.1535

State-use: Make as many articles as possible needed by the state institutions. State-use mandatory as far as prison authorities deem it practicable to produce the articles. (Apparently the buyers have a great deal of discretion as to what they buy.) 28.1527 Sub-divisions may sell the products of their jails to other institutions within that subdivision. 800.309**

May buy land to establish stone quarries. 28.1671

If after employing all possible inmates if there is still idleness, officials may try to contract (before production starts) for additional items. Apparently with institutions and agencies not already buying from the prison or for additional supplies with those that are buying. Furthermore, the state purchasing agent may exchange these additional items with counties or other states, if the prison products from the other states cannot be produced in Michigan prisons. 28.1528**

Public ways and works: Prisoners may work on roads, highways, quarries to make road material etc. 28.1511

The Conservation and Corrections Departments are authorized to construct camps for inmates and use the labor on conservation projects on state-owned lands. 28.1715**

*Refers to Michigan Statutes Annotated, 1935.

**Refers to 1949 Supplement of Michigan Statutes Annotated, 1935.

-85-
MISSISSIPPI

Open market sales: LIME sold to farmers at not over \$1 a ton.
29-8000*

Cotton and cottonseed sold on open market if raised by the prison. 29-8005

No goods offered for sale on open market except perishable goods and raw agricultural products. May sell hand-made articles made to occupy time of the prisoner. 29-7941

Special conditions: Must label goods.

Plan to make prison self supporting so may establish a blacksmith shop, wood shop, shoe or harness shop, laundry, sawmill and gristmill, tailor shop, brick and tile shop.

Cooperate with the State Seed Improvement Committee to raise seeds of a better nature, and may sell these seeds to the farmers. 29-8013

Contract or lease: Unlawful to lease or hire out the convicts.
29-7898

Public ways and works: May work men on the county farms and on roads and public works, levees, to procure firewood and improve the drainage on state property. Also raise all the food possible and make all the tools, shoes, clothes etc. possible for the state.

*Refers to the Mississippi Code, 1942.

MINNESOTA

Open market sales: Prison authorized to sell binder twine on the open market to consumers, dealers or dealers in other states. Authorized to establish an agricultural machinery plant and set up local selling agencies to handle the products. Priced at the actual cost plus 5%. 10812 & 10813*

Special conditions: No more than 10% of the men in any prison may be employed in any one industry unless it is making goods for a state institution, or it is making binder twine, brushes or products of the nature of agricultural machinery. 10815

All goods made by prison labor when shipped into the state become subject to the laws of the state. (Taking advantage of the Hawes-Cooper Act). 3976-31

All prison made goods must be labeled. 3976-31

No prison made goods made in Minnesota or any other state, shall be bartered or traded by such prisons for any other goods of any kind whatsoever, for use in the penal institution. 10846-21**

Contract or lease: No contract or lease labor where contractor has control of men. But will use piece-price system with persons furnishing their own materials. 10810

State-use: Apparently not mandatory.

Public ways and works: Convicts may be employed at rock crushing, the product to be used in road building. Jail inmates may work on roads, public buildings and county work farms.

State prisoners used for conservation, reforestation, soil erosion control. 10846-11**

*Numbers refer to Mason's Minnesota Statutes, 1927.

**Refer to Mason's Minnesota Statutes, Supplement 1946.

MISSOURI

Open market sales: May sell twine to anyone, consumer or dealers.
8095*

May sell limestone to private residents at cost of production. 9102

May also lease or buy equipment to produce and sell on open market shoes, clothing, mats, mops, rugs, furniture, desks, chairs, tables, farm implements, fertilizer, brick etc. 8988 (Apparently the only open market sales at present are the twine and limestone as no other product is further discussed in the Laws.)

Contract or lease: May lease or contract prison labor for highway department only. 8991

Public ways and works: May employ prison labor on state, county or other political subdivisions, roads, bridges, culverts, rock quarry, rock crusher or gravel pit operated by the state, or public projects protecting the levees from washes, and procuring fuel, ice and water for the prison.

*Refers to the Missouri Revised Statutes Annotated, 1939. Also see 1949 Supplement.

MONTANA

Open market sales: See next paragraph.

Special conditions: Prison labor may be used for brick making, however, the brick may be used only for construction or repair of the Montana State Prison. 80-730*

Shall establish an industry for making wearing apparel for institutions. None sold on the open market in competition with free labor. 80-721

Shall establish a tannery to tan state hides and tan hides for other persons. 80-725

Shall sell state hides at fair prices. 80-726

Contract or lease: No contract labor permitted.

State-use: Shall promote state-use agreements. 80-724.

Public ways and works: Prison labor may be employed on roads, public buildings and works. 80-730.

State highway commission may use prison labor on jobs of \$1000 or over.

*Refers to the Revised Code of Montana, 1947.

NEBRASKA

Open market sales: Not allowed, except farm supplies, machinery and equipment. 83-151*

Special conditions: Printing is not to compete with free labor.
83-146

State-use: Plates, signs etc. to be made. 83-122
May be used for repair, construction etc. at state institutions. 83-134
State institutions and county and sub-divisions shall buy prison goods. 83-145
May exchange prison products with other states. 83-145

Public ways and works: Cities and villages may sentence prisoners to work on streets etc.

*Refers to Revised Statutes of Nebraska, 1943.

NEVADA

Open market sales: Apparently yes, see below.

Special conditions: Shall sell all products of prison labor.
11450*

May employ prison labor at mechanical jobs to furnish supplies to state prison and may employ from time to time to best interest of the state. Provided, shall not allow employment on any other than public works including road, farm or state property or any industry not for the benefit of the state. 11458

May let good prisoners make articles on own time that will be sold for them and that won't compete with free labor. 11458

Purpose of act is to prevent competition with free labor and management except when it occurs to the direct benefit of Nevada. 11458 (See next section also.)

Shall set up machinery to repair and mend sacks and clean them for the farmers who need them to ship products during the war. 11501.07***

Contract or lease: May lease or contract. 11459

County prisoners may be hired out, or worked on roads, buildings etc. 11526

State-use: May make tags and markers, signs etc. to be used by Nevada or other states. 11454**

Public ways and works: Used on public buildings, roads, state farms etc. 11494.

*Refers to Nevada Compiled Laws, 1929.

**Refers to Supplement 1931-1941 of Nevada Compiled Laws, 1929.

***Refers to Supplement of 1945 of Nevada Compiled Laws, 1929.

NEW HAMPSHIRE

Open market sales: Not allowed to be sold. 464-31*

Contract or lease: Not allowed, except to state institutions etc.
464-31 (Nullifies law of 1917 that allows contracting - still
on books.)

Apparently may still bind out minors from the
Industrial School probably as apprentices. 464-26

State-use: Compulsory state-use.

Public ways and works: Jailers may employ or set to work in such
manner as shall be consistent with his safekeeping. 461-22
(Apparently may still use the convicts for road work etc.)

*Refers to Revised Laws of New Hampshire, 1942.

NEW JERSEY

Open market sales: No prison products from other states allowed
sold. 46:31-1*

Any surplus product may be sold on open market
under terms and conditions that it shall not compete unfairly
with free labor. 30:4-97

Special conditions: Must be labeled. 30:4-97 & 46:31-6
In emergency may help on private farms. 30:4-98
Shall not be used to replace free labor on
strike. 30:4-99

Prisoners in the county jail, workhouse, or
prison may be employed, subject to the decision of a board of
chosen freeholders and having been committed for non-support
of family, at certain labor and the product of said labor sold
to the county institutions. May not be used for strikebreaking
or on a public improvement when there is enough free labor to
make the improvement. 30:8-40

Contract or lease: Not allowed. 30:4-93

State-use: State and county must buy. 30:4-95
May be employed anywhere for state work.

*Refers to New Jersey Statutes Annotated, 1937.

NEW MEXICO

Open market sales: Partly allowed, see below.

Special conditions: Unlawful to sell goods made by prison labor in other state in New Mexico, may be sold to state or sub-divisions. (States-use attempt) 41-3309*

Nothing in above shall prohibit the continued production and use of prison products made by New Mexico state prison. 41-3310

Shall employ prison labor for improvement in penitentiary and the rest of the inmates to the best advantage of the state. 45-111

Prison required to furnish electric lights at cost to the capital, asylum and may sell electric lights in Santa Fe. 45-145

Products of the equipment used to make auto tags and signs sold to prison only. 45-147

Must be labeled before sale. 45-149

State-use: All tags and highway signs shall be purchased from the prison. 45-146

Public ways and works: When not working on the prison or capitol grounds etc., may work on the streets and roads in and about Santa Fe. 45-139

Jail prisoners to work on roads, buildings etc. 45-217

*Refers to New Mexico Statutes Annotated, 1941.

NEW YORK

Open market sales: Not allowed. Gen. Bus. 69*

Special Conditions: (Labeling held unconstitutional as undue interference with interstate commerce.) Penal Code 630**

No printing or photo engraving to be done by prisoners for use of the state except for use by the Department of Corrections, or the Department of Social Welfare. Corrections 176***

Contract or lease: Not allowed. Corrections 170

State-use: May lease farms to be used by prison for stone quarrying and crushing rock, or for farming. Corrections 73

Try to make goods needed by the state and the state must buy. Corrections 184

Make periodic surveys to see what state needs and what industries will best meet those needs. State Finance 162****

Surplus farm product exchanges between institutions. State Finance 177

After needs of state have been met, may work convicts on public buildings etc. May contract between units of government for the supplying of the prison products. Corrections 177

Public ways and works: May work on roads, public buildings and institutions etc. Corrections 179

McKinney's Consolidated Laws of New York Annotated, 1949.

*Refers to General Business Law, Sec. 69.

**Refers to Penal Code, Sec. 630.

***Refers to Correction Law.

****Refers to State Finance Law.

NORTH CAROLINA

Open market sales: Not allowed. 14-346* Excludes sale of cotton, corn, grain and other processed or unprocessed agricultural products including seed; also, stone quarried by prisoners or coal or chert mined by prisoners

Contract or lease: May contract the labor but control remains with the state. 148-6

May furnish labor to farmers in an emergency.
148-70.1 (Duration plus 6)

State-use: May make in its institutions any products needed by its institutions. 14-346

Shall make tags and state shall buy. 148-8

State Agriculture Department expressly authorized to contract for prison labor on test farms etc., also may be hired out to the cities and towns. 148-66

May be assigned to work for other state departments and institutions. 148-33

Public ways and works: Judges shall sentence enough to the county jails to keep the city and county roads, buildings etc. in repair. 148-32

(Prison camps for road work seem to be the hub of this system. The control of the state prisoners seems to be in the hands of the highway department.)

*Refers to the General Statutes of North Carolina, 1943.

NORTH DAKOTA

Open market sales: No mention.

Special conditions: May buy hides and sell leather at wholesale.

Not less than one side of leather may be sold to one purchaser.

Also, may tan the hides brought in by the farmers. 12-4808*

Coffins may be made by prison labor and sold on the open market. Must be marked. 12-4809-10

Binder twine and cordage operated for the benefit of the state and apparently sold on the open market. 12-4801

Contract or lease: Not allowed. 12-4806

State-use: Signs and tags are to be made. 12-4812

Public ways and works: Jail prisoners may work on streets, public works etc. 12-4431

State prisoners may work at state institutions, on the grounds, highways, streets, at the capitol etc. 12-4803

*Refers to North Dakota, Revised Code of 1943.

OHIO

Open market sales: Not allowed. 3328-1*

May sell crushed rock, road building and ballast-
ing materials on open market. 2235-1

Special conditions: May sell power from the power plant in the Boys'
Industrial School on the market. 2099

Printing and binding done only for prison or the
Department of Public Welfare. 3205 (Cannot print on the auto
tag envelopes. A.G. opinion #776)

Total number of prisoners employed making any one
kind of goods may be no more than 10% of the total number of
people outside making the same kind of goods, unless not more
than 50 prisoners are employed. 2244

Contract or lease: Not allowed. 3228 (Apparently nullifies 7327
which allowed contracting.)

State-use: Highway department shall let prison know what materials
it will need so the prison may furnish same. 7508

Make articles needed by the state and will conflict as
little as possible with established industries of the state.
13929

As much as possible, use prisoners for work on the build-
ings etc. at the reformatory. 2130

Inmates or jails or workhouses may not be farmed out but
may make articles for the state institutions. 2227-1

Make building materials for the state, crushed rock,
brick, tile, culvert pipe, etc. - may sell to sub-divisions.
2230

May lease lime beds for material to be supplied to the
highway department.

Compulsory state-use. 2243

Public ways and works: May be used on roads if not needed in the
prisons or jails. 7498

*Refers to Sears's Ohio General Code Annotated, 1939.

OKLAHOMA

Open market sales: If state and sub-divisions don't make an agreement to buy entire output of prisons, then state may sell products of prison labor on the open market. Any products not generally made in Oklahoma. 74-123f**

Special conditions: Surplus perishable agricultural products may be sold. 74-123f*

Sell bagging and twine for cotton on market.

57-221

Make farm wagons and implements and sell to the farmers. 57-261

Raise and sell pure certified seed to the farmers. 57-311

Sell harness to farmers, and tan hides for private persons. 57-321

Shoes sold only to state institutions.

Make lime rock and lime for agricultural fertilizer and sell to public. 57-277**

(With the exception of the lime in 57-277**, some of the above may be partly nullified by the provision in Open Market Sales paragraph above, as this was the latest amendment to the act, 1939. However, generally speaking, it is believed that the above can still be sold on the open market).

Contract or lease: Forbidden--(Constitution Article 23, Sec. 2).

State-use: May install a plant for fabricating structural steel for bridges for the state and counties and sub-divisions. Also for public buildings. 57-136

Raise produce and livestock for the institutions. 57-273

State institutions shall and political sub-divisions may buy. 74-123a

Set up industries as much as possible for state-use. 74-123

May work convicts at other state institutions on maintenance etc. 57-212**

Public ways and works: Work on roads, buildings, granite quarries, public works etc. 57-58

*Refers to Oklahoma Statutes Annotated, 1937.

**Refers to 1949 Supplement to the Oklahoma Statutes Annotated, 1937.

OREGON

Open market sales: Open market sales unlawful except that flax may be sold. 127-1004*

Special conditions: Labeling required. 127-1012

Contract or lease: Contracting forbidden. 127-104 (However, it seems likely from 127-131 that it would be permitted in order to clear unimproved land, and the state may sell the wood therefrom.)

State-use: Shall encourage the state-use industries and the exchange between the institutions.

May work on state-owned land if it doesn't interfere with free labor.

Sale or exchange of prison products of Oregon with other states forbidden. 127-1006

Public ways and works: May be worked on highways, state institutions and otherwise for the state. 127-121

*Refers to Oregon Compiled Laws Annotated, 1939.

PENNSYLVANIA

Open market sales: Apparently allowed.

Special conditions: May use prison labor to utilize natural resources around Western Penitentiary. May dig rock or other minerals, except coal, make it into products and sell them on market.
61-349*

Must brand goods. 61-251

Prison labor not to be used on bridges or like structures requiring skilled labor. 61-239

The number of county prisoners used in any one industry is limited to 5% of the whole number of inmates in the manufacture of brooms and brushes and hollow ware, 10% in any other kind of manufacturing done elsewhere in the state by free labor. May go as high as 20% in the manufacturing of mats and matting. Doesn't apply to goods made for the state. 61-181

Contract or lease: When existing contracts run out, employ in behalf of state. 61-141

No contracting of labor. 61-142

State-use: Sell surplus printing or printed products to state, U.S., sub-divisions etc. 61-161

Work at farming, dairying, construction for the state and sub-divisions, roads, county farms, making road material etc.
61-161

Public ways and works: Yes, see State-use.

*Refers to Purdon's Pennsylvania Statutes Annotated, 1940.

RHODE ISLAND

Open market sales: Open market sales of prison products illegal.
64-21* (Suspended during the war so goods could be produced
and sold to the Federal agencies.)

Contract or lease: Forbidden. 64-4

State-use: Promote state-use industries. 64-1
State-use mandatory. 64-3
Jail prisoners used for the benefit of the state. No
law of the state construed so as to give any town the claim on
the state for the labor of convicts. 61-23

Public ways and works: May work prisoners on state roads. 55-8a

*Refers to General Laws of Rhode Island, 1938.

SOUTH CAROLINA

Open market sales: Apparently permitted.

Contract or lease: Yes. May cancel manufacturing and selling contracts and operate prison industries by and for the state if desirable. 1965*

May lease and contract prison labor but according to the Constitution (1895-Article 12, Section 9), the state still retains control over the maintenance etc. of prisoners.

State-use: Penal institutions must buy their strips, overalls, shirts and other clothing from the state prison. 1968 (not a complete state-use requirement.)

Public ways and works: One county may lease to another county for public ways and works. 3834

May work convicts on highways, public works, at the state college and other institutions. 1964

May work on chain gang on the road while awaiting trial in some counties. 1960

*Refers to Code of Laws of South Carolina, 1942.

SOUTH DAKOTA

Open market sales: Supt. of Industries shall sell products to the Federal, states or sub-division government and to individuals. 265-4**

Special conditions: Binder twine and cordage shall be produced and sold on the open market. Reserve 250,000 pounds each year for state residents. Above that may sell to dealers who will re-sell. 13.4801*

Rug factory authorized - sales to all organizations and individuals. 265-8**

Shoe factory authorized - sales restricted to governments, no open market. 265-13**

Contract or lease: May contract with institutions and individuals for manufacturing and furnishing of auto plates, markers signs etc. and anything else that this equipment is capable of making. 55.1707*

State-use: May work in quarries, farms etc. for the institutions. 13.4722*

Plates, markers, signs, etc. made and the state departments must buy these articles. 55.1708*

Public ways and works: May be worked on the streets and roads, buildings etc. 13.4615*

*Refers to South Dakota Code of 1939.

**Refers to Session Laws of South Dakota, 1947.

TENNESSEE

Open market sales: Yes, see below.

Special conditions: Commission may sell coal and coke from the state mines and all manufactures to best interests of the state. 12069*

May set up shops and manufacture and sell to any one products of the state shops, try to reduce to a minimum, competition with free labor and industry by selling at prices as will protect the best interest of the state and maintain earnings of prisoners at par with free labor. 12205 (Prison goods would simply sell at same price as free goods, no advantage being taken due to the cheap labor supply.)

If state can't make enough contracts it may take up the state's account system and sell on the open market or to dealers. 12306

Policy to reduce coal produced on state-owned property to what is needed by state institutions, and by 1939 it shall be unlawful to sell coal or coal products mined by prison labor to anyone except the state or sub-divisions. 12001.1-2**

Contract or leases: May be contracted to railroad companies to do grading of any R.R. extension into the coal lands of the state. 12197

Commission may make contracts for sale or manufacture of produce by prison labor. Contractors furnish own raw materials etc.

State-use: Work convicts on farms, in hospitals or U.S. Department of Agriculture. 12181

Must buy plates from prison. 12209

The governor has custody of the public arms and may employ convicts to clean and keep them in order. 178

Public ways and works: Road work, public buildings etc. May set up portable workhouses for the road gangs. 12010

*Refers to William's Tennessee Code Annotated, 1934.

**Refers to 1948 Supplement of William's Tennessee Code Annotated, 1934.

TEXAS

Open market sales: Unlawful 11371-1**
(Law 6166a still on books allowing open market sales, however, 11371-1 is latest, 1941.)

Special conditions: No sale of prison goods valid unless they are labeled. 6166a28* (Now would only apply to goods sold to state institutions since passage of 11371-1)
Encourage cotton farmers to buy seed from prison system. System will try to develop a better planting seed.
6203f (law on books, can't be sure how 11371-1 affects it, however, probably nullifies it.)

Contract or lease: Not allowed. 6166a

State-use: Instructed to reach an agreement with the institutions to buy farm produce of the prison system. 6203g
Tags shall be made at prison and bought from the prison.
Highway department may at its discretion buy wooden signs from the prison. 6675a-13
Shall work on the prison farms.
Shall buy such prison products when the purchase seems economical. 6203c***

Public ways and works: Shall work on the state parks. 6070a

*Refers to Vernon's Texas Statutes, 1936.

**Refers to Vernon's Texas Statutes, 1943 Supplement.

***Refers to Vernon's Texas Statutes, 1943 Supplement.

UTAH

Open market sales: Forbidden 85-9-87*

Special conditions: Goods must be labeled. 85-9-88

Contract or lease: Forbidden 85-9-31. Apparently may still bind out minors from the Industrial School with the consent of the parents to serve as apprentices or servants. 85-6-11

State-use: Diversify industries as much as possible so as not to interfere with lines carried on by citizens. 85-9-31

Public ways and works: Use on roads and to prepare road materials. Also on irrigation ditches, canals etc. for the drainage and irrigation of state lands. 85-9-69

*Refers to Utah Code Annotated, 1943.

VERMONT

Open market sales: No mention.

Contract or lease: May contract for labor of the prisoners, inside or outside of the walls. 9974*

State-use: Give preference to prison products. 9974

Public ways and works: May work on the roads. 9008

*Refers to Vermont Statutes, Revision of 1947.

VIRGINIA

Open market sales: See below.

Special conditions: No penal institution shall sell or exchange seed corn to be used for agricultural purposes on the open market.
3-218*

Prison labor may be used in lime, oystershell and marl grinding, and in the quarries and these products may be sold on the open market, having due regard to the rights and interests of all citizens. Not more than one carload to any purchaser in any one year if there are any other applications to be filled.
3-138-144

Printing shop products are to be sold to the state only. 53-64

Unlawful for any person in the state to buy, sell etc. on open market, any goods made by prison labor in any other state. 53-74

May use prison labor at the Hollywood and Oakwood cemeteries to keep in the order the graves and sections wherein are buried the Confederate soldiers of the Army of Northern Virginia. 53-56

Prison labor may be used to assist the farmers in the harvesting and housing of food and feed crops if an emergency exists and if paid wages (to the state) comparable to those paid free labor in the section. 53-11 to 17
(Farmers grieved under the seed corn provision may sue in circuit court.)

Contract or lease: May make new contracts if necessary, to keep prisoners busy.

State-use: Prison labor used as much as possible in making goods needed by the state. 53-61

The state shall and local units may purchase any prison products that they need.

Public ways and works: May employ on roads, public buildings, may form a convict road force for use by the state highway department, and cities may form chain gangs to work on city and county streets. 53-109 and 53-163 May also work convicts on the state farms.

*Refers to the Code of Virginia Annotated, 1950.

WASHINGTON

Open market sales: Allowed between June 1 and Jan. 1. See below.

Special conditions: No articles made for sale at the state prison except jute fabrics and brick. 10221*

Jute grain sacks and other fabrics and products made at the prison shall be sold directly to the farmers, wool growers, oyster growers actually engaged in the production of the same. No sacks sold to anyone not so engaged. Between June 1 and January 1, they may dispose of any prison product including grain sacks in the open markets of the world to the best interest of the state. 10262 Shall apportion the sacks around the state according to the production of the above, not necessary to apportion between 6/1 and 1/1 because they are sold on the open market. (The only reason that can be given for the above is that it is a measure to protect the farmers from the possibility of not getting their bags, this being the season when they would ordinarily be using them or getting them ready to use.)

May sell crushed rock for roads and streets to the best advantage of the state. 10273

(During the war some convicts were apparently used in canneries, on farms etc. if such placement was ok'd by the USMS to the effect that no other labor was available, also that there was no labor dispute going on in which prisoners could be used as strikebreakers.)

Contract or lease: Unlawful (Constitution Art. 2, Sec. 29)

State-use: May be employed at quarrying and rock crushing or other jobs making material for roads. 10271

May work in honor camps established for reforestration or clearing land. 10249-22**

Public ways and works: Work on public roads, buildings etc. 10190

*Refers to Remington's Revised Statutes of Washington, 1931.

**Refers to 1940 Supplement of Remington's Revised Statutes of Washington, 1931.

WEST VIRGINIA

Open market sales: Unlawful to sell on the open market prison products, however, does not apply to goods produced prior to June 7, 1939.
2773(r)*

Contract or lease: May be hired or contracted out on a piece price basis or otherwise. 2744
(Probably not legal to let contracts for goods not produced before 6/7/39, but goods produced before may be contracted for.)

State-use: Try to make articles needed by the state.
Must buy prison products if they meet reasonable requirements. 2773(h)
Tags, signs made and must be bought from the prison.
2741(1)

Public ways and works: May be used on roads, rock pits, crushing plants etc. for road materials. 1475

*Refers to West Virginia Code of 1943 Annotated.

WISCONSIN

Open market sales: No sales on open market except farm machinery,
farm implements and tools, cordage rope and ply goods and twine.
56.06

Special conditions: Shall make binder twine and sell to the best
interest of the state. 56.02

Contract or lease: No mention. The only thing that would be contracted
would be the articles excluded from the open market prohibition
above.

State-use: May make products for the state and sub-divisions and for
other states.

Public ways and works: May work on prison farms, public buildings,
roads, etc. 56.03

WYOMING

Open market sales: May sell any product on the open market that the state or sub-divisions don't buy. 19-1009*

(In 1886, a law was passed and is still on the books although it is apparently nullified by 19-1009 above, that forbade competition with free labor. Seldom do we see the process moving in this reverse direction.)

Special conditions: No material used for the erection of buildings is to be sold in competition with established local industry. 19-1009

Agricultural, horticultural, mechanical products may be sold on market from the Industrial Institute. 19-1310

Contract or lease: Forbidden, however, one section leaves some doubt. It says that no convict shall be contracted to be used in any mine or occupation when the product of his labor will compete with any citizen of the state, however, when his maintenance costs can be cut by employment in some occupation not too hard or unhealthy, contracting is alright. 19-105 (Generally speaking, it is believed that contracting is not used.)

State-use: Employed for the benefit of the state in any industry.

19-1006

Work the prisoners on the prison farms.

State purchasing officer shall prefer state made goods.

19-1501

Public ways and works: Work on roads, public buildings, works etc.

10-3901

*Refers to Wyoming Compiled Statutes, 1945.

FEDERAL CODE

Open market sales: Whoever transports, allows to be transported, aids in transporting in interstate commerce, goods made by prison labor is subject to a \$1000 fine or 1 year. Does not apply to goods made in Federal prisons for the Federal government of goods made in state prisons for state governments or their sub-divisions. Does not apply to parts for the repair of farm machinery or to agricultural products. (Title 18, 396a)*

Interstate transportation or importation of goods that are to be sold, received or possessed or used in violation of any law of a state, territory etc., is illegal. (Title 18, 396b) (These acts make the interstate transportation of prison made goods a Federal offense. Also certain other features make these goods subject to the laws of the state as regarding prison products. See Appendix to Chapter III this paper, for complete text.)

Special conditions: Where Federal aid is being given for public airport development, the contracts must provide that no prison labor will be used. 49-1114c

No prison labor employed on projects financed by the R.F.C. 15-605b(6)

No prison labor employed on P.W.A. projects under the Emergency Public Works. 40-408

The U.S. Maritime Comm. does not have to buy prison products as per 18-744g below. 45-1119b

Foreign prison products made by prison labor or forced labor or indentured labor may not be imported. Does not apply to goods so made which are not produced in the U.S. in such quantity as to meet the consumptive demands of the U.S. 19-1307

Labeling required of prison products made by prison labor and moving in interstate commerce. 18-1762 (Such goods might be moving from a Federal prison to a Federal agency in another state or from one state prison to another state prison etc.)

Diversify the industries so as no single private industry shall be forced to bear an undue burden of competition from prison labor. 18-744k

Federal Prison Industries - 5 directors: 1.- Industry. 2.- Labor. 3.-Agriculture. 4.-Attorney General. 5.-Retailers and consumers. Private interests aid in determining what industries should be set up and the extent of their operations. 18-4121

Contract or lease: Not allowed. Also, states that are keeping Federal prisoners may not hire them out if such a practice is allowed in that state. 18-708

*Refers to the U.S. Code, 1948 edition.

State-use: All Federal departments, agencies etc. shall purchase prison products as may meet their requirements. 18-744g

When Federal prisoners are confined in state prisons, they may only be employed on public works, institution care etc. for the state or sub-division, they may not work under contracts or on jobs where the products will go into the open markets. 18-758b

Public ways and works: Work on public works, reforestation, roads etc. 18-744b

APPENDIX II

Hawes-Cooper Act

(January 19, 1929, ch. 79, Sec. 1, 2, 4, 5, Statutes 1084. Sess. II)

Sec. 1 That all goods, wares, and merchandise, manufactured, produced or mined, wholly or in part by convicts or prisoners except convicts or prisoners on parole or probation, or in any penal and/or reformatory institution, except commodities manufactured in Federal penal and correctional institutions for use by the Federal Government, transported into any State or Territory of the United States and remaining therein for use, consumption, sale or storage, shall upon arrival and delivery in such State or Territory be subject to the operation and effect of the laws of such State or Territory to the extent and in the same manner as though such goods, wares and merchandise had been produced, manufactured or mined in such State or Territory and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

Sec. 2 This act shall take effect 5 years after the date of approval.

Note: The Hawes-Cooper Act simply made goods shipped into a state from the prison of another state, subject to the laws of the state into whose jurisdiction the goods were shipped. So the same laws that regulated its own prison products would be applicable to those shipped in.

The Ashurst-Summers Act made the transportation of prison products from one state to another a Federal offense if they were to be sold or used in violation of that state's law. Also made the person that received the goods or sold them, subject to the Federal law.

Ashurst-Summers Act

(July 24, 1935, Ch. 412, 49 Stat. 494, Sess. I)

Sec. 1 That it shall be unlawful for any person knowingly to transport or cause to be transported, in any manner or by any means whatsoever, or aid or assist in obtaining transportation for or in transporting any goods, wares and merchandise, manufactured, produced or mined, wholly or in part by convicts or prisoners except convicts or prisoners on parole or probation, or in any penal or reformatory institution, from one State, Territory, Puerto Rico, Virgin Islands or District of the United States, or place noncontiguous but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof, where said goods, wares and merchandise are intended by any person interested therein to be received, possessed, sold, or in any manner used either in the original package or otherwise in violation of any law of such State, Territory, Puerto Rico, Virgin Islands or District of the United States or place noncontiguous but subject to the jurisdiction thereof. Nothing herein shall apply to commodities manufactured in Federal penal and correctional institutions for the use by the Federal Government.

Sec. 2 All packages containing goods, wares, and merchandise, manufactured, produced or mined, wholly or in part by convicts or prisoners, except convicts and prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of each package.

Sec. 3 Any person violating any provision of this act and upon conviction thereof, be punished by a fine of not more than \$1000 and such goods, wares and merchandise shall be forfeited to the United States and may be seized and condemned by like proceedings as those provided for the seizure and forfeiture of property imported into the United States contrary to law.

Sec. 4 Any violators of this act shall be prosecuted in any court having jurisdiction of crime within the district in which said violation was committed, or from, or into which such goods, wares, or manufactures may have been carried or transported, or any Territory, State, Puerto Rico, Virgin Islands or the District of Columbia contrary to the provisions of this act.

Approved July 24, 1935

REDACTED

OFFICIAL REPORTS

Congressional Record, LXVII, p. 4759, 3071, 13038.

---, LXIX, p. 3314, 5431, 5759, 6057, 7986, 8074, 8636-8, 8648-50, 8657, 8747-8, 8753-6, 8821-2, 8968-73, 9045, 9148, 10572, 10772, 13038.

---, LXX, p. 501, 503, 603, 654, 665, 733-6, 804, 809-15, 853, 864, 868, 872-4, 970, 1145-6, 1482, 1814.

---, LXXI, p. 4497.

National Committee on Prison and Prison Labor, Publication, New York, 1924.

Prison Industries Reorganization Administration Bulletin #1, Feb. 1938.

National Committee on Prisons and Prison Labor.

Prison Labor and Society, H. Trayne, 1923.

National Committee on Prisons and Prison Labor, Utilizing Prison Labor, C. Woodruff, New York, 1925.

U.S. Department of Commerce, Statistical Abstract of the U.S., 1924.

--- Statistical Abstract of the U.S., 1935.

--- Statistical Abstract of the U.S., 1941.

BOOKS

Barnes, H.E., New Horizons in Criminology, New York; Prentice-Hall Inc., 1943.

Clemmer, Donald, The Prison Community, Boston, Mass; Christopher Publishing House, 1940.

Commons, John R., and Andrews, John B., Principles of Labor Legislation, New York; Harper and Bro., 1936.

Billard, Dudley, The Economics of John Maynard Keynes, New York; Prentice-Hall, Inc., 1948.

Pigeon, H.D., and Others, Principles and Methods in Dealing With Offenders, Philadelphia, Penn.; Pennsylvania Valley Publishers Inc., 1949.

Taylor, Albion G., Labor Problems and Labor Law, New York; Prentice-Hall Inc., 1938.

Robinson, Louis H., Should Prisoners Work?, Philadelphia, Penn.; John C. Winston Co., 1931.

ARTICLES, PERIODICALS

Addams, Jane; Ladies Home Journal, XXX (Ap. 1913); 27.

Annals of the American Academy of Political and Social Science, CLVII (1931), 83-101.

Business Week, (Nov. 17, 1934), 10.

-----, (Dec. 22, 1934), 10.

-----, (Oct. 5, 1935), 23.

-----, (Sept. 11, 1943), 38.

Compers, Samuel; Harpers' Weekly, LVIII (Ap. 18, 1914), 28-9.

Literary Digest, LXXVI (July 4, 1935), 69.

Mitchell, John, A.; Annals of the American Academy of Political and Social Science, XLVI (1913), 9-16 and 122-31.

-----, CAV (1926), 260-4.

Monthly Labor Review, XVIII (Mar. 1924), 655-7 and (Apr. 1924), 659-731.

-----, XII (Sept. 1924), 706-7.

-----, XII (Nov. 1925), 1161-2.

-----, XXVIII (Mar. 1929), 541-55.

-----, XXXII (Jan. 1931), 128-30.

-----, XXXVII (July 1933), 1-24.

-----, XXXVIII (Mar. 1934), 529-30.

-----, XLIX (Dec. 1934), 1351-43.

-----, XL (Jan. 1935), 73-5 and (Mar. 1935), 672-4.

-----, XLI (Sept. 1935), 645-6.

-----, XLI (Sept. 1935), 645-6.

-----, XLIII (Nov. 1936), 1089-95.

-----, XLVII (Aug. 1939), 251-68.

-----, LIII (Sept. 1941), 578-606.

-----, LIX (July 1944), 137-8.

-----, LXIII (Aug. 1946), 217-18.

New York Times, Nov. 13, 1920.

-----, May 21, Aug. 5 and 19, Sept. 2 (Sec. II) and 18, Nov. 28 1923.

-----, March 2, June 22, Oct. 12 (Sec. IX), 1924.

-----, Feb. 28, 1926.

-----, April 12, 1927.

-----, Dec. 18 & 20, 1928.

-----, Jan. 22, Feb. 3 (Sec. III), 1929.

-----, Jan. 25, Apr. 11, July 6 (Sec. II), Aug. 15, 1930.

-----, Feb. 13, June 10, Aug. 2 (Sec II), 1931.

-----, April 12, June 12 (Sec. III), Sept. 14, Nov. 27, 1932.

-----, Feb. 6, June 27, Nov. 12, 14, 15, 17, 29, Dec. 13, 1934.

-----, Jan. 30, Feb. 5, Mar. 31 (Sec V), April 6, May 31, June

29, July 16, 26, Aug. 31, Sept. 27, Oct. 31, 1935.

-----, Mar. 3, 22, June 2, Aug. 17, Oct. 13, Nov. 21, 1936.

-----, Jan. 22, Mar. 5, Apr. 13, May 18, June 13, 1937.

-----, Sept. 24, 1938.

-----, Mar. 24, 25, 29, June 14, 16, 1939.

-----, June 15, July 2, Sept. 21, 1940.

-----, May 9, 1942.

-----, Oct. 1, 1943.

-----, Jan. 7, Feb. 14, 1944.

-----, Nov. 4, 1946.

-----, Nov. 24, 1948.

New Republic, X (Feb. 2, 1917) 9-10.

ROOM USE ONLY

ROOM USE ONLY

Nov 6

Dec 7 '58

PL
~~FEB 26 1964~~

~~MAR 15 1964~~

~~MAR 19 1965~~

MICHIGAN STATE UNIVERSITY LIBRARIES



3 1293 03082 0280